



# KENYA LAW

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## ELECTORAL STATUTES

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## LAWS OF KENYA

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### ELECTORAL LAWS GREY BOOK, 2017

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**THE REPUBLIC OF KENYA**

**LAWS OF KENYA**

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**CONSTITUTION OF KENYA, 2010**

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## **CONSTITUTION OF KENYA, 2010**

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## **CONSTITUTION OF KENYA**

### **PREAMBLE**

We, the people of Kenya—

**ACKNOWLEDGING** the supremacy of the Almighty God of all creation:

**HONOURING** those who heroically struggled to bring freedom and justice to our land:

**PROUD** of our ethnic, cultural and religious diversity, and determined to live in peace and unity as one indivisible sovereign nation:

**RESPECTFUL** of the environment, which is our heritage, and determined to sustain it for the benefit of future generations:

**COMMITTED** to nurturing and protecting the well-being of the individual, the family, communities and the nation:

**RECOGNISING** the aspirations of all Kenyans for a government based on the essential values of human rights, equality, freedom, democracy, social justice and the rule of law:

**EXERCISING** our sovereign and inalienable right to determine the form of governance of our country and having participated fully in the making of this Constitution:

**ADOPT, ENACT** and give this Constitution to ourselves and to our future generations.

GOD BLESS KENYA

## CHAPTER ONE – SOVEREIGNTY OF THE PEOPLE AND SUPREMACY OF THIS CONSTITUTION

### **1. Sovereignty of the people**

- (1) All sovereign power belongs to the people of Kenya and shall be exercised only in accordance with this Constitution.
- (2) The people may exercise their sovereign power either directly or through their democratically elected representatives.
- (3) Sovereign power under this Constitution is delegated to the following State organs, which shall perform their functions in accordance with this Constitution—
  - (a) Parliament and the legislative assemblies in the county governments;
  - (b) the national executive and the executive structures in the county governments; and
  - (c) the Judiciary and independent tribunals.
- (4) The sovereign power of the people is exercised at—
  - (a) the national level; and
  - (b) the county level.

### **2. Supremacy of this Constitution**

- (1) This Constitution is the supreme law of the Republic and binds all persons and all State organs at both levels of government.
- (2) No person may claim or exercise State authority except as authorised under this Constitution.
- (3) The validity or legality of this Constitution is not subject to challenge by or before any court or other State organ.
- (4) Any law, including customary law, that is inconsistent with this Constitution is void to the extent of the inconsistency, and any act or omission in contravention of this Constitution is invalid.
- (5) The general rules of international law shall form part of the law of Kenya.
- (6) Any treaty or convention ratified by Kenya shall form part of the law of Kenya under this Constitution.

### **3. Defence of this Constitution**

- (1) Every person has an obligation to respect, uphold and defend this Constitution.
- (2) Any attempt to establish a government otherwise than in compliance with this Constitution is unlawful.

## CHAPTER TWO – THE REPUBLIC

### **4. Declaration of the Republic**

- (1) Kenya is a sovereign Republic.

(2) The Republic of Kenya shall be a multi-party democratic State founded on the national values and principles of governance referred to in Article 10.

## **5. Territory of Kenya**

Kenya consists of the territory and territorial waters comprising Kenya on the effective date, and any additional territory and territorial waters as defined by an Act of Parliament.

## **6. Devolution and access to services**

(1) The territory of Kenya is divided into the counties specified in the First Schedule.

(2) The governments at the national and county levels are distinct and inter-dependent and shall conduct their mutual relations on the basis of consultation and cooperation.

(3) A national State organ shall ensure reasonable access to its services in all parts of the Republic, so far as it is appropriate to do so having regard to the nature of the service.

## **7. National, official and other languages**

(1) The national language of the Republic is Kiswahili.

(2) The official languages of the Republic are Kiswahili and English.

(3) The State shall—

- (a) promote and protect the diversity of language of the people of Kenya; and
- (b) promote the development and use of indigenous languages, Kenyan Sign language, Braille and other communication formats and technologies accessible to persons with disabilities.

## **8. State and religion**

There shall be no State religion.

## **9. National symbols and national days**

(1) The national symbols of the Republic are—

- (a) the national flag;
- (b) the national anthem;
- (c) the coat of arms; and
- (d) the public seal.

(2) The national symbols are as set out in the Second Schedule.

(3) The national days are—

- (a) Madaraka Day, to be observed on 1st June;
- (b) Mashujaa Day, to be observed on 20th October; and
- (c) Jamhuri Day, to be observed on 12th December.

- (4) A national day shall be a public holiday.
- (5) Parliament may enact legislation prescribing other public holidays, and providing for observance of public holidays.

#### **10. National values and principles of governance**

- (1) The national values and principles of governance in this Article bind all State organs, State officers, public officers and all persons whenever any of them—
  - (a) applies or interprets this Constitution;
  - (b) enacts, applies or interprets any law; or
  - (c) makes or implements public policy decisions.
- (2) The national values and principles of governance include—
  - (a) patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people;
  - (b) human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalised;
  - (c) good governance, integrity, transparency and accountability; and
  - (d) sustainable development.

#### **11. Culture**

- (1) This Constitution recognises culture as the foundation of the nation and as the cumulative civilization of the Kenyan people and nation.
- (2) The State shall—
  - (a) promote all forms of national and cultural expression through literature, the arts, traditional celebrations, science, communication, information, mass media, publications, libraries and other cultural heritage;
  - (b) recognise the role of science and indigenous technologies in the development of the nation; and
  - (c) promote the intellectual property rights of the people of Kenya.
- (3) Parliament shall enact legislation to—
  - (a) ensure that communities receive compensation or royalties for the use of their cultures and cultural heritage; and
  - (b) recognise and protect the ownership of indigenous seeds and plant varieties, their genetic and diverse characteristics and their use by the communities of Kenya.

### **CHAPTER THREE – CITIZENSHIP**

#### **12. Entitlements of citizens**

- (1) Every citizen is entitled to—
  - (a) the rights, privileges and benefits of citizenship, subject to the limits provided or permitted by this Constitution; and
  - (b) a Kenyan passport and any document of registration or identification issued by the State to citizens.

(2) A passport or other document referred to in clause (1)(b) may be denied, suspended or confiscated only in accordance with an Act of Parliament that satisfies the criteria referred to in Article 24.

### **13. Retention and acquisition of citizenship**

(1) Every person who was a citizen immediately before the effective date retains the same citizenship status as of that date.

(2) Citizenship may be acquired by birth or registration.

(3) Citizenship is not lost through marriage or the dissolution of marriage.

### **14. Citizenship by birth**

(1) A person is a citizen by birth if on the day of the person's birth, whether or not the person is born in Kenya, either the mother or father of the person is a citizen.

(2) Clause (1) applies equally to a person born before the effective date, whether or not the person was born in Kenya, if either the mother or father of the person is or was a citizen.

(3) Parliament may enact legislation limiting the effect of clauses (1) and (2) on the descendants of Kenyan citizens who are born outside Kenya.

(4) A child found in Kenya who is, or appears to be, less than eight years of age, and whose nationality and parents are not known, is presumed to be a citizen by birth.

(5) A person who is a Kenyan citizen by birth and who has ceased to be a Kenyan citizen because the person acquired citizenship of another country, is entitled on application to regain Kenyan citizenship.

### **15. Citizenship by registration**

(1) A person who has been married to a citizen for a period of at least seven years is entitled on application to be registered as a citizen.

(2) A person who has been lawfully resident in Kenya for a continuous period of at least seven years, and who satisfies the conditions prescribed by an Act of Parliament, may apply to be registered as a citizen.

(3) A child who is not a citizen, but is adopted by a citizen, is entitled on application to be registered as a citizen.

(4) Parliament shall enact legislation establishing conditions on which citizenship may be granted to individuals who are citizens of other countries.

(5) This Article applies to a person as from the effective date, but any requirements that must be satisfied before the person is entitled to be registered as a citizen shall be regarded as having been satisfied irrespective of whether the person satisfied them before or after the effective date, or partially before, and partially after, the effective date.

### **16. Dual citizenship**

A citizen by birth does not lose citizenship by acquiring the citizenship of another country.

## **17. Revocation of citizenship**

- (1) If a person acquired citizenship by registration, the citizenship may be revoked if—
- (a) the person acquired the citizenship by fraud, false representation or concealment of any material fact;
  - (b) the person has, during any war in which Kenya was engaged, unlawfully traded or communicated with an enemy or been engaged in or associated with any business that was knowingly carried on in such a manner as to assist an enemy in that war;
  - (c) the person has, within five years after registration, been convicted of an offence and sentenced to imprisonment for a term of three years or longer; or
  - (d) the person has, at any time after registration, been convicted of treason, or of an offence for which—
    - (i) a penalty of at least seven years imprisonment may be imposed; or
    - (ii) a more severe penalty may be imposed.
- (2) The citizenship of a person who was presumed to be a citizen by birth, as contemplated in Article 14(4), may be revoked if—
- (a) the citizenship was acquired by fraud, false representation or concealment of any material fact by any person;
  - (b) the nationality or parentage of the person becomes known, and reveals that the person was a citizen of another country; or
  - (c) the age of the person becomes known, and reveals that the person was older than eight years when found in Kenya.

## **18. Legislation on citizenship**

Parliament shall enact legislation—

- (a) prescribing procedures by which a person may become a citizen;
- (b) governing entry into and residence in Kenya;
- (c) providing for the status of permanent residents;
- (d) providing for voluntary renunciation of citizenship;
- (e) prescribing procedures for revocation of citizenship;
- (f) prescribing the duties and rights of citizens; and
- (g) generally giving effect to the provisions of this Chapter.

# CHAPTER FOUR – THE BILL OF RIGHTS

## PART 1 – GENERAL PROVISIONS RELATING TO THE BILL OF RIGHTS

### **19. Rights and fundamental freedoms**

- (1) The Bill of Rights is an integral part of Kenya's democratic state and is the framework for social, economic and cultural policies.
- (2) The purpose of recognising and protecting human rights and fundamental freedoms is to preserve the dignity of individuals and communities and to promote social justice and the realisation of the potential of all human beings.

- (3) The rights and fundamental freedoms in the Bill of Rights—
- (a) belong to each individual and are not granted by the State;
  - (b) do not exclude other rights and fundamental freedoms not in the Bill of Rights, but recognised or conferred by law, except to the extent that they are inconsistent with this Chapter; and
  - (c) are subject only to the limitations contemplated in this Constitution.

## **20. Application of Bill of Rights**

- (1) The Bill of Rights applies to all law and binds all State organs and all persons.
- (2) Every person shall enjoy the rights and fundamental freedoms in the Bill of Rights to the greatest extent consistent with the nature of the right or fundamental freedom.
- (3) In applying a provision of the Bill of Rights, a court shall—
- (a) develop the law to the extent that it does not give effect to a right or fundamental freedom; and
  - (b) adopt the interpretation that most favours the enforcement of a right or fundamental freedom.
- (4) In interpreting the Bill of Rights, a court, tribunal or other authority shall promote—
- (a) the values that underlie an open and democratic society based on human dignity, equality, equity and freedom; and
  - (b) the spirit, purport and objects of the Bill of Rights.
- (5) In applying any right under Article 43, if the State claims that it does not have the resources to implement the right, a court, tribunal or other authority shall be guided by the following principles—
- (a) it is the responsibility of the State to show that the resources are not available;
  - (b) in allocating resources, the State shall give priority to ensuring the widest possible enjoyment of the right or fundamental freedom having regard to prevailing circumstances, including the vulnerability of particular groups or individuals; and
  - (c) the court, tribunal or other authority may not interfere with a decision by a State organ concerning the allocation of available resources, solely on the basis that it would have reached a different conclusion.

## **21. Implementation of rights and fundamental freedoms**

- (1) It is a fundamental duty of the State and every State organ to observe, respect, protect, promote and fulfil the rights and fundamental freedoms in the Bill of Rights.
- (2) The State shall take legislative, policy and other measures, including the setting of standards, to achieve the progressive realisation of the rights guaranteed under Article 43.
- (3) All State organs and all public officers have the duty to address the needs of vulnerable groups within society, including women, older members of society, persons with disabilities, children, youth, members of minority or marginalised communities, and members of particular ethnic, religious or cultural communities.

(4) The State shall enact and implement legislation to fulfil its international obligations in respect of human rights and fundamental freedoms.

## **22. Enforcement of Bill of Rights**

(1) Every person has the right to institute court proceedings claiming that a right or fundamental freedom in the Bill of Rights has been denied, violated or infringed, or is threatened.

(2) In addition to a person acting in their own interest, court proceedings under clause (1) may be instituted by—

- (a) a person acting on behalf of another person who cannot act in their own name;
- (b) a person acting as a member of, or in the interest of, a group or class of persons;
- (c) a person acting in the public interest; or
- (d) an association acting in the interest of one or more of its members.

(3) The Chief Justice shall make rules providing for the court proceedings referred to in this Article, which shall satisfy the criteria that—

- (a) the rights of standing provided for in clause (2) are fully facilitated;
- (b) formalities relating to the proceedings, including commencement of the proceedings, are kept to the minimum, and in particular that the court shall, if necessary, entertain proceedings on the basis of informal documentation;
- (c) no fee may be charged for commencing the proceedings;
- (d) the court, while observing the rules of natural justice, shall not be unreasonably restricted by procedural technicalities; and
- (e) an organisation or individual with particular expertise may, with the leave of the court, appear as a friend of the court.

(4) The absence of rules contemplated in clause (3) does not limit the right of any person to commence court proceedings under this Article, and to have the matter heard and determined by a court.

## **23. Authority of courts to uphold and enforce the Bill of Rights**

(1) The High Court has jurisdiction, in accordance with Article 165, to hear and determine applications for redress of a denial, violation or infringement of, or threat to, a right or fundamental freedom in the Bill of Rights.

(2) Parliament shall enact legislation to give original jurisdiction in appropriate cases to subordinate courts to hear and determine applications for redress of a denial, violation or infringement of, or threat to, a right or fundamental freedom in the Bill of Rights.

(3) In any proceedings brought under Article 22, a court may grant appropriate relief, including—

- (a) a declaration of rights;
- (b) an injunction;
- (c) a conservatory order;

- (d) a declaration of invalidity of any law that denies, violates, infringes, or threatens a right or fundamental freedom in the Bill of Rights and is not justified under Article 24;
- (e) an order for compensation; and
- (f) an order of judicial review.

#### **24. Limitation of rights and fundamental freedoms**

(1) A right or fundamental freedom in the Bill of Rights shall not be limited except by law, and then only to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including—

- (a) the nature of the right or fundamental freedom;
- (b) the importance of the purpose of the limitation;
- (c) the nature and extent of the limitation;
- (d) the need to ensure that the enjoyment of rights and fundamental freedoms by any individual does not prejudice the rights and fundamental freedoms of others; and
- (e) the relation between the limitation and its purpose and whether there are less restrictive means to achieve the purpose.

(2) Despite clause (1), a provision in legislation limiting a right or fundamental freedom—

- (a) in the case of a provision enacted or amended on or after the effective date, is not valid unless the legislation specifically expresses the intention to limit that right or fundamental freedom, and the nature and extent of the limitation;
- (b) shall not be construed as limiting the right or fundamental freedom unless the provision is clear and specific about the right or freedom to be limited and the nature and extent of the limitation; and
- (c) shall not limit the right or fundamental freedom so far as to derogate from its core or essential content.

(3) The State or a person seeking to justify a particular limitation shall demonstrate to the court, tribunal or other authority that the requirements of this Article have been satisfied.

(4) The provisions of this Chapter on equality shall be qualified to the extent strictly necessary for the application of Muslim law before the Kadhis' courts, to persons who profess the Muslim religion, in matters relating to personal status, marriage, divorce and inheritance.

(5) Despite clauses (1) and (2), a provision in legislation may limit the application of the rights or fundamental freedoms in the following provisions to persons serving in the Kenya Defence Forces or the National Police Service—

- (a) Article 31—Privacy;
- (b) Article 36—Freedom of association;
- (c) Article 37—Assembly, demonstration, picketing and petition;
- (d) Article 41—Labour relations;
- (e) Article 43—Economic and social rights; and
- (f) Article 49—Rights of arrested persons.

## **25. Fundamental Rights and freedoms that may not be limited**

Despite any other provision in this Constitution, the following rights and fundamental freedoms shall not be limited—

- (a) freedom from torture and cruel, inhuman or degrading treatment or punishment;
- (b) freedom from slavery or servitude;
- (c) the right to a fair trial; and
- (d) the right to an order of *habeas corpus*.

## PART 2 – RIGHTS AND FUNDAMENTAL FREEDOMS

### **26. Right to life**

- (1) Every person has the right to life.
- (2) The life of a person begins at conception.
- (3) A person shall not be deprived of life intentionally, except to the extent authorised by this Constitution or other written law.
- (4) Abortion is not permitted unless, in the opinion of a trained health professional, there is need for emergency treatment, or the life or health of the mother is in danger, or if permitted by any other written law.

### **27. Equality and freedom from discrimination**

- (1) Every person is equal before the law and has the right to equal protection and equal benefit of the law.
- (2) Equality includes the full and equal enjoyment of all rights and fundamental freedoms.
- (3) Women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres.
- (4) The State shall not discriminate directly or indirectly against any person on any ground, including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth.
- (5) A person shall not discriminate directly or indirectly against another person on any of the grounds specified or contemplated in clause (4).
- (6) To give full effect to the realisation of the rights guaranteed under this Article, the State shall take legislative and other measures, including affirmative action programmes and policies designed to redress any disadvantage suffered by individuals or groups because of past discrimination.
- (7) Any measure taken under clause (6) shall adequately provide for any benefits to be on the basis of genuine need.
- (8) In addition to the measures contemplated in clause (6), the State shall take legislative and other measures to implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender.

**28. Human dignity**

Every person has inherent dignity and the right to have that dignity respected and protected.

**29. Freedom and security of the person**

Every person has the right to freedom and security of the person, which includes the right not to be—

- (a) deprived of freedom arbitrarily or without just cause;
- (b) detained without trial, except during a state of emergency, in which case the detention is subject to Article 58;
- (c) subjected to any form of violence from either public or private sources;
- (d) subjected to torture in any manner, whether physical or psychological;
- (e) subjected to corporal punishment; or
- (f) treated or punished in a cruel, inhuman or degrading manner.

**30. Slavery, servitude and forced labour**

- (1) A person shall not be held in slavery or servitude.
- (2) A person shall not be required to perform forced labour.

**31. Privacy**

Every person has the right to privacy, which includes the right not to have—

- (a) their person, home or property searched;
- (b) their possessions seized;
- (c) information relating to their family or private affairs unnecessarily required or revealed; or
- (d) the privacy of their communications infringed.

**32. Freedom of conscience, religion, belief and opinion**

(1) Every person has the right to freedom of conscience, religion, thought, belief and opinion.

(2) Every person has the right, either individually or in community with others, in public or in private, to manifest any religion or belief through worship, practice, teaching or observance, including observance of a day of worship.

(3) A person may not be denied access to any institution, employment or facility, or the enjoyment of any right, because of the person's belief or religion.

(4) A person shall not be compelled to act, or engage in any act, that is contrary to the person's belief or religion.

**33. Freedom of expression**

- (1) Every person has the right to freedom of expression, which includes—
  - (a) freedom to seek, receive or impart information or ideas;

- (b) freedom of artistic creativity; and
  - (c) academic freedom and freedom of scientific research.
- (2) The right to freedom of expression does not extend to—
- (a) propaganda for war;
  - (b) incitement to violence;
  - (c) hate speech; or
  - (d) advocacy of hatred that—
    - (i) constitutes ethnic incitement, vilification of others or incitement to cause harm; or
    - (ii) is based on any ground of discrimination specified or contemplated in Article 27(4).
- (3) In the exercise of the right to freedom of expression, every person shall respect the rights and reputation of others.
- 34. Freedom of the media**
- (1) Freedom and independence of electronic, print and all other types of media is guaranteed, but does not extend to any expression specified in Article 33(2).
- (2) The State shall not—
- (a) exercise control over or interfere with any person engaged in broadcasting, the production or circulation of any publication or the dissemination of information by any medium; or
  - (b) penalise any person for any opinion or view or the content of any broadcast, publication or dissemination.
- (3) Broadcasting and other electronic media have freedom of establishment, subject only to licensing procedures that—
- (a) are necessary to regulate the airwaves and other forms of signal distribution; and
  - (b) are independent of control by government, political interests or commercial interests.
- (4) All State-owned media shall—
- (a) be free to determine independently the editorial content of their broadcasts or other communications;
  - (b) be impartial; and
  - (c) afford fair opportunity for the presentation of divergent views and dissenting opinions.
- (5) Parliament shall enact legislation that provides for the establishment of a body, which shall—
- (a) be independent of control by government, political interests or commercial interests;

- (b) reflect the interests of all sections of the society; and
- (c) set media standards and regulate and monitor compliance with those standards.

**35. Access to information**

- (1) Every citizen has the right of access to—
  - (a) information held by the State; and
  - (b) information held by another person and required for the exercise or protection of any right or fundamental freedom.
- (2) Every person has the right to the correction or deletion of untrue or misleading information that affects the person.
- (3) The State shall publish and publicise any important information affecting the nation.

**36. Freedom of association**

- (1) Every person has the right to freedom of association, which includes the right to form, join or participate in the activities of an association of any kind.
- (2) A person shall not be compelled to join an association of any kind.
- (3) Any legislation that requires registration of an association of any kind shall provide that—
  - (a) registration may not be withheld or withdrawn unreasonably; and
  - (b) there shall be a right to have a fair hearing before a registration is cancelled.

**37. Assembly, demonstration, picketing and petition**

Every person has the right, peaceably and unarmed, to assemble, to demonstrate, to picket, and to present petitions to public authorities.

**38. Political rights**

- (1) Every citizen is free to make political choices, which includes the right—
  - (a) to form, or participate in forming, a political party;
  - (b) to participate in the activities of, or recruit members for, a political party; or
  - (c) to campaign for a political party or cause.
- (2) Every citizen has the right to free, fair and regular elections based on universal suffrage and the free expression of the will of the electors for—
  - (a) any elective public body or office established under this Constitution; or
  - (b) any office of any political party of which the citizen is a member.
- (3) Every adult citizen has the right, without unreasonable restrictions—
  - (a) to be registered as a voter;
  - (b) to vote by secret ballot in any election or referendum; and

- (c) to be a candidate for public office, or office within a political party of which the citizen is a member and, if elected, to hold office.

**39. Freedom of movement and residence**

- (1) Every person has the right to freedom of movement.
- (2) Every person has the right to leave Kenya.
- (3) Every citizen has the right to enter, remain in and reside anywhere in Kenya.

**40. Protection of right to property**

(1) Subject to Article 65, every person has the right, either individually or in association with others, to acquire and own property—

- (a) of any description; and
- (b) in any part of Kenya.

(2) Parliament shall not enact a law that permits the State or any person—

- (a) to arbitrarily deprive a person of property of any description or of any interest in, or right over, any property of any description; or
- (b) to limit, or in any way restrict the enjoyment of any right under this Article on the basis of any of the grounds specified or contemplated in Article 27(4).

(3) The State shall not deprive a person of property of any description, or of any interest in, or right over, property of any description, unless the deprivation—

- (a) results from an acquisition of land or an interest in land or a conversion of an interest in land, or title to land, in accordance with Chapter Five; or
- (b) is for a public purpose or in the public interest and is carried out in accordance with this Constitution and any Act of Parliament that—
  - (i) requires prompt payment in full, of just compensation to the person; and
  - (ii) allows any person who has an interest in, or right over, that property a right of access to a court of law.

(4) Provision may be made for compensation to be paid to occupants in good faith of land acquired under clause (3) who may not hold title to the land.

(5) The State shall support, promote and protect the intellectual property rights of the people of Kenya.

(6) The rights under this Article do not extend to any property that has been found to have been unlawfully acquired.

**41. Labour relations**

(1) Every person has the right to fair labour practices.

(2) Every worker has the right—

- (a) to fair remuneration;
- (b) to reasonable working conditions;

- (c) to form, join or participate in the activities and programmes of a trade union; and
  - (d) to go on strike.
- (3) Every employer has the right—
- (a) to form and join an employers organisation; and
  - (b) to participate in the activities and programmes of an employers organisation.
- (4) Every trade union and every employers' organisation has the right—
- (a) to determine its own administration, programmes and activities;
  - (b) to organise; and
  - (c) to form and join a federation.
- (5) Every trade union, employers' organisation and employer has the right to engage in collective bargaining.

#### **42. Environment**

Every person has the right to a clean and healthy environment, which includes the right—

- (a) to have the environment protected for the benefit of present and future generations through legislative and other measures, particularly those contemplated in Article 69; and
- (b) to have obligations relating to the environment fulfilled under Article 70.

#### **43. Economic and social rights**

- (1) Every person has the right—
- (a) to the highest attainable standard of health, which includes the right to health care services, including reproductive health care;
  - (b) to accessible and adequate housing, and to reasonable standards of sanitation;
  - (c) to be free from hunger, and to have adequate food of acceptable quality;
  - (d) to clean and safe water in adequate quantities;
  - (e) to social security; and
  - (f) to education.
- (2) A person shall not be denied emergency medical treatment.
- (3) The State shall provide appropriate social security to persons who are unable to support themselves and their dependants.

#### **44. Language and culture**

- (1) Every person has the right to use the language, and to participate in the cultural life, of the person's choice.

(2) A person belonging to a cultural or linguistic community has the right, with other members of that community—

- (a) to enjoy the person's culture and use the person's language; or
- (b) to form, join and maintain cultural and linguistic associations and other organs of civil society.

(3) A person shall not compel another person to perform, observe or undergo any cultural practice or rite.

#### **45. Family**

(1) The family is the natural and fundamental unit of society and the necessary basis of social order, and shall enjoy the recognition and protection of the State.

(2) Every adult has the right to marry a person of the opposite sex, based on the free consent of the parties.

(3) Parties to a marriage are entitled to equal rights at the time of the marriage, during the marriage and at the dissolution of the marriage.

(4) Parliament shall enact legislation that recognises—

- (a) marriages concluded under any tradition, or system of religious, personal or family law; and
- (b) any system of personal and family law under any tradition, or adhered to by persons professing a particular religion,

to the extent that any such marriages or systems of law are consistent with this Constitution.

#### **46. Consumer rights**

(1) Consumers have the right—

- (a) to goods and services of reasonable quality;
- (b) to the information necessary for them to gain full benefit from goods and services;
- (c) to the protection of their health, safety, and economic interests; and
- (d) to compensation for loss or injury arising from defects in goods or services.

(2) Parliament shall enact legislation to provide for consumer protection and for fair, honest and decent advertising.

(3) This Article applies to goods and services offered by public entities or private persons.

#### **47. Fair administrative action**

(1) Every person has the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair.

(2) If a right or fundamental freedom of a person has been or is likely to be adversely affected by administrative action, the person has the right to be given written reasons for the action.

(3) Parliament shall enact legislation to give effect to the rights in clause (1) and that legislation shall—

- (a) provide for the review of administrative action by a court or, if appropriate, an independent and impartial tribunal; and
- (b) promote efficient administration.

#### **48. Access to justice**

The State shall ensure access to justice for all persons and, if any fee is required, it shall be reasonable and shall not impede access to justice.

#### **49. Rights of arrested persons**

(1) An arrested person has the right—

- (a) to be informed promptly, in language that the person understands, of—
  - (i) the reason for the arrest;
  - (ii) the right to remain silent; and
  - (iii) the consequences of not remaining silent;
- (b) to remain silent;
- (c) to communicate with an advocate, and other persons whose assistance is necessary;
- (d) not to be compelled to make any confession or admission that could be used in evidence against the person;
- (e) to be held separately from persons who are serving a sentence;
- (f) to be brought before a court as soon as reasonably possible, but not later than—
  - (i) twenty-four hours after being arrested; or
  - (ii) if the twenty-four hours ends outside ordinary court hours, or on a day that is not an ordinary court day, the end of the next court day;
- (g) at the first court appearance, to be charged or informed of the reason for the detention continuing, or to be released; and
- (h) to be released on bond or bail, on reasonable conditions, pending a charge or trial, unless there are compelling reasons not to be released.

(2) A person shall not be remanded in custody for an offence if the offence is punishable by a fine only or by imprisonment for not more than six months.

#### **50. Fair hearing**

(1) Every person has the right to have any dispute that can be resolved by the application of law decided in a fair and public hearing before a court or, if appropriate, another independent and impartial tribunal or body.

- (2) Every accused person has the right to a fair trial, which includes the right—
  - (a) to be presumed innocent until the contrary is proved;

- (b) to be informed of the charge, with sufficient detail to answer it;
- (c) to have adequate time and facilities to prepare a defence;
- (d) to a public trial before a court established under this Constitution;
- (e) to have the trial begin and conclude without unreasonable delay;
- (f) to be present when being tried, unless the conduct of the accused person makes it impossible for the trial to proceed;
- (g) to choose, and be represented by, an advocate, and to be informed of this right promptly;
- (h) to have an advocate assigned to the accused person by the State and at State expense, if substantial injustice would otherwise result, and to be informed of this right promptly;
- (i) to remain silent, and not to testify during the proceedings;
- (j) to be informed in advance of the evidence the prosecution intends to rely on, and to have reasonable access to that evidence;
- (k) to adduce and challenge evidence;
- (l) to refuse to give self-incriminating evidence;
- (m) to have the assistance of an interpreter without payment if the accused person cannot understand the language used at the trial;
- (n) not to be convicted for an act or omission that at the time it was committed or omitted was not—
  - (i) an offence in Kenya; or
  - (ii) a crime under international law;
- (o) not to be tried for an offence in respect of an act or omission for which the accused person has previously been either acquitted or convicted;
- (p) to the benefit of the least severe of the prescribed punishments for an offence, if the prescribed punishment for the offence has been changed between the time that the offence was committed and the time of sentencing; and
- (q) if convicted, to appeal to, or apply for review by, a higher court as prescribed by law.

(3) If this Article requires information to be given to a person, the information shall be given in language that the person understands.

(4) Evidence obtained in a manner that violates any right or fundamental freedom in the Bill of Rights shall be excluded if the admission of that evidence would render the trial unfair, or would otherwise be detrimental to the administration of justice.

(5) An accused person—

- (a) charged with an offence, other than an offence that the court may try by summary procedures, is entitled during the trial to a copy of the record of the proceedings of the trial on request; and

- (b) has the right to a copy of the record of the proceedings within a reasonable period after they are concluded, in return for a reasonable fee as prescribed by law.
- (6) A person who is convicted of a criminal offence may petition the High Court for a new trial if—
- (a) the person's appeal, if any, has been dismissed by the highest court to which the person is entitled to appeal, or the person did not appeal within the time allowed for appeal; and
  - (b) new and compelling evidence has become available.
- (7) In the interest of justice, a court may allow an intermediary to assist a complainant or an accused person to communicate with the court.
- (8) This Article does not prevent the exclusion of the press or other members of the public from any proceedings if the exclusion is necessary, in a free and democratic society, to protect witnesses or vulnerable persons, morality, public order or national security.
- (9) Parliament shall enact legislation providing for the protection, rights and welfare of victims of offences.

#### **51. Rights of persons detained, held in custody or imprisoned**

- (1) A person who is detained, held in custody or imprisoned under the law, retains all the rights and fundamental freedoms in the Bill of Rights, except to the extent that any particular right or a fundamental freedom is clearly incompatible with the fact that the person is detained, held in custody or imprisoned.
- (2) A person who is detained or held in custody is entitled to petition for an order of *habeas corpus*.
- (3) Parliament shall enact legislation that—
  - (a) provides for the humane treatment of persons detained, held in custody or imprisoned; and
  - (b) takes into account the relevant international human rights instruments.

### **PART 3 – SPECIFIC APPLICATION OF RIGHTS**

#### **52. Interpretation of Part**

- (1) This Part elaborates certain rights to ensure greater certainty as to the application of those rights and fundamental freedoms to certain groups of persons.
- (2) This Part shall not be construed as limiting or qualifying any right.

#### **53. Children**

- (1) Every child has the right—
  - (a) to a name and nationality from birth;
  - (b) to free and compulsory basic education;
  - (c) to basic nutrition, shelter and health care;

- (d) to be protected from abuse, neglect, harmful cultural practices, all forms of violence, inhuman treatment and punishment, and hazardous or exploitative labour;
- (e) to parental care and protection, which includes equal responsibility of the mother and father to provide for the child, whether they are married to each other or not; and
- (f) not to be detained, except as a measure of last resort, and when detained, to be held—
  - (i) for the shortest appropriate period of time; and
  - (ii) separate from adults and in conditions that take account of the child's sex and age.

(2) A child's best interests are of paramount importance in every matter concerning the child.

#### **54. Persons with disabilities**

- (1) A person with any disability is entitled—
  - (a) to be treated with dignity and respect and to be addressed and referred to in a manner that is not demeaning;
  - (b) to access educational institutions and facilities for persons with disabilities that are integrated into society to the extent compatible with the interests of the person;
  - (c) to reasonable access to all places, public transport and information;
  - (d) to use Sign language, Braille or other appropriate means of communication; and
  - (e) to access materials and devices to overcome constraints arising from the person's disability.

(2) The State shall ensure the progressive implementation of the principle that at least five percent of the members of the public in elective and appointive bodies are persons with disabilities.

#### **55. Youth**

The State shall take measures, including affirmative action programmes, to ensure that the youth—

- (a) access relevant education and training;
- (b) have opportunities to associate, be represented and participate in political, social, economic and other spheres of life;
- (c) access employment; and
- (d) are protected from harmful cultural practices and exploitation.

#### **56. Minorities and marginalised groups**

The State shall put in place affirmative action programmes designed to ensure that minorities and marginalised groups—

- (a) participate and are represented in governance and other spheres of life;

- (b) are provided special opportunities in educational and economic fields;
- (c) are provided special opportunities for access to employment;
- (d) develop their cultural values, languages and practices; and
- (e) have reasonable access to water, health services and infrastructure.

## **57. Older members of society**

The State shall take measures to ensure the rights of older persons—

- (a) to fully participate in the affairs of society;
- (b) to pursue their personal development;
- (c) to live in dignity and respect and be free from abuse; and
- (d) to receive reasonable care and assistance from their family and the State.

## PART 4 – STATE OF EMERGENCY

### **58. State of emergency**

(1) A state of emergency may be declared only under Article 132 (4)(d) and only when—

- (a) the State is threatened by war, invasion, general insurrection, disorder, natural disaster or other public emergency; and
- (b) the declaration is necessary to meet the circumstances for which the emergency is declared.

(2) A declaration of a state of emergency, and any legislation enacted or other action taken in consequence of the declaration, shall be effective only—

- (a) prospectively; and
- (b) for not longer than fourteen days from the date of the declaration, unless the National Assembly resolves to extend the declaration.

(3) The National Assembly may extend a declaration of a state of emergency—

- (a) by resolution adopted—
  - (i) following a public debate in the National Assembly; and
  - (ii) by the majorities specified in clause (4); and
- (b) for not longer than two months at a time.

(4) The first extension of the declaration of a state of emergency requires a supporting vote of at least two-thirds of all the members of the National Assembly, and any subsequent extension requires a supporting vote of at least three-quarters of all the members of the National Assembly.

(5) The Supreme Court may decide on the validity of—

- (a) a declaration of a state of emergency;
- (b) any extension of a declaration of a state of emergency; and
- (c) any legislation enacted, or other action taken, in consequence of a declaration of a state of emergency.

(6) Any legislation enacted in consequence of a declaration of a state of emergency—

- (a) may limit a right or fundamental freedom in the Bill of Rights only to the extent that—
  - (i) the limitation is strictly required by the emergency; and
  - (ii) the legislation is consistent with the Republic's obligations under international law applicable to a state of emergency; and
- (b) shall not take effect until it is published in the *Gazette*.

(7) A declaration of a state of emergency, or legislation enacted or other action taken in consequence of any declaration, may not permit or authorise the indemnification of the State, or of any person, in respect of any unlawful act or omission.

## PART 5 – KENYA NATIONAL HUMAN RIGHTS AND EQUALITY COMMISSION

### **59. Kenya National Human Rights and Equality Commission**

(1) There is established the Kenya National Human Rights and Equality Commission.

(2) The functions of the Commission are—

- (a) to promote respect for human rights and develop a culture of human rights in the Republic;
- (b) to promote gender equality and equity generally and to coordinate and facilitate gender mainstreaming in national development;
- (c) to promote the protection, and observance of human rights in public and private institutions;
- (d) to monitor, investigate and report on the observance of human rights in all spheres of life in the Republic, including observance by the national security organs;
- (e) to receive and investigate complaints about alleged abuses of human rights and take steps to secure appropriate redress where human rights have been violated;
- (f) on its own initiative or on the basis of complaints, to investigate or research a matter in respect of human rights, and make recommendations to improve the functioning of State organs;
- (g) to act as the principal organ of the State in ensuring compliance with obligations under treaties and conventions relating to human rights;
- (h) to investigate any conduct in state affairs, or any act or omission in public administration in any sphere of government, that is alleged or suspected to be prejudicial or improper or to result in any impropriety or prejudice;
- (i) to investigate complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct;

- (j) to report on complaints investigated under paragraphs (h) and (i) and take remedial action; and
  - (k) to perform any other functions prescribed by legislation.
- (3) Every person has the right to complain to the Commission, alleging that a right or fundamental freedom in the Bill of Rights has been denied, violated or infringed, or is threatened.
- (4) Parliament shall enact legislation to give full effect to this Part, and any such legislation may restructure the Commission into two or more separate commissions.
- (5) If Parliament enacts legislation restructuring the Commission under clause (4)—
- (a) that legislation shall assign each function of the Commission specified in this Article to one or the other of the successor commissions;
  - (b) each of the successor commissions shall have powers equivalent to the powers of the Commission under this Article; and
  - (c) each successor commission shall be a commission within the meaning of Chapter Fifteen, and shall have the status and powers of a commission under that Chapter.

## CHAPTER FIVE – LAND AND ENVIRONMENT

### PART 1 – LAND

#### **60. Principles of land policy**

- (1) Land in Kenya shall be held, used and managed in a manner that is equitable, efficient, productive and sustainable, and in accordance with the following principles—
- (a) equitable access to land;
  - (b) security of land rights;
  - (c) sustainable and productive management of land resources;
  - (d) transparent and cost effective administration of land;
  - (e) sound conservation and protection of ecologically sensitive areas;
  - (f) elimination of gender discrimination in law, customs and practices related to land and property in land; and
  - (g) encouragement of communities to settle land disputes through recognised local community initiatives consistent with this Constitution.

(2) These principles shall be implemented through a national land policy developed and reviewed regularly by the national government and through legislation.

#### **61. Classification of land**

- (1) All land in Kenya belongs to the people of Kenya collectively as a nation, as communities and as individuals.

(2) Land in Kenya is classified as public, community or private.

**62. Public land**

(1) Public land is—

- (a) land which at the effective date was unalienated government land as defined by an Act of Parliament in force at the effective date;
- (b) land lawfully held, used or occupied by any State organ, except any such land that is occupied by the State organ as lessee under a private lease;
- (c) land transferred to the State by way of sale, reversion or surrender;
- (d) land in respect of which no individual or community ownership can be established by any legal process;
- (e) land in respect of which no heir can be identified by any legal process;
- (f) all minerals and mineral oils as defined by law;
- (g) government forests other than forests to which Article 63(2)(d)(i) applies, government game reserves, water catchment areas, national parks, government animal sanctuaries, and specially protected areas;
- (h) all roads and thoroughfares provided for by an Act of Parliament;
- (i) all rivers, lakes and other water bodies as defined by an Act of Parliament;
- (j) the territorial sea, the exclusive economic zone and the sea bed;
- (k) the continental shelf;
- (l) all land between the high and low water marks;
- (m) any land not classified as private or community land under this Constitution; and
- (n) any other land declared to be public land by an Act of Parliament—
  - (i) in force at the effective date; or
  - (ii) enacted after the effective date.

(2) Public land shall vest in and be held by a county government in trust for the people resident in the county, and shall be administered on their behalf by the National Land Commission, if it is classified under—

- (a) clause (1)(a), (c), (d) or (e); and
- (b) clause (1)(b), other than land held, used or occupied by a national State organ.

(3) Public land classified under clause (1)(f) to (m) shall vest in and be held by the national government in trust for the people of Kenya and shall be administered on their behalf by the National Land Commission.

(4) Public land shall not be disposed of or otherwise used except in terms of an Act of Parliament specifying the nature and terms of that disposal or use.

### **63. Community land**

(1) Community land shall vest in and be held by communities identified on the basis of ethnicity, culture or similar community of interest.

(2) Community land consists of—

- (a) land lawfully registered in the name of group representatives under the provisions of any law;
- (b) land lawfully transferred to a specific community by any process of law;
- (c) any other land declared to be community land by an Act of Parliament; and
- (d) land that is—
  - (i) lawfully held, managed or used by specific communities as community forests, grazing areas or shrines;
  - (ii) ancestral lands and lands traditionally occupied by hunter-gatherer communities; or
  - (iii) lawfully held as trust land by the county governments,

but not including any public land held in trust by the county government under Article 62(2).

(3) Any unregistered community land shall be held in trust by county governments on behalf of the communities for which it is held.

(4) Community land shall not be disposed of or otherwise used except in terms of legislation specifying the nature and extent of the rights of members of each community individually and collectively.

(5) Parliament shall enact legislation to give effect to this Article.

### **64. Private land**

Private land consists of —

- (a) registered land held by any person under any freehold tenure;
- (b) land held by any person under leasehold tenure; and
- (c) any other land declared private land under an Act of Parliament.

### **65. Landholding by non-citizens**

(1) A person who is not a citizen may hold land on the basis of leasehold tenure only, and any such lease, however granted, shall not exceed ninety-nine years.

(2) If a provision of any agreement, deed, conveyance or document of whatever nature purports to confer on a person who is not a citizen an interest in land greater than a ninety-nine year lease, the provision shall be regarded as conferring on the person a ninety-nine year leasehold interest, and no more.

(3) For purposes of this Article—

- (a) a body corporate shall be regarded as a citizen only if the body corporate is wholly owned by one or more citizens; and

- (b) property held in trust shall be regarded as being held by a citizen only if all of the beneficial interest of the trust is held by persons who are citizens.
- (4) Parliament may enact legislation to make further provision for the operation of this Article.

#### **66. Regulation of land use and property**

(1) The State may regulate the use of any land, or any interest in or right over any land, in the interest of defence, public safety, public order, public morality, public health, or land use planning.

(2) Parliament shall enact legislation ensuring that investments in property benefit local communities and their economies.

#### **67. National Land Commission**

(1) There is established the National Land Commission.

(2) The functions of the National Land Commission are—

- (a) to manage public land on behalf of the national and county governments;
- (b) to recommend a national land policy to the national government;
- (c) to advise the national government on a comprehensive programme for the registration of title in land throughout Kenya;
- (d) to conduct research related to land and the use of natural resources, and make recommendations to appropriate authorities;
- (e) to initiate investigations, on its own initiative or on a complaint, into present or historical land injustices, and recommend appropriate redress;
- (f) to encourage the application of traditional dispute resolution mechanisms in land conflicts;
- (g) to assess tax on land and premiums on immovable property in any area designated by law; and
- (h) to monitor and have oversight responsibilities over land use planning throughout the country.

(3) The National Land Commission may perform any other functions prescribed by national legislation.

#### **68. Legislation on land**

Parliament shall—

- (a) revise, consolidate and rationalise existing land laws;
- (b) revise sectoral land use laws in accordance with the principles set out in Article 60 (1); and
- (c) enact legislation—
  - (i) to prescribe minimum and maximum land holding acreages in respect of private land;

- (ii) to regulate the manner in which any land may be converted from one category to another;
- (iii) to regulate the recognition and protection of matrimonial property and in particular the matrimonial home during and on the termination of marriage;
- (iv) to protect, conserve and provide access to all public land;
- (v) to enable the review of all grants or dispositions of public land to establish their propriety or legality;
- (vi) to protect the dependants of deceased persons holding interests in any land, including the interests of spouses in actual occupation of land; and
- (vii) to provide for any other matter necessary to give effect to the provisions of this Chapter.

## PART 2 – ENVIRONMENT AND NATURAL RESOURCES

### **69. Obligations in respect of the environment**

(1) The State shall—

- (a) ensure sustainable exploitation, utilisation, management and conservation of the environment and natural resources, and ensure the equitable sharing of the accruing benefits;
- (b) work to achieve and maintain a tree cover of at least ten per cent of the land area of Kenya;
- (c) protect and enhance intellectual property in, and indigenous knowledge of, biodiversity and the genetic resources of the communities;
- (d) encourage public participation in the management, protection and conservation of the environment;
- (e) protect genetic resources and biological diversity;
- (f) establish systems of environmental impact assessment, environmental audit and monitoring of the environment;
- (g) eliminate processes and activities that are likely to endanger the environment; and
- (h) utilise the environment and natural resources for the benefit of the people of Kenya.

(2) Every person has a duty to cooperate with State organs and other persons to protect and conserve the environment and ensure ecologically sustainable development and use of natural resources.

### **70. Enforcement of environmental rights**

(1) If a person alleges that a right to a clean and healthy environment recognised and protected under Article 42 has been, is being or is likely to be, denied, violated, infringed or threatened, the person may apply to a court for redress in addition to any other legal remedies that are available in respect to the same matter.

(2) On application under clause (1), the court may make any order, or give any directions, it considers appropriate—

- (a) to prevent, stop or discontinue any act or omission that is harmful to the environment;
- (b) to compel any public officer to take measures to prevent or discontinue any act or omission that is harmful to the environment; or
- (c) to provide compensation for any victim of a violation of the right to a clean and healthy environment.

(3) For the purposes of this Article, an applicant does not have to demonstrate that any person has incurred loss or suffered injury.

## **71. Agreements relating to natural resource**

(1) A transaction is subject to ratification by Parliament if it—

- (a) involves the grant of a right or concession by or on behalf of any person, including the national government, to another person for the exploitation of any natural resource of Kenya; and
- (b) is entered into on or after the effective date.

(2) Parliament shall enact legislation providing for the classes of transactions subject to ratification under clause (1).

## **72. Legislation relating to the environment**

Parliament shall enact legislation to give full effect to the provisions of this Part.

## CHAPTER SIX – LEADERSHIP AND INTEGRITY

### **73. Responsibilities of leadership**

(1) Authority assigned to a State officer—

- (a) is a public trust to be exercised in a manner that—
  - (i) is consistent with the purposes and objects of this Constitution;
  - (ii) demonstrates respect for the people;
  - (iii) brings honour to the nation and dignity to the office; and
  - (iv) promotes public confidence in the integrity of the office; and
- (b) vests in the State officer the responsibility to serve the people, rather than the power to rule them.

(2) The guiding principles of leadership and integrity include—

- (a) selection on the basis of personal integrity, competence and suitability, or election in free and fair elections;
- (b) objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favouritism, other improper motives or corrupt practices;

- (c) selfless service based solely on the public interest, demonstrated by
  - - (i) honesty in the execution of public duties; and
    - (ii) the declaration of any personal interest that may conflict with public duties;
  - (d) accountability to the public for decisions and actions; and
  - (e) discipline and commitment in service to the people.

#### **74. Oath of office of State officers**

Before assuming a State office, acting in a State office, or performing any functions of a State office, a person shall take and subscribe the oath or affirmation of office, in the manner and form prescribed by the Third Schedule or under an Act of Parliament.

#### **75. Conduct of State officers**

- (1) A State officer shall behave, whether in public and official life, in private life, or in association with other persons, in a manner that avoids—
  - (a) any conflict between personal interests and public or official duties;
  - (b) compromising any public or official interest in favour of a personal interest; or
  - (c) demeaning the office the officer holds.
- (2) A person who contravenes clause (1), or Article 76, 77 or 78(2)—
  - (a) shall be subject to the applicable disciplinary procedure for the relevant office; and
  - (b) may, in accordance with the disciplinary procedure referred to in paragraph (a), be dismissed or otherwise removed from office.
- (3) A person who has been dismissed or otherwise removed from office for a contravention of the provisions specified in clause (2) is disqualified from holding any other State office.

#### **76. Financial probity of State officers**

- (1) A gift or donation to a State officer on a public or official occasion is a gift or donation to the Republic and shall be delivered to the State unless exempted under an Act of Parliament.
- (2) A State officer shall not—
  - (a) maintain a bank account outside Kenya except in accordance with an Act of Parliament; or
  - (b) seek or accept a personal loan or benefit in circumstances that compromise the integrity of the State officer.

#### **77. Restriction on activities of State officers**

- (1) A full-time State officer shall not participate in any other gainful employment.
- (2) Any appointed State officer shall not hold office in a political party.

(3) A retired State officer who is receiving a pension from public funds shall not hold more than two concurrent remunerative positions as chairperson, director or employee of—

- (a) a company owned or controlled by the State; or
- (b) a State organ.

(4) A retired State officer shall not receive remuneration from public funds other than as contemplated in clause (3).

## **78. Citizenship and leadership**

(1) A person is not eligible for election or appointment to a State office unless the person is a citizen of Kenya.

(2) A State officer or a member of the defence forces shall not hold dual citizenship.

(3) Clauses (1) and (2) do not apply to—

- (a) judges and members of commissions; or
- (b) any person who has been made a citizen of another country by operation of that country's law, without ability to opt out.

## **79. Legislation to establish the ethics and anti-corruption commission**

Parliament shall enact legislation to establish an independent ethics and anti-corruption commission, which shall be and have the status and powers of a commission under Chapter Fifteen, for purposes of ensuring compliance with, and enforcement of, the provisions of this Chapter.

## **80. Legislation on leadership**

Parliament shall enact legislation—

- (a) establishing procedures and mechanisms for the effective administration of this Chapter;
- (b) prescribing the penalties, in addition to the penalties referred to in Article 75, that may be imposed for a contravention of this Chapter;
- (c) providing for the application of this Chapter, with the necessary modifications, to public officers; and
- (d) making any other provision necessary for ensuring the promotion of the principles of leadership and integrity referred to in this Chapter, and the enforcement of this Chapter.

# **CHAPTER SEVEN – REPRESENTATION OF THE PEOPLE**

## **PART 1 – ELECTORAL SYSTEM AND PROCESS**

### **81. General principles for the electoral system**

The electoral system shall comply with the following principles—

- (a) freedom of citizens to exercise their political rights under Article 38;
- (b) not more than two-thirds of the members of elective public bodies shall be of the same gender;

- (c) fair representation of persons with disabilities;
- (d) universal suffrage based on the aspiration for fair representation and equality of vote; and
- (e) free and fair elections, which are—
  - (i) by secret ballot;
  - (ii) free from violence, intimidation, improper influence or corruption;
  - (iii) conducted by an independent body;
  - (iv) transparent; and
  - (v) administered in an impartial, neutral, efficient, accurate and accountable manner.

**82. Legislation on elections**

- (1) Parliament shall enact legislation to provide for—
  - (a) the delimitation by the Independent Electoral and Boundaries Commission of electoral units for election of members of the National Assembly and county assemblies;
  - (b) the nomination of candidates;
  - (c) the continuous registration of citizens as voters;
  - (d) the conduct of elections and referenda and the regulation and efficient supervision of elections and referenda, including the nomination of candidates for elections; and
  - (e) the progressive registration of citizens residing outside Kenya, and the progressive realisation of their right to vote.
- (2) Legislation required by clause (1)(d) shall ensure that voting at every election is—
  - (a) simple;
  - (b) transparent; and
  - (c) takes into account the special needs of—
    - (i) persons with disabilities; and
    - (ii) other persons or groups with special needs.

**83. Registration as a voter**

- (1) A person qualifies for registration as a voter at elections or referenda if the person—
  - (a) is an adult citizen;
  - (b) is not declared to be of unsound mind; and
  - (c) has not been convicted of an election offence during the preceding five years.
- (2) A citizen who qualifies for registration as a voter shall be registered at only one registration centre.

(3) Administrative arrangements for the registration of voters and the conduct of elections shall be designed to facilitate, and shall not deny, an eligible citizen the right to vote or stand for election.

**84. Candidates for election and political parties to comply with code of conduct**

In every election, all candidates and all political parties shall comply with the code of conduct prescribed by the Independent Electoral and Boundaries Commission.

**85. Eligibility to stand as an independent candidate**

Any person is eligible to stand as an independent candidate for election if the person—

- (a) is not a member of a registered political party and has not been a member for at least three months immediately before the date of the election; and
- (b) satisfies the requirements of—
  - (i) Article 99(1)(c)(i) or (ii), in the case of a candidate for election to the National Assembly or the Senate, respectively; or
  - (ii) Article 193(1)(c)(ii), in the case of a candidate for election to a county assembly.

**86. Voting**

At every election, the Independent Electoral and Boundaries Commission shall ensure that—

- (a) whatever voting method is used, the system is simple, accurate, verifiable, secure, accountable and transparent;
- (b) the votes cast are counted, tabulated and the results announced promptly by the presiding officer at each polling station;
- (c) the results from the polling stations are openly and accurately collated and promptly announced by the returning officer; and
- (d) appropriate structures and mechanisms to eliminate electoral malpractice are put in place, including the safekeeping of election materials.

**87. Electoral disputes**

(1) Parliament shall enact legislation to establish mechanisms for timely settling of electoral disputes.

(2) Petitions concerning an election, other than a presidential election, shall be filed within twenty-eight days after the declaration of the election results by the Independent Electoral and Boundaries Commission.

(3) Service of a petition may be direct or by advertisement in a newspaper with national circulation.

PART 2 – INDEPENDENT ELECTORAL AND BOUNDARIES  
COMMISSION AND DELIMITATION OF ELECTORAL UNITS

**88. Independent Electoral and Boundaries Commission**

(1) There is established the Independent Electoral and Boundaries Commission.

(2) A person is not eligible for appointment as a member of the Commission if the person—

- (a) has, at any time within the preceding five years, held office, or stood for election as—
  - (i) a member of Parliament or of a county assembly; or
  - (ii) a member of the governing body of a political party; or
- (b) holds any State office.

(3) A member of the Commission shall not hold another public office.

(4) The Commission is responsible for conducting or supervising referenda and elections to any elective body or office established by this Constitution, and any other elections as prescribed by an Act of Parliament and, in particular, for—

- (a) the continuous registration of citizens as voters;
- (b) the regular revision of the voters' roll;
- (c) the delimitation of constituencies and wards;
- (d) the regulation of the process by which parties nominate candidates for elections;
- (e) the settlement of electoral disputes, including disputes relating to or arising from nominations but excluding election petitions and disputes subsequent to the declaration of election results;
- (f) the registration of candidates for election;
- (g) voter education;
- (h) the facilitation of the observation, monitoring and evaluation of elections;
- (i) the regulation of the amount of money that may be spent by or on behalf of a candidate or party in respect of any election;
- (j) the development of a code of conduct for candidates and parties contesting elections; and
- (k) the monitoring of compliance with the legislation required by Article 82(1)(b) relating to nomination of candidates by parties.

(5) The Commission shall exercise its powers and perform its functions in accordance with this Constitution and national legislation.

**89. Delimitation of electoral units**

(1) There shall be two hundred and ninety constituencies for the purposes of the election of the members of the National Assembly provided for in Article 97(1)(a).

(2) The Independent Electoral and Boundaries Commission shall review the names and boundaries of constituencies at intervals of not less than eight years, and not more than twelve years, but any review shall be completed at least twelve months before a general election of members of Parliament.

(3) The Commission shall review the number, names and boundaries of wards periodically.

(4) If a general election is to be held within twelve months after the completion of a review by the Commission, the new boundaries shall not take effect for purposes of that election.

(5) The boundaries of each constituency shall be such that the number of inhabitants in the constituency is, as nearly as possible, equal to the population quota, but the number of inhabitants of a constituency may be greater or lesser than the population quota in the manner specified in clause (6) to take account of—

- (a) geographical features and urban centres;
- (b) community of interest, historical, economic and cultural ties; and
- (c) means of communication.

(6) The number of inhabitants of a constituency or ward may be greater or lesser than the population quota by a margin of not more than—

- (a) forty per cent for cities and sparsely populated areas; and
- (b) thirty per cent for the other areas.

(7) In reviewing constituency and ward boundaries the Commission shall—

- (a) consult all interested parties; and
- (b) progressively work towards ensuring that the number of inhabitants in each constituency and ward is, as nearly as possible, equal to the population quota.

(8) If necessary, the Commission shall alter the names and boundaries of constituencies, and the number, names and boundaries of wards.

(9) Subject to clauses (1), (2), (3) and (4), the names and details of the boundaries of constituencies and wards determined by the Commission shall be published in the *Gazette*, and shall come into effect on the dissolution of Parliament first following their publication.

(10) A person may apply to the High Court for review of a decision of the Commission made under this Article.

(11) An application for the review of a decision made under this Article shall be filed within thirty days of the publication of the decision in the *Gazette* and shall be heard and determined within three months of the date on which it is filed.

(12) For the purposes of this Article, “**population quota**” means the number obtained by dividing the number of inhabitants of Kenya by the number of constituencies or wards, as applicable, into which Kenya is divided under this Article.

## **90. Allocation of party list seats**

(1) Elections for the seats in Parliament provided for under Articles 97(1)(c) and 98(1)(b), (c) and (d), and for the members of county assemblies under article 177(1)(b) and (c), shall be on the basis of proportional representation by use of party lists.

(2) The Independent Electoral and Boundaries Commission shall be responsible for the conduct and supervision of elections for seats provided for under clause (1) and shall ensure that—

- (a) each political party participating in a general election nominates and submits a list of all the persons who would stand elected if the party were to be entitled to all the seats provided for under clause (1), within the time prescribed by national legislation;
- (b) except in the case of the seats provided for under Article 98(1)(b), each party list comprises the appropriate number of qualified candidates and alternates between male and female candidates in the priority in which they are listed; and
- (c) except in the case of county assembly seats, each party list reflects the regional and ethnic diversity of the people of Kenya.

(3) The seats referred to in clause (1) shall be allocated to political parties in proportion to the total number of seats won by candidates of the political party at the general election.

## **PART 3 – POLITICAL PARTIES**

### **91. Basic requirements for political parties**

(1) Every political party shall—

- (a) have a national character as prescribed by an Act of Parliament;
- (b) have a democratically elected governing body;
- (c) promote and uphold national unity;
- (d) abide by the democratic principles of good governance, promote and practise democracy through regular, fair and free elections within the party;
- (e) respect the right of all persons to participate in the political process, including minorities and marginalised groups;
- (f) respect and promote human rights and fundamental freedoms, and gender equality and equity;
- (g) promote the objects and principles of this Constitution and the rule of law; and
- (h) subscribe to and observe the code of conduct for political parties.

(2) A political party shall not—

- (a) be founded on a religious, linguistic, racial, ethnic, gender or regional basis or seek to engage in advocacy of hatred on any such basis;
- (b) engage in or encourage violence by, or intimidation of, its members, supporters, opponents or any other person;

- (c) establish or maintain a paramilitary force, militia or similar organisation;
- (d) engage in bribery or other forms of corruption; or
- (e) except as is provided under this Chapter or by an Act of Parliament, accept or use public resources to promote its interests or its candidates in elections.

## **92. Legislation on political parties**

Parliament shall enact legislation to provide for—

- (a) the reasonable and equitable allocation of airtime, by State-owned and other specified categories of broadcasting media, to political parties either generally or during election campaigns;
- (b) the regulation of freedom to broadcast in order to ensure fair election campaigning;
- (c) the regulation of political parties;
- (d) the roles and functions of political parties;
- (e) the registration and supervision of political parties;
- (f) the establishment and management of a political parties fund;
- (g) the accounts and audit of political parties;
- (h) restrictions on the use of public resources to promote the interests of political parties; and
- (i) any other matters necessary for the management of political parties.

# CHAPTER EIGHT – THE LEGISLATURE

## PART 1 – ESTABLISHMENT AND ROLE OF PARLIAMENT

### **93. Establishment of Parliament**

- (1) There is established a Parliament of Kenya, which shall consist of the National Assembly and the Senate.
- (2) The National Assembly and the Senate shall perform their respective functions in accordance with this Constitution.

### **94. Role of Parliament**

- (1) The legislative authority of the Republic is derived from the people and, at the national level, is vested in and exercised by Parliament.
- (2) Parliament manifests the diversity of the nation, represents the will of the people, and exercises their sovereignty.
- (3) Parliament may consider and pass amendments to this Constitution, and alter county boundaries as provided for in this Constitution.
- (4) Parliament shall protect this Constitution and promote the democratic governance of the Republic.

(5) No person or body, other than Parliament, has the power to make provision having the force of law in Kenya except under authority conferred by this Constitution or by legislation.

(6) An Act of Parliament, or legislation of a county, that confers on any State organ, State officer or person the authority to make provision having the force of law in Kenya, as contemplated in clause (5), shall expressly specify the purpose and objectives for which that authority is conferred, the limits of the authority, the nature and scope of the law that may be made, and the principles and standards applicable to the law made under the authority.

#### **95. Role of the National Assembly**

(1) The National Assembly represents the people of the constituencies and special interests in the National Assembly.

(2) The National Assembly deliberates on and resolves issues of concern to the people.

(3) The National Assembly enacts legislation in accordance with Part 4 of this Chapter.

(4) The National Assembly—

- (a) determines the allocation of national revenue between the levels of government, as provided in Part 4 of Chapter Twelve;
- (b) appropriates funds for expenditure by the national government and other national State organs; and
- (c) exercises oversight over national revenue and its expenditure.

(5) The National Assembly—

- (a) reviews the conduct in office of the President, the Deputy President and other State officers and initiates the process of removing them from office; and
- (b) exercises oversight of State organs.

(6) The National Assembly approves declarations of war and extensions of states of emergency.

#### **96. Role of the Senate**

(1) The Senate represents the counties, and serves to protect the interests of the counties and their governments.

(2) The Senate participates in the law-making function of Parliament by considering, debating and approving Bills concerning counties, as provided in Articles 109 to 113.

(3) The Senate determines the allocation of national revenue among counties, as provided in Article 217, and exercises oversight over national revenue allocated to the county governments.

(4) The Senate participates in the oversight of State officers by considering and determining any resolution to remove the President or Deputy President from office in accordance with Article 145.

## PART 2 – COMPOSITION AND MEMBERSHIP OF PARLIAMENT

### **97. Membership of the National Assembly**

- (1) The National Assembly consists of—
- (a) two hundred and ninety members, each elected by the registered voters of single member constituencies;
  - (b) forty-seven women, each elected by the registered voters of the counties, each county constituting a single member constituency;
  - (c) twelve members nominated by parliamentary political parties according to their proportion of members of the National Assembly in accordance with Article 90, to represent special interests including the youth, persons with disabilities and workers; and
  - (d) the Speaker, who is an *ex officio* member.
- (2) Nothing in this Article shall be construed as excluding any person from contesting an election under clause (1)(a).

### **98. Membership of the Senate**

- (1) The Senate consists of—
- (a) forty-seven members each elected by the registered voters of the counties, each county constituting a single member constituency;
  - (b) sixteen women members who shall be nominated by political parties according to their proportion of members of the Senate elected under clause (a) in accordance with Article 90;
  - (c) two members, being one man and one woman, representing the youth;
  - (d) two members, being one man and one woman, representing persons with disabilities; and
  - (e) the Speaker, who shall be an *ex officio* member.

(2) The members referred to in clause (1)(c) and (d) shall be elected in accordance with Article 90.

(3) Nothing in this Article shall be construed as excluding any person from contesting an election under clause (1)(a).

### **99. Qualifications and disqualifications for election as member of Parliament**

- (1) Unless disqualified under clause (2), a person is eligible for election as a member of Parliament if the person—
- (a) is registered as a voter;
  - (b) satisfies any educational, moral and ethical requirements prescribed by this Constitution or by an Act of Parliament; and
  - (c) is nominated by a political party, or is an independent candidate who is supported—
    - (i) in the case of election to the National Assembly, by at least one thousand registered voters in the constituency; or

- (ii) in the case of election to the Senate, by at least two thousand registered voters in the county.

(2) A person is disqualified from being elected a member of Parliament if the person—

- (a) is a State officer or other public officer, other than a member of Parliament;
- (b) has, at any time within the five years immediately preceding the date of election, held office as a member of the Independent Electoral and Boundaries Commission;
- (c) has not been a citizen of Kenya for at least the ten years immediately preceding the date of election;
- (d) is a member of a county assembly;
- (e) is of unsound mind;
- (f) is an undischarged bankrupt;
- (g) is subject to a sentence of imprisonment of at least six months, as at the date of registration as a candidate, or at the date of election; or
- (h) is found, in accordance with any law, to have misused or abused a State office or public office or in any way to have contravened Chapter Six.

(3) A person is not disqualified under clause (2) unless all possibility of appeal or review of the relevant sentence or decision has been exhausted.

#### **100. Promotion of representation of marginalised groups**

Parliament shall enact legislation to promote the representation in Parliament of—

- (a) women;
- (b) persons with disabilities;
- (c) youth;
- (d) ethnic and other minorities; and
- (e) marginalised communities.

#### **101. Election of members of Parliament**

(1) A general election of members of Parliament shall be held on the second Tuesday in August in every fifth year.

(2) Whenever a vacancy occurs in the office of a member of the National Assembly under Article 97(1)(c), or of the Senate under Article 98(1)(b), (c) or (d), the respective Speaker shall, within twenty-one days of the occurrence of the vacancy, give notice in writing of the vacancy to—

- (a) the Independent Electoral and Boundaries Commission; and
- (b) the political party on whose party list the member was elected or nominated.

(3) A vacancy referred to in clause (2) shall, subject to clause (5), be filled in the manner prescribed by an Act of Parliament within twenty-one days of the notification by the respective Speaker.

(4) Whenever a vacancy occurs in the office of a member of the National Assembly elected under Article 97(1)(a) or (b), or of the Senate elected under Article 98(1)(a)—

- (a) the respective Speaker shall, within twenty-one days after the occurrence of the vacancy, give notice in writing of the vacancy to the Independent Electoral and Boundaries Commission; and
- (b) a by-election shall be held within ninety days of the occurrence of the vacancy, subject to clause (5).

(5) A vacancy referred to in clause (4) shall not be filled within the three months immediately before a general election.

## **102. Term of Parliament**

(1) The term of each House of Parliament expires on the date of the next general election.

(2) When Kenya is at war, Parliament may, by resolution supported in each House by at least two-thirds of all the members of the House, from time to time extend the term of Parliament by not more than six months at a time.

(3) The term of Parliament shall not be extended under clause (2) for a total of more than twelve months.

## **103. Vacation of office of member of Parliament**

(1) The office of a member of Parliament becomes vacant—

- (a) if the member dies;
- (b) if, during any session of Parliament, the member is absent from eight sittings of the relevant House without permission, in writing, from the Speaker, and is unable to offer a satisfactory explanation for the absence to the relevant committee;
- (c) if the member is otherwise removed from office under this Constitution or legislation enacted under Article 80;
- (d) if the member resigns from Parliament in writing to the Speaker;
- (e) if, having been elected to Parliament
  - (i) as a member of a political party, the member resigns from that party or is deemed to have resigned from the party as determined in accordance with the legislation contemplated in clause (2); or
  - (ii) as an independent candidate, the member joins a political party;
- (f) at the end of the term of the relevant House; or
- (g) if the member becomes disqualified for election to Parliament under Article 99(2)(d) to (h).

(3) Parliament shall enact legislation providing for the circumstances under which a member of a political party shall be deemed, for the purposes of clause (1)(e), to have resigned from the party.

**104. Right of recall**

(1) The electorate under Articles 97 and 98 have the right to recall the member of Parliament representing their constituency before the end of the term of the relevant House of Parliament.

(2) Parliament shall enact legislation to provide for the grounds on which a member may be recalled and the procedure to be followed.

**105. Determination of questions of membership**

(1) The High Court shall hear and determine any question whether—

- (a) a person has been validly elected as a member of Parliament; or
- (b) the seat of a member has become vacant.

(2) A question under clause (1) shall be heard and determined within six months of the date of lodging the petition.

(3) Parliament shall enact legislation to give full effect to this Article.

**PART 3 – OFFICES OF PARLIAMENT**

**106. Speakers and Deputy Speakers of Parliament**

(1) There shall be—

- (a) a Speaker for each House of Parliament, who shall be elected by that House in accordance with the Standing Orders, from among persons who are qualified to be elected as members of Parliament but are not such members; and
- (b) a Deputy Speaker for each House of Parliament, who shall be elected by that House in accordance with the Standing Orders, from among the members of that House.

(2) The office of Speaker or Deputy Speaker shall become vacant—

- (a) when a new House of Parliament first meets after an election;
- (b) if the office holder, as a member of the relevant House, vacates office under Article 103;
- (c) if the relevant House so resolves by resolution supported by the votes of at least two-thirds of its members; or
- (d) if the office holder resigns from office in a letter addressed to the relevant House.

**107. Presiding in Parliament**

(1) At any sitting of a House of Parliament—

- (a) the Speaker presides;
- (b) in the absence of the Speaker, the Deputy Speaker presides; and

- (c) in the absence of the Speaker and the Deputy Speaker, another member of the House elected by the House presides.
- (2) At a joint sitting of the Houses of Parliament, the Speaker of the National Assembly shall preside, assisted by the Speaker of the Senate.

**108. Party leaders**

- (1) There shall be a leader of the majority party and a leader of the minority party.
- (2) The leader of the majority party shall be the person who is the leader in the National Assembly of the largest party or coalition of parties.
- (3) The leader of the minority party shall be the person who is the leader in the National Assembly of the second largest party or coalition of parties.
- (4) The following order of precedence shall be observed in the National Assembly—
  - (a) the Speaker of the National Assembly;
  - (b) the leader of the majority party; and
  - (c) the leader of the minority party.

**PART 4 – PROCEDURES FOR ENACTING LEGISLATION**

**109. Exercise of legislative powers**

- (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.

**110. Bills concerning county government**

- (1) In this Constitution, “**a Bill concerning county government**” means—
  - (a) a Bill containing provisions affecting the functions and powers of the county governments set out in the Fourth Schedule;
  - (b) a Bill relating to the election of members of a county assembly or a county executive; and
  - (c) a Bill referred to in Chapter Twelve affecting the finances of county governments.

- (2) A Bill concerning county governments is—
- (a) a special Bill, which shall be considered under Article 111, if it—
    - (i) relates to the election of members of a county assembly or a county executive; or
    - (ii) is the annual County Allocation of Revenue Bill referred to in Article 218; or
  - (b) an ordinary Bill, which shall be considered under Article 112, in any other case.

(3) Before either House considers a Bill, the Speakers of the National Assembly and Senate shall jointly resolve any question as to whether it is a Bill concerning counties and, if it is, whether it is a special or an ordinary Bill.

(4) When any Bill concerning county government has been passed by one House of Parliament, the Speaker of that House shall refer it to the Speaker of the other House.

(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.

### **111. Special Bills concerning county governments**

(1) A special Bill concerning a county government shall proceed in the same manner as an ordinary Bill concerning county government, subject to clauses (2) and (3).

(2) The National Assembly may amend or veto a special Bill that has been passed by the Senate only by a resolution supported by at least two-thirds of the members of the Assembly.

(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.

### **112. Ordinary Bills concerning county governments**

(1) If one House passes an ordinary Bill concerning counties, and the second House—

- (a) rejects the Bill, it shall be referred to a mediation committee appointed under Article 113; or
- (b) passes the Bill in an amended form, it shall be referred back to the originating House for reconsideration.

(2) If, after the originating House has reconsidered a Bill referred back to it under clause (1)(b), that House—

- (a) passes the Bill as amended, the Speaker of that House shall refer the Bill to the President within seven days for assent; or
- (b) rejects the Bill as amended, the Bill shall be referred to a mediation committee under Article 113.

### **113. Mediation committees**

- (1) If a Bill is referred to a mediation committee under Article 112, the Speakers of both Houses shall appoint a mediation committee consisting of equal numbers of members of each House to attempt to develop a version of the Bill that both Houses will pass.
- (2) If the mediation committee agrees on a version of the Bill, each House shall vote to approve or reject that version of the Bill.
- (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.

### **114. Money Bills**

- (1) A money Bill may not deal with any matter other than those listed in the definition of “**a money Bill**” in clause (3).
- (2) If, in the opinion of the Speaker of the National Assembly, a motion makes provision for a matter listed in the definition of “a money Bill”, the Assembly may proceed only in accordance with the recommendation of the relevant Committee of the Assembly after taking into account the views of the Cabinet Secretary responsible for finance.
- (3) In this Constitution, “**a money Bill**” means a Bill, other than a Bill specified in Article 218, that contains provisions dealing with—
  - (a) taxes;
  - (b) the imposition of charges on a public fund or the variation or repeal of any of those charges;
  - (c) the appropriation, receipt, custody, investment or issue of public money;
  - (d) the raising or guaranteeing of any loan or its repayment; or
  - (e) matters incidental to any of those matters.
- (4) In clause (3), “tax”, “public money”, and “loan” do not include any tax, public money or loan raised by a county.

### **115. Presidential assent and referral**

- (1) Within fourteen days after receipt of a Bill, the President shall—
  - (a) assent to the Bill; or
  - (b) refer the Bill back to Parliament for reconsideration by Parliament, noting any reservations that the President has concerning the Bill.
- (2) If the President refers a Bill back for reconsideration, Parliament may, following the appropriate procedures under this Part—
  - (a) amend the Bill in light of the President’s reservations; or
  - (b) pass the Bill a second time without amendment.

- (3) If Parliament amends the Bill fully accommodating the President's reservations, the appropriate Speaker shall re-submit it to the President for assent.
- (4) Parliament, after considering the President's reservations, may pass the Bill a second time, without amendment, or with amendments that do not fully accommodate the President's reservations, by a vote supported—
- (a) by two-thirds of members of the National Assembly; and
  - (b) two-thirds of the delegations in the Senate, if it is a Bill that requires the approval of the Senate.
- (5) If Parliament has passed a Bill under clause (4)—
- (a) the appropriate Speaker shall within seven days re-submit it to the President; and
  - (b) 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 clause (5)(b), the Bill shall be taken to have been assented to on the expiry of that period.

#### **116. Coming into force of laws**

- (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.

### **PART 5 – PARLIAMENT'S GENERAL PROCEDURES AND RULES**

#### **117. Powers, privileges and immunities**

- (1) There shall be freedom of speech and debate in Parliament.
- (2) Parliament may, for the purpose of the orderly and effective discharge of the business of Parliament, provide for the powers, privileges and immunities of Parliament, its committees, the leader of the majority party, the leader of the minority party, the chairpersons of committees and members.

#### **118. Public access and participation**

- (1) Parliament shall—
  - (a) conduct its business in an open manner, and its sittings and those of its committees shall be open to the public; and
  - (b) facilitate public participation and involvement in the legislative and other business of Parliament and its committees.

(2) Parliament may not exclude the public, or any media, from any sitting unless in exceptional circumstances the relevant Speaker has determined that there are justifiable reasons for the exclusion.

#### **119. Right to petition Parliament**

(1) Every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation.

(2) Parliament shall make provision for the procedure for the exercise of this right.

#### **120. Official languages of Parliament**

(1) The official languages of Parliament shall be Kiswahili, English and Kenyan Sign language, and the business of Parliament may be conducted in English, Kiswahili and Kenyan Sign language.

(2) In case of a conflict between different language versions of an Act of Parliament, the version signed by the President shall prevail.

#### **121. Quorum**

The quorum of Parliament shall be—

- (a) fifty members, in the case of the National Assembly; or
- (b) fifteen members, in the case of the Senate.

#### **122. Voting in Parliament**

(1) Except as otherwise provided in this Constitution, any question proposed for decision in either House of Parliament shall be determined by a majority of the members in that House, present and voting.

(2) On a question proposed for decision in either House—

- (a) the Speaker has no vote; and
- (b) in the case of a tie, the question is lost.

(3) A member shall not vote on any question in which the member has a pecuniary interest.

(4) In reckoning the number of members of a House of Parliament for any purpose of voting in that House, the Speaker of that House shall not be counted as a member.

#### **123. Decisions of Senate**

(1) On election, all the members of the Senate who were registered as voters in a particular county shall collectively constitute a single delegation for purposes of clause (4) and the member elected under Article 98(1)(a) shall be the head of the delegation.

(2) When the Senate is to vote on any matter other than a Bill, the Speaker shall rule on whether the matter affects or does not affect counties.

(3) When the Senate votes on a matter that does not affect counties, each senator has one vote.

(4) Except as provided otherwise in this Constitution, in any matter in the Senate affecting counties—

- (a) each county delegation shall have one vote to be cast on behalf of the county by the head of the county delegation or, in the absence of the head of the delegation, by another member of the delegation designated by the head of the delegation;
- (b) the person who votes on behalf of a delegation shall determine whether or not to vote in support of, or against, the matter, after consulting the other members of the delegation; and
- (c) the matter is carried only if it is supported by a majority of all the delegations.

#### **124. Committees and Standing Orders**

(1) Each House of Parliament may establish committees, and shall make Standing Orders for the orderly conduct of its proceedings, including the proceedings of its committees.

(2) Parliament may establish joint committees consisting of members of both Houses and may jointly regulate the procedure of those committees.

(3) The proceedings of either House are not invalid just because of—

- (a) a vacancy in its membership; or
- (b) the presence or participation of any person not entitled to be present at, or to participate in, the proceedings of the House.

(4) When a House of Parliament considers any appointment for which its approval is required under this Constitution or an Act of Parliament—

- (a) the appointment shall be considered by a committee of the relevant House;
- (b) the committee's recommendation shall be tabled in the House for approval; and
- (c) the proceedings of the committee and the House shall be open to the public.

#### **125. Power to call for evidence**

(1) Either House of Parliament, and any of its committees, has power to summon any person to appear before it for the purpose of giving evidence or providing information.

(2) For the purposes of clause (1), a House of Parliament and any of its committees has the same powers as the High Court—

- (a) to enforce the attendance of witnesses and examine them on oath, affirmation or otherwise;
- (b) to compel the production of documents; and
- (c) to issue a commission or request to examine witnesses abroad.

## PART 6 – MISCELLANEOUS

### **126. Location of sittings of Parliament**

(1) A sitting of either House may be held at any place within Kenya and may commence at any time that the House appoints.

(2) Whenever a new House is elected, the President, by notice in the *Gazette*, shall appoint the place and date for the first sitting of the new House, which shall be not more than thirty days after the election.

### **127. Parliamentary Service Commission**

(1) There is established the Parliamentary Service Commission.

(2) The Commission consists of—

- (a) the Speaker of the National Assembly, as chairperson;
- (b) a vice-chairperson elected by the Commission from the members appointed under paragraph (c);
- (c) seven members appointed by Parliament from among its members of whom—
  - (i) four shall be nominated equally from both Houses by the party or coalition of parties forming the national government, of whom at least two shall be women; and
  - (ii) three shall be nominated by the parties not forming the national government, at least one of whom shall be nominated from each House and at least one of whom shall be a woman; and
- (d) one man and one woman appointed by Parliament from among persons who are experienced in public affairs, but are not members of Parliament.

(3) The Clerk of the Senate shall be the Secretary to the Commission.

(4) A member of the Commission shall vacate office—

- (a) if the person is a member of Parliament—
  - (i) at the end of the term of the House of which the person is a member; or
  - (ii) if the person ceases to be a member of Parliament; or
- (b) if the person is an appointed member, on revocation of the person's appointment by Parliament.

(5) Despite clause (4), when the term of a House of Parliament ends, a member of the Commission appointed under clause (2)(c) shall continue in office until a new member has been appointed in the member's place by the next House.

(6) The Commission is responsible for—

- (a) providing services and facilities to ensure the efficient and effective functioning of Parliament;
- (b) constituting offices in the parliamentary service, and appointing and supervising office holders;

- (c) preparing annual estimates of expenditure of the parliamentary service and submitting them to the National Assembly for approval, and exercising budgetary control over the service;
- (d) undertaking, singly or jointly with other relevant organisations, programmes to promote the ideals of parliamentary democracy; and
- (e) performing other functions—
  - (i) necessary for the well-being of the members and staff of Parliament; or
  - (ii) prescribed by national legislation.

**128. Clerks and staff of Parliament**

- (1) There shall be a Clerk for each House of Parliament, appointed by the Parliamentary Service Commission with the approval of the relevant House.
- (2) The offices of the Clerks and offices of members of the staff of the Clerks shall be offices in the Parliamentary Service.

**CHAPTER NINE – THE EXECUTIVE**

**PART 1 – PRINCIPLES AND STRUCTURE  
OF THE NATIONAL EXECUTIVE**

**129. Principles of executive authority**

- (1) Executive authority derives from the people of Kenya and shall be exercised in accordance with this Constitution.
- (2) Executive authority shall be exercised in a manner compatible with the principle of service to the people of Kenya, and for their well-being and benefit.

**130. The National Executive**

- (1) The national executive of the Republic comprises the President, the Deputy President and the rest of the Cabinet.
- (2) The composition of the national executive shall reflect the regional and ethnic diversity of the people of Kenya.

**PART 2 – THE PRESIDENT AND DEPUTY PRESIDENT**

**131. Authority of the President**

- (1) The President—
  - (a) is the Head of State and Government;
  - (b) exercises the executive authority of the Republic, with the assistance of the Deputy President and Cabinet Secretaries;
  - (c) is the Commander-in-Chief of the Kenya Defence Forces;
  - (d) is the chairperson of the National Security Council; and
  - (e) is a symbol of national unity.
- (2) The President shall—
  - (a) respect, uphold and safeguard this Constitution;

- (b) safeguard the sovereignty of the Republic;
- (c) promote and enhance the unity of the nation;
- (d) promote respect for the diversity of the people and communities of Kenya; and
- (e) ensure the protection of human rights and fundamental freedoms and the rule of law.

(3) The President shall not hold any other State or public office.

## **132. Functions of the President**

- (1) The President shall—
  - (a) address the opening of each newly elected Parliament;
  - (b) address a special sitting of Parliament once every year and may address Parliament at any other time; and
  - (c) once every year—
    - (i) report, in an address to the nation, on all the measures taken and the progress achieved in the realisation of the national values, referred to in Article 10;
    - (ii) publish in the *Gazette* the details of the measures and progress under sub-paragraph (i); and
    - (iii) submit a report for debate to the National Assembly on the progress made in fulfilling the international obligations of the Republic.
- (2) The President shall nominate and, with the approval of the National Assembly, appoint, and may dismiss—
  - (a) the Cabinet Secretaries, in accordance with Article 152;
  - (b) the Attorney-General, in accordance with Article 156;
  - (c) the Secretary to the Cabinet in accordance with Article 154;
  - (d) Principal Secretaries in accordance with Article 155;
  - (e) high commissioners, ambassadors and diplomatic and consular representatives; and
  - (f) in accordance with this Constitution, any other State or public officer whom this Constitution requires or empowers the President to appoint or dismiss.
- (3) The President shall—
  - (a) chair Cabinet meetings;
  - (b) direct and co-ordinate the functions of ministries and government departments; and
  - (c) by a decision published in the *Gazette*, assign responsibility for the implementation and administration of any Act of Parliament to a Cabinet Secretary, to the extent not inconsistent with any Act of Parliament.

(4) The President may—

- (a) perform any other executive function provided for in this Constitution or in national legislation and, except as otherwise provided for in this Constitution, may establish an office in the public service in accordance with the recommendation of the Public Service Commission;
- (b) receive foreign diplomatic and consular representatives;
- (c) confer honours in the name of the people and the Republic;
- (d) subject to Article 58, declare a state of emergency; and
- (e) with the approval of Parliament, declare war.

(5) The President shall ensure that the international obligations of the Republic are fulfilled through the actions of the relevant Cabinet Secretaries.

**133. Power of mercy**

(1) On the petition of any person, the President may exercise a power of mercy in accordance with the advice of the Advisory Committee established under clause (2), by—

- (a) granting a free or conditional pardon to a person convicted of an offence;
- (b) postponing the carrying out of a punishment, either for a specified or indefinite period;
- (c) substituting a less severe form of punishment; or
- (d) remitting all or part of a punishment.

(2) There shall be an Advisory Committee on the Power of Mercy, comprising—

- (a) the Attorney-General;
- (b) the Cabinet Secretary responsible for correctional services; and
- (c) at least five other members as prescribed by an Act of Parliament, none of whom may be a State officer or in public service.

(3) Parliament shall enact legislation to provide for—

- (a) the tenure of the members of the Advisory Committee;
- (b) the procedure of the Advisory Committee; and
- (c) criteria that shall be applied by the Advisory Committee in formulating its advice.

(4) The Advisory Committee may take into account the views of the victims of the offence in respect of which it is considering making recommendations to the President.

**134. Exercise of presidential powers during temporary incumbency**

(1) A person who holds the office of President or who is authorised in terms of this Constitution to exercise the powers of the President—

- (a) during the period commencing on the date of the first vote in a presidential election, and ending when the newly elected President assumes office; or

- (b) while the President is absent or incapacitated, or at other times contemplated in Article 147(3),  
may not exercise the powers of the President specified in clause (2).

- (2) The powers referred to in clause (1) are—
- (a) the nomination or appointment of the judges of the superior courts;
  - (b) the nomination or appointment of any other public officer whom this Constitution or legislation requires the President to appoint;
  - (c) the nomination or appointment or dismissal of Cabinet Secretaries and other State or Public officers;
  - (d) the nomination or appointment or dismissal of a high commissioner, ambassador, or diplomatic or consular representative;
  - (e) the power of mercy; and
  - (f) the authority to confer honours in the name of the people and the Republic.

**135. Decisions of the President**

A decision of the President in the performance of any function of the President under this Constitution shall be in writing and shall bear the seal and signature of the President.

**136. Election of the President**

(1) The President shall be elected by registered voters in a national election conducted in accordance with this Constitution and any Act of Parliament regulating presidential elections.

- (2) An election of the President shall be held—
- (a) on the same day as a general election of Members of Parliament, being the second Tuesday in August, in every fifth year; or
  - (b) in the circumstances contemplated in Article 146.

**137. Qualifications and disqualifications for election as President**

- (1) A person qualifies for nomination as a presidential candidate if the person—
- (a) is a citizen by birth;
  - (b) is qualified to stand for election as a member of Parliament;
  - (c) is nominated by a political party, or is an independent candidate; and
  - (d) is nominated by not fewer than two thousand voters from each of a majority of the counties.
- (2) A person is not qualified for nomination as a presidential candidate if the person—
- (a) owes allegiance to a foreign state; or
  - (b) is a public officer, or is acting in any State or other public office.

- (3) Clause (2)(b) shall not apply to—  
(a) the President;  
(b) the Deputy President; or  
(c) a member of Parliament.

**138. Procedure at presidential election**

- (1) If only one candidate for President is nominated, that candidate shall be declared elected.
- (2) If two or more candidates for President are nominated, an election shall be held in each constituency.
- (3) In a presidential election—  
(a) all persons registered as voters for the purposes of parliamentary elections are entitled to vote;  
(b) the poll shall be taken by secret ballot on the day specified in Article 101(1) at the time, in the places and in the manner prescribed under an Act of Parliament; and  
(c) after counting the votes in the polling stations, the Independent Electoral and Boundaries Commission shall tally and verify the count and declare the result.
- (4) A candidate shall be declared elected as President if the candidate receives
- 
- (a) more than half of all the votes cast in the election; and  
(b) at least twenty-five per cent of the votes cast in each of more than half of the counties.
- (5) If no candidate is elected, a fresh election shall be held within thirty days after the previous election and in that fresh election the only candidates shall be—  
(a) the candidate, or the candidates, who received the greatest number of votes; and  
(b) the candidate, or the candidates, who received the second greatest number of votes.
- (6) If more than one candidate receives the greatest number of votes, clause (5)(b) shall not apply and the only candidates in the fresh election shall be those contemplated in clause (5)(a).
- (7) The candidate who receives the most votes in the fresh election shall be declared elected as President.
- (8) A presidential election shall be cancelled and a new election held if—  
(a) no person has been nominated as a candidate before the expiry of the period set for the delivery of nominations;  
(b) a candidate for election as President or Deputy President dies on or before the scheduled election date; or  
(c) a candidate who would have been entitled to be declared elected as President, dies before being declared elected as President.

(9) A new presidential election under clause (8) shall be held within sixty days after the date set for the previous presidential election.

(10) Within seven days after the presidential election, the chairperson of the Independent Electoral and Boundaries Commission shall—

- (a) declare the result of the election; and
- (b) deliver a written notification of the result to the Chief Justice and the incumbent President.

### **139. Death before assuming office**

(1) If a President-elect dies after being declared elected as President, but before assuming office—

- (a) the Deputy President-elect shall be sworn in as acting President on the date on which the President-elect would otherwise have been sworn-in; and
- (b) a fresh election to the office of President shall be held within sixty days after the death of the President-elect.

(2) If the Deputy President-elect dies before assuming office, the office of the Deputy President shall be declared vacant on the assumption of office by the person declared elected as the President.

(3) If both the persons declared elected as the President and the Deputy President die before assuming office—

- (a) the Speaker of the National Assembly shall act as President from the date on which the President-elect would otherwise have been sworn-in; and
- (b) a fresh presidential election shall be conducted within sixty days after the second death.

### **140. Questions as to validity of presidential election**

(1) A person may file a petition in the Supreme Court to challenge the election of the President-elect within seven days after the date of the declaration of the results of the presidential election.

(2) Within fourteen days after the filing of a petition under clause (1), the Supreme Court shall hear and determine the petition and its decision shall be final.

(3) If the Supreme Court determines the election of the President-elect to be invalid, a fresh election shall be held within sixty days after the determination.

### **141. Assumption of office of President**

(1) The swearing in of the President-elect shall be in public before the Chief Justice, or, in the absence of the Chief Justice, the Deputy Chief Justice.

(2) The President-elect shall be sworn in on the first Tuesday following—

- (a) the fourteenth day after the date of the declaration of the result of the presidential election, if no petition has been filed under Article 140; or

- (b) the seventh day following the date on which the court renders a decision declaring the election to be valid, if any petition has been filed under Article 140.
- (3) The President-elect assumes office by taking and subscribing the oath or affirmation of allegiance, and the oath or affirmation for the execution of the functions of office, as prescribed in the Third Schedule.
- (4) Parliament shall by legislation provide for the procedure and ceremony for the swearing-in of a President-elect.

#### **142. Term of office of President**

(1) The President shall hold office for a term beginning on the date on which the President was sworn in, and ending when the person next elected President in accordance with Article 136(2)(a) is sworn in.

(2) A person shall not hold office as President for more than two terms.

#### **143. Protection from legal proceedings**

(1) Criminal proceedings shall not be instituted or continued in any court against the President or a person performing the functions of that office, during their tenure of office.

(2) Civil proceedings shall not be instituted in any court against the President or the person performing the functions of that office during their tenure of office in respect of anything done or not done in the exercise of their powers under this Constitution.

(3) Where provision is made in law limiting the time within which proceedings under clause (1) or (2) may be brought against a person, a period of time during which the person holds or performs the functions of the office of the President shall not be taken into account in calculating the period of time prescribed by that law.

(4) The immunity of the President under this Article shall not extend to a crime for which the President may be prosecuted under any treaty to which Kenya is party and which prohibits such immunity.

#### **144. Removal of President on grounds of incapacity**

(1) A member of the National Assembly, supported by at least a quarter of all the members, may move a motion for the investigation of the President's physical or mental capacity to perform the functions of office.

(2) If a motion under clause (1) is supported by a majority of all the members of the National Assembly—

- (a) the Speaker shall inform the Chief Justice of that resolution within two days; and
- (b) the President shall continue to perform the functions of the office pending the outcome of the proceedings required by this Article.

(3) Within seven days after receiving notice of the resolution from the Speaker, the Chief Justice shall appoint a tribunal consisting of—

- (a) three persons who are qualified to practise medicine under the laws of Kenya, nominated by the body which by law is responsible for regulating the professional practice of medicine;
- (b) one advocate of the High Court nominated by the body which by law is responsible for regulating the professional practice of advocates; and
- (c) one person nominated by the President.

(4) If the Chief Justice is unable to appoint a tribunal under clause (3), the Deputy Chief Justice shall appoint such a tribunal.

(5) If the President is unable to nominate the person required to be nominated under clause (3)(c), the person shall be nominated by—

- (a) a member of the family of the President; or
- (b) if no such member is willing or able to make the nomination, by a close relative of the President.

(6) The tribunal shall inquire into the matter and, within fourteen days after the appointment, report to the Chief Justice and to the Speaker of the National Assembly.

(7) The Speaker shall cause the report of the tribunal to be tabled before the National Assembly within seven days after receiving it.

(8) The report of the tribunal shall be final and not subject to appeal and if the tribunal reports that the President is capable of performing the functions of the office, the Speaker of the National Assembly shall so announce in the National Assembly.

(9) If the tribunal reports that the President is incapable of performing the functions of the office, the National Assembly shall vote on whether to ratify the report.

(10) If a majority of all the members of the National Assembly vote in favour of ratifying the report, the President shall cease to hold office.

#### **145. Removal of President by impeachment**

(1) A member of the National Assembly, supported by at least a third of all the members, may move a motion for the impeachment of the President—

- (a) on the ground of a gross violation of a provision of this Constitution or of any other law;
- (b) where there are serious reasons for believing that the President has committed a crime under national or international law; or
- (c) for gross misconduct.

(2) If a motion under clause (1) is supported by at least two-thirds of all the members of the National Assembly—

- (a) the Speaker shall inform the Speaker of the Senate of that resolution within two days; and

- (b) the President shall continue to perform the functions of the office pending the outcome of the proceedings required by this Article.
- (3) Within seven days after receiving notice of a resolution from the Speaker of the National Assembly—
- (a) the Speaker of the Senate shall convene a meeting of the Senate to hear charges against the President; and
  - (b) the Senate, by resolution, may appoint a special committee comprising eleven of its members to investigate the matter.
- (4) A special committee appointed under clause (3)(b) shall—
- (a) investigate the matter; and
  - (b) report to the Senate within ten days whether it finds the particulars of the allegations against the President to have been substantiated.
- (5) The President shall have the right to appear and be represented before the special committee during its investigations.
- (6) If the special committee reports that the particulars of any allegation against the President—
- (a) have not been substantiated, further proceedings shall not be taken under this Article in respect of that allegation; or
  - (b) have been substantiated, the Senate shall, after according the President an opportunity to be heard, vote on the impeachment charges.
- (7) If at least two-thirds of all the members of the Senate vote to uphold any impeachment charge, the President shall cease to hold office.

#### **146. Vacancy in the office of President**

- (1) The office of President shall become vacant if the holder of the office—
- (a) dies;
  - (b) resigns, in writing, addressed to the Speaker of the National Assembly; or
  - (c) otherwise ceases to hold office under Article 144 or 145 or under any other provision of this Constitution.
- (2) When a vacancy occurs in the office of President—
- (a) the Deputy President shall assume office as President for the remainder of the term of the President; or
  - (b) if the office of Deputy President is vacant, or the Deputy President is unable to assume the office of President, the Speaker of the National Assembly shall act as President and an election to the office of President shall be held within sixty days after the vacancy arose in the office of President.
- (3) A person who assumes the office of President under clause (2)(a), or following an election required by clause (2)(b), shall, unless otherwise removed from office under this Constitution, hold office until a newly elected President is sworn in following the next regularly scheduled election under Article 136 (2)(a).

(4) If the Deputy President assumes office as President under clause (2)(a), or a person is elected to the office of President under clause (2)(b), the Deputy President, or the person elected, shall be deemed for the purposes of Article 142(2)—

- (a) to have served a full term as President if, at the date on which the person assumed office, more than two and a half years remain before the date of the next regularly scheduled election under Article 136 (2) (a); or
- (b) not to have served a term of office as President, in any other case.

#### **147. Functions of the Deputy President**

(1) The Deputy President shall be the principal assistant of the President and shall deputise for the President in the execution of the President's functions.

(2) The Deputy President shall perform the functions conferred by this Constitution and any other functions of the President as the President may assign.

(3) Subject to Article 134, when the President is absent or is temporarily incapacitated, and during any other period that the President decides, the Deputy President shall act as the President.

(4) The Deputy President shall not hold any other State or public office.

#### **148. Election and swearing-in of Deputy President**

(1) Each candidate in a presidential election shall nominate a person who is qualified for nomination for election as President, as a candidate for Deputy President.

(2) For the purposes of clause (1), there shall be no separate nomination process for the Deputy President and Article 137(1)(d) shall not apply to a candidate for Deputy President.

(3) The Independent Electoral and Boundaries Commission shall declare the candidate nominated by the person who is elected as the President to be elected as the Deputy President.

(4) The swearing in of the Deputy President-elect shall be before the Chief Justice or, in the absence of the Chief Justice, the Deputy Chief Justice and in public.

(5) The Deputy President-elect assumes office by taking and subscribing—

- (a) the oath or affirmation of allegiance; and
- (b) the oath or affirmation for the execution of the functions of office,

as prescribed in the Third Schedule.

(6) The term of office of the Deputy President shall run from the date of the swearing in of the Deputy President, and shall end—

- (a) when the person next elected President at an election under Article 136 (2)(a) is sworn in;
- (b) on the Deputy President assuming the office of President; or
- (c) on resignation, death or removal from office of the Deputy President.

(7) The Deputy President may resign from office at any time by notice, in writing, addressed to the President and the resignation shall take effect on the date and at the time specified in the notice, if any, or if a date is not specified, at noon on the day after the notice is delivered.

(8) A person shall not hold office as Deputy President for more than two terms.

**149. Vacancy in the office of Deputy President**

(1) Within fourteen days after a vacancy in the office of Deputy President arises, the President shall nominate a person to fill the vacancy, and the National Assembly shall vote on the nomination within sixty days after receiving it.

(2) If a person assumes office as Deputy President under clause (1), then, for the purposes of Article 148(8), the person shall be deemed—

- (a) to have served a full term as Deputy President if, at the date on which the person assumed office, more than two and a half years remain before the date of the next regularly scheduled election under Article 136(2)(a); or
- (b) not to have served a term of office as Deputy President, in any other case.

**150. Removal of Deputy President**

(1) The Deputy President may be removed from office—

- (a) on the ground of physical or mental incapacity to perform the functions of the office; or
- (b) on impeachment—
  - (i) on the ground of a gross violation of a provision of this Constitution or any other law;
  - (ii) where there are serious reasons to believe that the Deputy President has committed a crime under national or international law; or
  - (iii) for gross misconduct.

(2) The provisions of Articles 144 and 145 relating to the removal of the President shall apply, with the necessary modifications, to the removal of the Deputy President.

**151. Remuneration and benefits of President and Deputy President**

(1) The remuneration and benefits payable to the President and the Deputy President shall be a charge on the Consolidated Fund.

(2) The remuneration, benefits and privileges of the President and Deputy President shall not be varied to their disadvantage while in office.

(3) The retirement benefits payable to a former President and a former Deputy President, the facilities available to and the privileges enjoyed by them, shall not be varied to their disadvantage during their lifetime.

PART 3 – THE CABINET

**152. Cabinet**

- (1) The Cabinet consists of—
  - (a) the President;
  - (b) the Deputy President;
  - (c) the Attorney-General; and
  - (d) not fewer than fourteen and not more than twenty-two Cabinet Secretaries.
- (2) The President shall nominate and, with the approval of the National Assembly, appoint Cabinet Secretaries.
- (3) A Cabinet Secretary shall not be a Member of Parliament.
- (4) Each person appointed as a Cabinet Secretary—
  - (a) assumes office by swearing or affirming faithfulness to the people and the Republic of Kenya and obedience to this Constitution, before the President and in accordance with the Third Schedule; and
  - (b) may resign by delivering a written statement of resignation to the President.
- (5) The President—
  - (a) may re-assign a Cabinet Secretary;
  - (b) may dismiss a Cabinet Secretary; and
  - (c) shall dismiss a Cabinet Secretary if required to do so by a resolution adopted under clauses (6) to (10).
- (6) A member of the National Assembly, supported by at least one-quarter of all the members of the Assembly, may propose a motion requiring the President to dismiss a Cabinet Secretary—
  - (a) on the ground of a gross violation of a provision of this Constitution or of any other law;
  - (b) where there are serious reasons for believing that the Cabinet Secretary has committed a crime under national or international law; or
  - (c) for gross misconduct.
- (7) If a motion under clause (6) is supported by at least one-third of the members of the National Assembly—
  - (a) the Assembly shall appoint a select committee comprising eleven of its members to investigate the matter; and
  - (b) the select committee shall, within ten days, report to the Assembly whether it finds the allegations against the Cabinet Secretary to be substantiated.
- (8) The Cabinet Secretary has the right to appear and be represented before the select committee during its investigations.

- (9) If the select committee reports that it finds the allegations—
  - (a) unsubstantiated, no further proceedings shall be taken; or
  - (b) substantiated, the National Assembly shall—
    - (i) afford the Cabinet Secretary an opportunity to be heard; and
    - (ii) vote whether to approve the resolution requiring the Cabinet Secretary to be dismissed.
- (10) If a resolution under clause (9)(b)(ii) requiring the President to dismiss a Cabinet Secretary is supported by a majority of the members of the National Assembly—
  - (a) the Speaker shall promptly deliver the resolution to the President; and
  - (b) the President shall dismiss the Cabinet Secretary.

#### **153. Decisions, responsibility and accountability of the Cabinet**

- (1) A decision by the Cabinet shall be in writing.
- (2) Cabinet Secretaries are accountable individually, and collectively, to the President for the exercise of their powers and the performance of their functions.
- (3) A Cabinet Secretary shall attend before a committee of the National Assembly, or the Senate, when required by the committee, and answer any question concerning a matter for which the Cabinet Secretary is responsible.
- (4) Cabinet Secretaries shall—
  - (a) act in accordance with this Constitution; and
  - (b) provide Parliament with full and regular reports concerning matters under their control.

#### **154. Secretary to the Cabinet**

- (1) There is established the office of Secretary to the Cabinet, which is an office in the public service.
- (2) The Secretary to the Cabinet shall—
  - (a) be nominated and, with the approval of the National Assembly, appointed by the President; and
  - (b) may be dismissed by the President.
- (3) The Secretary to the Cabinet shall—
  - (a) have charge of the Cabinet office;
  - (b) be responsible, subject to the directions of the Cabinet, for arranging the business, and keeping the minutes, of the Cabinet;
  - (c) convey the decisions of the Cabinet to the appropriate persons or authorities; and
  - (d) have other functions as directed by the Cabinet.
- (4) The Secretary to the Cabinet may resign from office by giving notice, in writing, to the President.

**155. Principal Secretaries**

- (1) There is established the office of Principal Secretary, which is an office in the public service.
- (2) Each State department shall be under the administration of a Principal Secretary.
- (3) The President shall—
  - (a) nominate a person for appointment as Principal Secretary from among persons recommended by the Public Service Commission; and
  - (b) with the approval of the National Assembly, appoint Principal Secretaries.
- (4) The President may re-assign a Principal Secretary.
- (5) A Principal Secretary may resign from office by giving notice, in writing, to the President.

**PART 4 – OTHER OFFICES**

**156. Attorney-General**

- (1) There is established the office of Attorney-General.
- (2) The Attorney-General shall be nominated by the President and, with the approval of the National Assembly, appointed by the President.
- (3) The qualifications for appointment as Attorney-General are the same as for appointment to the office of Chief Justice.
- (4) The Attorney-General—
  - (a) is the principal legal adviser to the Government;
  - (b) shall represent the national government in court or in any other legal proceedings to which the national government is a party, other than criminal proceedings; and
  - (c) shall perform any other functions conferred on the office by an Act of Parliament or by the President.
- (5) The Attorney-General shall have authority, with the leave of the court, to appear as a friend of the court in any civil proceedings to which the Government is not a party.
- (6) The Attorney-General shall promote, protect and uphold the rule of law and defend the public interest.
- (7) The powers of the Attorney-General may be exercised in person or by subordinate officers acting in accordance with general or special instructions.

**157. Director of Public Prosecutions**

- (1) There is established the office of Director of Public Prosecutions.
- (2) The Director of Public Prosecutions shall be nominated and, with the approval of the National Assembly, appointed by the President.

(3) The qualifications for appointment as Director of Public Prosecutions are the same as for the appointment as a judge of the High Court.

(4) The Director of Public Prosecutions shall have power to direct the Inspector-General of the National Police Service to investigate any information or allegation of criminal conduct and the Inspector-General shall comply with any such direction.

(5) The Director of Public Prosecutions shall hold office for a term of eight years and shall not be eligible for re-appointment.

(6) The Director of Public Prosecutions shall exercise State powers of prosecution and may—

- (a) institute and undertake criminal proceedings against any person before any court (other than a court martial) in respect of any offence alleged to have been committed;
- (b) take over and continue any criminal proceedings commenced in any court (other than a court martial) that have been instituted or undertaken by another person or authority, with the permission of the person or authority; and
- (c) subject to clauses (7) and (8), discontinue at any stage before judgment is delivered any criminal proceedings instituted by the Director of Public Prosecutions or taken over by the Director of Public Prosecutions under paragraph (b).

(7) If the discontinuance of any proceedings under clause (6)(c) takes place after the close of the prosecution's case, the defendant shall be acquitted.

(8) The Director of Public Prosecutions may not discontinue a prosecution without the permission of the court.

(9) The powers of the Director of Public Prosecutions may be exercised in person or by subordinate officers acting in accordance with general or special instructions.

(10) The Director of Public Prosecutions shall not require the consent of any person or authority for the commencement of criminal proceedings and in the exercise of his or her powers or functions, shall not be under the direction or control of any person or authority.

(11) In exercising the powers conferred by this Article, the Director of Public Prosecutions shall have regard to the public interest, the interests of the administration of justice and the need to prevent and avoid abuse of the legal process.

(12) Parliament may enact legislation conferring powers of prosecution on authorities other than the Director of Public Prosecutions.

#### **158. Removal and resignation of Director of Public Prosecutions**

(1) The Director of Public Prosecutions may be removed from office only on the grounds of—

- (a) inability to perform the functions of office arising from mental or physical incapacity;
- (b) non-compliance with Chapter Six;

- (c) bankruptcy;
- (d) incompetence; or
- (e) gross misconduct or misbehaviour.

(2) A person desiring the removal of the Director of Public Prosecutions may present a petition to the Public Service Commission which, shall be in writing, setting out the alleged facts constituting the grounds for the removal of the Director.

(3) The Public Service Commission shall consider the petition and, if it is satisfied that it discloses the existence of a ground under clause (1), it shall send the petition to the President.

(4) On receipt and examination of the petition, the President shall, within fourteen days, suspend the Director of Public Prosecutions from office pending action by the President in accordance with clause (5) and shall, acting in accordance with the advice of the Public Service Commission, appoint a tribunal consisting of—

- (a) four members from among persons who hold or have held office as a judge of a superior court, or who are qualified to be appointed as such;
- (b) one advocate of at least fifteen years' standing nominated by the statutory body responsible for the professional regulation of advocates; and
- (c) two other persons with experience in public affairs.

(5) The tribunal shall inquire into the matter expeditiously and report on the facts and make recommendations to the President, who shall act in accordance with the recommendations of the tribunal.

(6) A Director of Public Prosecutions who is suspended from office under clause (4) shall be entitled to half of their remuneration until removed from, or reinstated in, office.

(7) A tribunal appointed under clause (4) shall elect a chairperson from among its members.

(8) A tribunal appointed under clause (4) shall be responsible for the regulation of its proceedings.

(9) The Director of Public Prosecutions may resign from office by giving notice, in writing, to the President.

## CHAPTER TEN – JUDICIARY

### PART 1 – JUDICIAL AUTHORITY AND LEGAL SYSTEM

#### **159. Judicial authority**

(1) Judicial authority is derived from the people and vests in, and shall be exercised by, the courts and tribunals established by or under this Constitution.

(2) In exercising judicial authority, the courts and tribunals shall be guided by the following principles—

- (a) justice shall be done to all, irrespective of status;

- (b) justice shall not be delayed;
  - (c) alternative forms of dispute resolution including reconciliation, mediation, arbitration and traditional dispute resolution mechanisms shall be promoted, subject to clause (3);
  - (d) justice shall be administered without undue regard to procedural technicalities; and
  - (e) the purpose and principles of this Constitution shall be protected and promoted.
- (3) Traditional dispute resolution mechanisms shall not be used in a way that—
- (a) contravenes the Bill of Rights;
  - (b) is repugnant to justice and morality or results in outcomes that are repugnant to justice or morality; or
  - (c) is inconsistent with this Constitution or any written law.

#### **160. Independence of the Judiciary**

- (1) In the exercise of judicial authority, the Judiciary, as constituted by Article 161, shall be subject only to this Constitution and the law and shall not be subject to the control or direction of any person or authority.
- (2) The office of a judge of a superior court shall not be abolished while there is a substantive holder of the office.
- (3) The remuneration and benefits payable to or in respect of judges shall be a charge on the Consolidated Fund.
- (4) Subject to Article 168(6), the remuneration and benefits payable to, or in respect of, a judge shall not be varied to the disadvantage of that judge, and the retirement benefits of a retired judge shall not be varied to the disadvantage of the retired judge during the lifetime of that retired judge.
- (5) A member of the Judiciary is not liable in an action or suit in respect of anything done or omitted to be done in good faith in the lawful performance of a judicial function.

#### **161. Judicial offices and officers**

- (1) The Judiciary consists of the judges of the superior courts, magistrates, other judicial officers and staff.
- (2) There is established the office of—
  - (a) Chief Justice, who shall be the Head of the Judiciary;
  - (b) Deputy Chief Justice, who shall be the Deputy Head of the Judiciary; and
  - (c) Chief Registrar of the Judiciary, who shall be the chief administrator and accounting officer of the Judiciary.
- (3) The Judicial Service Commission may establish other offices of registrar as may be necessary.

**162. System of courts**

- (1) The superior courts are the Supreme Court, the Court of Appeal, the High Court and the courts referred to in clause (2).
- (2) Parliament shall establish courts with the status of the High Court to hear and determine disputes relating to—
  - (a) employment and labour relations; and
  - (b) the environment and the use and occupation of, and title to, land.
- (3) Parliament shall determine the jurisdiction and functions of the courts contemplated in clause (2).
- (4) The subordinate courts are the courts established under Article 169, or by Parliament in accordance with that Article.

**PART 2 – SUPERIOR COURTS**

**163. Supreme Court**

- (1) There is established the Supreme Court, which shall consist of—
  - (a) the Chief Justice, who shall be the president of the court;
  - (b) the Deputy Chief Justice, who shall—
    - (i) deputise for the Chief Justice; and
    - (ii) be the vice-president of the court; and
  - (c) five other judges.
- (2) The Supreme Court shall be properly constituted for the purposes of its proceedings if it is composed of five judges.
- (3) The Supreme Court shall have—
  - (a) exclusive original jurisdiction to hear and determine disputes relating to the elections to the office of President arising under Article 140; and
  - (b) subject to clauses (4) and (5), appellate jurisdiction to hear and determine appeals from—
    - (i) the Court of Appeal; and
    - (ii) any other court or tribunal as prescribed by national legislation.
- (4) Appeals shall lie from the Court of Appeal to the Supreme Court—
  - (a) as of right in any case involving the interpretation or application of this Constitution; and
  - (b) in any other case in which the Supreme Court, or the Court of Appeal, certifies that a matter of general public importance is involved, subject to clause (5).
- (5) A certification by the Court of Appeal under clause (4)(b) may be reviewed by the Supreme Court, and either affirmed, varied or overturned.

(6) The Supreme Court may give an advisory opinion at the request of the national government, any State organ, or any county government with respect to any matter concerning county government.

(7) All courts, other than the Supreme Court, are bound by the decisions of the Supreme Court.

(8) The Supreme Court shall make rules for the exercise of its jurisdiction.

(9) An Act of Parliament may make further provision for the operation of the Supreme Court.

**164. Court of Appeal**

(1) There is established the Court of Appeal, which—

- (a) shall consist of the number of judges, being not fewer than twelve, as may be prescribed by an Act of Parliament; and
- (b) shall be organised and administered in the manner prescribed by an Act of Parliament.

(2) There shall be a president of the Court of Appeal who shall be elected by the judges of the Court of Appeal from among themselves.

(3) The Court of Appeal has jurisdiction to hear appeals from—

- (a) the High Court; and
- (b) any other court or tribunal as prescribed by an Act of Parliament.

**165. High Court**

(1) There is established the High Court, which—

- (a) shall consist of the number of judges prescribed by an Act of Parliament; and
- (b) shall be organised and administered in the manner prescribed by an Act of Parliament.

(2) There shall be a Principal Judge of the High Court, who shall be elected by the judges of the High Court from among themselves.

(3) Subject to clause (5), the High Court shall have—

- (a) unlimited original jurisdiction in criminal and civil matters;
- (b) jurisdiction to determine the question whether a right or fundamental freedom in the Bill of Rights has been denied, violated, infringed or threatened;
- (c) jurisdiction to hear an appeal from a decision of a tribunal appointed under this Constitution to consider the removal of a person from office, other than a tribunal appointed under Article 144;
- (d) jurisdiction to hear any question respecting the interpretation of this Constitution including the determination of—
  - (i) the question whether any law is inconsistent with or in contravention of this Constitution;

- 
- (ii) the question whether anything said to be done under the authority of this Constitution or of any law is inconsistent with, or in contravention of, this Constitution;
  - (iii) any matter relating to constitutional powers of State organs in respect of county governments and any matter relating to the constitutional relationship between the levels of government; and
  - (iv) a question relating to conflict of laws under Article 191; and
- (e) any other jurisdiction, original or appellate, conferred on it by legislation.
- (4) Any matter certified by the court as raising a substantial question of law under clause (3)(b) or (d) shall be heard by an uneven number of judges, being not less than three, assigned by the Chief Justice.
- (5) The High Court shall not have jurisdiction in respect of matters—
- (a) reserved for the exclusive jurisdiction of the Supreme Court under this Constitution; or
  - (b) falling within the jurisdiction of the courts contemplated in Article 162 (2).
- (6) The High Court has supervisory jurisdiction over the subordinate courts and over any person, body or authority exercising a judicial or quasi-judicial function, but not over a superior court.
- (7) For the purposes of clause (6), the High Court may call for the record of any proceedings before any subordinate court or person, body or authority referred to in clause (6), and may make any order or give any direction it considers appropriate to ensure the fair administration of justice.

#### **166. Appointment of Chief Justice, Deputy Chief Justice and other judges**

- (1) The President shall appoint—
    - (a) the Chief Justice and the Deputy Chief Justice, in accordance with the recommendation of the Judicial Service Commission, and subject to the approval of the National Assembly; and
    - (b) all other judges, in accordance with the recommendation of the Judicial Service Commission.
  - (2) Each judge of a superior court shall be appointed from among persons who
    - (a) hold a law degree from a recognised university, or are advocates of the High Court of Kenya, or possess an equivalent qualification in a common-law jurisdiction;
    - (b) possess the experience required under clauses (3) to (6) as applicable, irrespective of whether that experience was gained in Kenya or in another Commonwealth common-law jurisdiction; and
    - (c) have a high moral character, integrity and impartiality.
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(3) The Chief Justice and other judges of the Supreme Court shall be appointed from among persons who have—

- (a) at least fifteen years experience as a superior court judge; or
- (b) at least fifteen years' experience as a distinguished academic, judicial officer, legal practitioner or such experience in other relevant legal field; or
- (c) held the qualifications specified in paragraphs (a) and (b) for a period amounting, in the aggregate, to fifteen years.

(4) Each judge of the Court of Appeal shall be appointed from among persons who have—

- (a) at least ten years' experience as a superior court judge; or
- (b) at least ten years' experience as a distinguished academic or legal practitioner or such experience in other relevant legal field; or
- (c) held the qualifications mentioned in paragraphs (a) and (b) for a period amounting, in the aggregate, to ten years.

(5) Each judge of the High Court shall be appointed from among persons who have—

- (a) at least ten years' experience as a superior court judge or professionally qualified magistrate; or
- (b) at least ten years' experience as a distinguished academic or legal practitioner or such experience in other relevant legal field; or
- (c) held the qualifications specified in paragraphs (a) and (b) for a period amounting, in the aggregate, to ten years.

#### **167. Tenure of office of the Chief Justice and other judges**

(1) A judge shall retire from office on attaining the age of seventy years, but may elect to retire at any time after attaining the age of sixty-five years.

(2) The Chief Justice shall hold office for a maximum of ten years or until retiring under clause (1), whichever is the earlier.

(3) If the Chief Justice's term of office expires before the Chief Justice retires under clause (1), the Chief Justice may continue in office as a judge of the Supreme Court.

(4) If, on the expiry of the term of office of a Chief Justice, the Chief Justice opts to remain on the Supreme Court under clause (3), the next person appointed as Chief Justice may be selected in accordance with Article 166(1), even though that appointment may result in there being more than the maximum permitted number of Supreme Court judges holding office.

(5) The Chief Justice and any other judge may resign from office by giving notice, in writing, to the President.

#### **168. Removal from office**

(1) A judge of a superior court may be removed from office only on the grounds of—

- (a) inability to perform the functions of office arising from mental or physical incapacity;

- (b) a breach of a code of conduct prescribed for judges of the superior courts by an Act of Parliament;
- (c) bankruptcy;
- (d) incompetence; or
- (e) gross misconduct or misbehaviour.

(2) The removal of a judge may be initiated only by the Judicial Service Commission acting on its own motion, or on the petition of any person to the Judicial Service Commission.

(3) A petition by a person to the Judicial Service Commission under clause (2) shall be in writing, setting out the alleged facts constituting the grounds for the judges removal.

(4) The Judicial Service Commission shall consider the petition and, if it is satisfied that the petition discloses a ground for removal under clause (1), send the petition to the President.

(5) The President shall, within fourteen days after receiving the petition, suspend the judge from office and, acting in accordance with the recommendation of the Judicial Service Commission—

- (a) in the case of the Chief Justice, appoint a tribunal consisting of—
  - (i) the Speaker of the National Assembly, as chairperson;
  - (ii) three superior court judges from common-law jurisdictions;
  - (iii) one advocate of fifteen years standing; and
  - (iv) two other persons with experience in public affairs; or
- (b) in the case of a judge other than the Chief Justice, appoint a tribunal consisting of—
  - (i) a chairperson and three other members from among persons who hold or have held office as a judge of a superior court, or who are qualified to be appointed as such but who, in either case, have not been members of the Judicial Service Commission at any time within the immediately preceding three years;
  - (ii) one advocate of fifteen years standing; and
  - (iii) two other persons with experience in public affairs.

(6) Despite Article 160 (4), the remuneration and benefits payable to a judge who is suspended from office under clause (5) shall be adjusted to one half until such time as the judge is removed from, or reinstated in, office.

(7) A tribunal appointed under clause (5) shall—

- (a) be responsible for the regulation of its proceedings, subject to any legislation contemplated in clause (10); and
- (b) inquire into the matter expeditiously and report on the facts and make binding recommendations to the President.

(8) A judge who is aggrieved by a decision of the tribunal under this Article may appeal against the decision to the Supreme Court, within ten days after the tribunal makes its recommendations.

(9) The President shall act in accordance with the recommendations made by the tribunal on the later of—

- (a) the expiry of the time allowed for an appeal under clause (8), if no such appeal is taken; or
- (b) the completion of all rights of appeal in any proceedings allowed for under clause (8), if such an appeal is taken and the final order in the matter affirms the tribunal's recommendations.

(10) Parliament shall enact legislation providing for the procedure of a tribunal appointed under this Article.

### PART 3 – SUBORDINATE COURTS

#### **169. Subordinate courts**

(1) The subordinate courts are—

- (a) the Magistrates courts;
- (b) the Kadhis' courts;
- (c) the Courts Martial; and
- (d) any other court or local tribunal as may be established by an Act of Parliament, other than the courts established as required by Article 162(2).

(2) Parliament shall enact legislation conferring jurisdiction, functions and powers on the courts established under clause (1).

#### **170. Kadhis' courts**

(1) There shall be a Chief Kadhi and such number, being not fewer than three, of other Kadhis as may be prescribed under an Act of Parliament.

(2) A person shall not be qualified to be appointed to hold or act in the office of Kadhi unless the person—

- (a) professes the Muslim religion; and
- (b) possesses such knowledge of the Muslim law applicable to any sects of Muslims as qualifies the person, in the opinion of the Judicial Service Commission, to hold a Kadhi's court.

(3) Parliament shall establish Kadhis' courts, each of which shall have the jurisdiction and powers conferred on it by legislation, subject to clause (5).

(4) The Chief Kadhi and the other Kadhis, or the Chief Kadhi and such of the other Kadhis (not being fewer than three in number) as may be prescribed under an Act of Parliament, shall each be empowered to hold a Kadhi's court having jurisdiction within Kenya.

(5) The jurisdiction of a Kadhis' court shall be limited to the determination of questions of Muslim law relating to personal status, marriage, divorce or inheritance in proceedings in which all the parties profess the Muslim religion and submit to the jurisdiction of the Kadhi's courts.

## PART 4 – JUDICIAL SERVICE COMMISSION

### **171. Establishment of the Judicial Service Commission**

- (1) There is established the Judicial Service Commission.
- (2) The Commission shall consist of—
  - (a) the Chief Justice, who shall be the chairperson of the Commission;
  - (b) one Supreme Court judge elected by the judges of the Supreme Court;
  - (c) one Court of Appeal judge elected by the judges of the Court of Appeal;
  - (d) one High Court judge and one magistrate, one a woman and one a man, elected by the members of the association of judges and magistrates;
  - (e) the Attorney-General;
  - (f) two advocates, one a woman and one a man, each of whom has at least fifteen years' experience, elected by the members of the statutory body responsible for the professional regulation of advocates;
  - (g) one person nominated by the Public Service Commission; and
  - (h) one woman and one man to represent the public, not being lawyers, appointed by the President with the approval of the National Assembly.
- (3) The Chief Registrar of the Judiciary shall be the Secretary to the Commission.

(4) Members of the Commission, apart from the Chief Justice and the Attorney-General, shall hold office, provided that they remain qualified, for a term of five years and shall be eligible to be nominated for one further term of five years.

### **172. Functions of the Judicial Service Commission**

- (1) The Judicial Service Commission shall promote and facilitate the independence and accountability of the judiciary and the efficient, effective and transparent administration of justice and shall—
  - (a) recommend to the President persons for appointment as judges;
  - (b) review and make recommendations on the conditions of service of—
    - (i) judges and judicial officers, other than their remuneration; and
    - (ii) the staff of the Judiciary;
  - (c) appoint, receive complaints against, investigate and remove from office or otherwise discipline registrars, magistrates, other judicial officers and other staff of the Judiciary, in the manner prescribed by an Act of Parliament;
  - (d) prepare and implement programmes for the continuing education and training of judges and judicial officers; and

- (e) advise the national government on improving the efficiency of the administration of justice.
- (2) In the performance of its functions, the Commission shall be guided by the following—
- (a) competitiveness and transparent processes of appointment of judicial officers and other staff of the judiciary; and
  - (b) the promotion of gender equality.

**173. Judiciary Fund**

(1) There is established a fund to be known as the Judiciary Fund which shall be administered by the Chief Registrar of the Judiciary.

(2) The Fund shall be used for administrative expenses of the Judiciary and such other purposes as may be necessary for the discharge of the functions of the Judiciary.

(3) Each financial year, the Chief Registrar shall prepare estimates of expenditure for the following year, and submit them to the National Assembly for approval.

(4) On approval of the estimates by the National Assembly, the expenditure of the Judiciary shall be a charge on the Consolidated Fund and the funds shall be paid directly into the Judiciary Fund.

(5) Parliament shall enact legislation to provide for the regulation of the Fund.

**CHAPTER ELEVEN – DEVOLVED GOVERNMENT**

**PART 1 – OBJECTS AND PRINCIPLES OF DEVOLVED GOVERNMENT**

**174. Objects of devolution**

The objects of the devolution of government are—

- (a) to promote democratic and accountable exercise of power;
- (b) to foster national unity by recognising diversity;
- (c) to give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting them;
- (d) to recognise the right of communities to manage their own affairs and to further their development;
- (e) to protect and promote the interests and rights of minorities and marginalised communities;
- (f) to promote social and economic development and the provision of proximate, easily accessible services throughout Kenya;
- (g) to ensure equitable sharing of national and local resources throughout Kenya;
- (h) to facilitate the decentralisation of State organs, their functions and services, from the capital of Kenya; and
- (i) to enhance checks and balances and the separation of powers.

**175. Principles of devolved government**

County governments established under this Constitution shall reflect the following principles—

- (a) county governments shall be based on democratic principles and the separation of powers;
- (b) county governments shall have reliable sources of revenue to enable them to govern and deliver services effectively; and
- (c) no more than two-thirds of the members of representative bodies in each county government shall be of the same gender.

**PART 2 – COUNTY GOVERNMENTS**

**176. County governments**

(1) There shall be a county government for each county, consisting of a county assembly and a county executive.

(2) Every county government shall decentralise its functions and the provision of its services to the extent that it is efficient and practicable to do so.

**177. Membership of county assembly**

(1) A county assembly consists of—

- (a) members elected by the registered voters of the wards, each ward constituting a single member constituency, on the same day as a general election of Members of Parliament, being the second Tuesday in August, in every fifth year;
- (b) the number of special seat members necessary to ensure that no more than two-thirds of the membership of the assembly are of the same gender;
- (c) the number of members of marginalised groups, including persons with disabilities and the youth, prescribed by an Act of Parliament; and
- (d) the Speaker, who is an *ex officio* member.

(2) The members contemplated in clause (1)(b) and (c) shall, in each case, be nominated by political parties in proportion to the seats received in that election in that county by each political party under paragraph (a) in accordance with Article 90.

(3) The filling of special seats under clause (1)(b) shall be determined after declaration of elected members from each ward.

(4) A county assembly is elected for a term of five years.

**178. Speaker of a county assembly**

(1) Each county assembly shall have a speaker elected by the county assembly from among persons who are not members of the assembly.

(2) A sitting of the county assembly shall be presided over by—

- (a) the speaker of the assembly; or

- (b) in the absence of the speaker, another member of the assembly elected by the assembly.
- (3) Parliament shall enact legislation providing for the election and removal from office of speakers of the county assemblies.

**179. County executive committees**

(1) The executive authority of the county is vested in, and exercised by, a county executive committee.

- (2) The county executive committee consists of—
  - (a) the county governor and the deputy county governor; and
  - (b) members appointed by the county governor, with the approval of the assembly, from among persons who are not members of the assembly.
- (3) The number of members appointed under clause (2)(b) shall not exceed—
  - (a) one-third of the number of members of the county assembly, if the assembly has less than thirty members; or
  - (b) ten, if the assembly has thirty or more members.

(4) The county governor and the deputy county governor are the chief executive and deputy chief executive of the county, respectively.

(5) When the county governor is absent, the deputy county governor shall act as the county governor.

(6) Members of a county executive committee are accountable to the county governor for the performance of their functions and exercise of their powers.

(7) If a vacancy arises in the office of the county governor, the members of the county executive committee appointed under clause (2)(b) cease to hold office.

**180. Election of county governor and deputy county governor**

(1) The county governor shall be directly elected by the voters registered in the county, on the same day as a general election of Members of Parliament, being the second Tuesday in August, in every fifth year.

(2) To be eligible for election as county governor, a person must be eligible for election as a member of the county assembly.

(3) If only one candidate for county governor is nominated, that candidate shall be declared elected.

(4) If two or more candidates are nominated, an election shall be held in the county and the candidate who receives the greatest number of votes shall be declared elected.

(5) Each candidate for election as county governor shall nominate a person who is qualified for nomination for election as county governor as a candidate for deputy governor.

(6) The Independent Electoral and Boundaries Commission shall not conduct a separate election for the deputy governor but shall declare the candidate nominated by the person who is elected county governor to have been elected as the deputy governor.

(7) A person shall not hold office—

- (a) as a county governor for more than two terms; or
- (b) as a deputy county governor for more than two terms.

(8) For the purposes of clause (7), a person who has assumed the office of county governor shall be deemed to have served a full term, subject only to Article 182 (3)(b).

#### **181. Removal of a county governor**

(1) A county governor may be removed from office on any of the following grounds—

- (a) gross violation of this Constitution or any other law;
- (b) where there are serious reasons for believing that the county governor has committed a crime under national or international law;
- (c) abuse of office or gross misconduct; or
- (d) physical or mental incapacity to perform the functions of office of county governor.

(2) Parliament shall enact legislation providing for the procedure of removal of a county governor on any of the grounds specified in clause (1).

#### **182. Vacancy in the office of county governor**

(1) The office of the county governor shall become vacant if the holder of the office—

- (a) dies;
- (b) resigns, in writing, addressed to the speaker of the county assembly;
- (c) ceases to be eligible to be elected county governor under Article 180(2);
- (d) is convicted of an offence punishable by imprisonment for at least twelve months; or
- (e) is removed from office under this Constitution.

(2) If a vacancy occurs in the office of county governor, the deputy county governor shall assume office as county governor for the remainder of the term of the county governor.

(3) If a person assumes office as county governor under clause (2), the person shall be deemed for the purposes of Article 180(7)—

- (a) to have served a full term as county governor if, at the date on which the person assumed office, more than two and a half years remain before the date of the next regularly scheduled election under Article 180(1); or

- (b) not to have served a term of office as county governor, in any other case.
- (4) If a vacancy occurs in the office of county governor and that of deputy county governor, or if the deputy county governor is unable to act, the speaker of the county assembly shall act as county governor.
- (5) If a vacancy occurs in the circumstances contemplated by clause (4), an election to the office of county governor shall be held within sixty days after the speaker assumes the office of county governor.
- (6) A person who assumes the office of county governor under this Article shall, unless otherwise removed from office under this Constitution, hold office until the newly elected county governor assumes office following the next election held under Article 180(1).

### **183. Functions of county executive committees**

- (1) A county executive committee shall—
  - (a) implement county legislation;
  - (b) implement, within the county, national legislation to the extent that the legislation so requires;
  - (c) manage and coordinate the functions of the county administration and its departments; and
  - (d) perform any other functions conferred on it by this Constitution or national legislation.
- (2) A county executive committee may prepare proposed legislation for consideration by the county assembly.
- (3) The county executive committee shall provide the county assembly with full and regular reports on matters relating to the county.

### **184. Urban areas and cities**

- (1) National legislation shall provide for the governance and management of urban areas and cities and shall, in particular—
  - (a) establish criteria for classifying areas as urban areas and cities;
  - (b) establish the principles of governance and management of urban areas and cities; and
  - (c) provide for participation by residents in the governance of urban areas and cities.
- (2) National legislation contemplated in clause (1) may include mechanisms for identifying different categories of urban areas and cities, and for their governance.

### **185. Legislative authority of county assemblies**

- (1) The legislative authority of a county is vested in, and exercised by, its county assembly.
- (2) A county assembly may make any laws that are necessary for, or incidental to, the effective performance of the functions and exercise of the powers of the county government under the Fourth Schedule.

(3) A county assembly, while respecting the principle of the separation of powers, may exercise oversight over the county executive committee and any other county executive organs.

- (4) A county assembly may receive and approve plans and policies for—
- (a) the management and exploitation of the county's resources; and
  - (b) the development and management of its infrastructure and institutions.

### PART 3 – FUNCTIONS AND POWERS OF COUNTY GOVERNMENTS

#### **186. Respective functions and powers of national and county governments**

(1) Except as otherwise provided by this Constitution, the functions and powers of the national government and the county governments, respectively, are as set out in the Fourth Schedule.

(2) A function or power that is conferred on more than one level of government is a function or power within the concurrent jurisdiction of each of those levels of government.

(3) A function or power not assigned by this Constitution or national legislation to a county is a function or power of the national government.

(4) For greater certainty, Parliament may legislate for the Republic on any matter.

#### **187. Transfer of functions and powers between levels of government**

(1) A function or power of government at one level may be transferred to a government at the other level by agreement between the governments if—

- (a) the function or power would be more effectively performed or exercised by the receiving government; and
- (b) the transfer of the function or power is not prohibited by the legislation under which it is to be performed or exercised.

(2) If a function or power is transferred from a government at one level to a government at the other level—

- (a) arrangements shall be put in place to ensure that the resources necessary for the performance of the function or exercise of the power are transferred; and
- (b) constitutional responsibility for the performance of the function or exercise of the power shall remain with the government to which it is assigned by the Fourth Schedule.

### PART 4 – THE BOUNDARIES OF COUNTIES

#### **188. Boundaries of counties**

(1) The boundaries of a county may be altered only by a resolution—

- (a) recommended by an independent commission set up for that purpose by Parliament; and

- (b) passed by—
  - (i) the National Assembly, with the support of at least two-thirds of all of the members of the Assembly; and
  - (ii) the Senate, with the support of at least two-thirds of all of the county delegations.
- (2) The boundaries of a county may be altered to take into account—
  - (a) population density and demographic trends;
  - (b) physical and human infrastructure;
  - (c) historical and cultural ties;
  - (d) the cost of administration;
  - (e) the views of the communities affected;
  - (f) the objects of devolution of government; and
  - (g) geographical features.

## PART 5 – RELATIONSHIPS BETWEEN GOVERNMENTS

### **189. Cooperation between national and county governments**

- (1) Government at either level shall—
  - (a) perform its functions, and exercise its powers, in a manner that respects the functional and institutional integrity of government at the other level, and respects the constitutional status and institutions of government at the other level and, in the case of county government, within the county level;
  - (b) assist, support and consult and, as appropriate, implement the legislation of the other level of government; and
  - (c) liaise with government at the other level for the purpose of exchanging information, coordinating policies and administration and enhancing capacity.
- (2) Government at each level, and different governments at the county level, shall co-operate in the performance of functions and exercise of powers and, for that purpose, may set up joint committees and joint authorities.
- (3) In any dispute between governments, the governments shall make every reasonable effort to settle the dispute, including by means of procedures provided under national legislation.
- (4) National legislation shall provide procedures for settling inter-governmental disputes by alternative dispute resolution mechanisms, including negotiation, mediation and arbitration.

### **190. Support for county governments**

- (1) Parliament shall by legislation ensure that county governments have adequate support to enable them to perform their functions.
- (2) County governments shall operate financial management systems that comply with any requirements prescribed by national legislation.

- (3) Parliament shall, by legislation, provide for intervention by the national government if a county government—
- (a) is unable to perform its functions; or
  - (b) does not operate a financial management system that complies with the requirements prescribed by national legislation.
- (4) Legislation under clause (3) may, in particular, authorise the national government—
- (a) to take appropriate steps to ensure that the county government's functions are performed and that it operates a financial management system that complies with the prescribed requirements; and
  - (b) if necessary, to assume responsibility for the relevant functions.
- (5) The legislation under clause (3) shall—
- (a) require notice to be given to a county government of any measures that the national government intends to take;
  - (b) permit the national government to take only measures that are necessary;
  - (c) require the national government, when it intervenes, to take measures that will assist the county government to resume full responsibility for its functions; and
  - (d) provide for a process by which the Senate may bring the intervention by the national government to an end.

#### **191. Conflict of laws**

- (1) This Article applies to conflicts between national and county legislation in respect of matters falling within the concurrent jurisdiction of both levels of government.
- (2) National legislation prevails over county legislation if—
- (a) the national legislation applies uniformly throughout Kenya and any of the conditions specified in clause (3) is satisfied; or
  - (b) the national legislation is aimed at preventing unreasonable action by a county that—
    - (i) is prejudicial to the economic, health or security interests of Kenya or another county; or
    - (ii) impedes the implementation of national economic policy.
- (3) The following are the conditions referred to in clause (2)(a)—
- (a) the national legislation provides for a matter that cannot be regulated effectively by legislation enacted by the individual counties;
  - (b) the national legislation provides for a matter that, to be dealt with effectively, requires uniformity across the nation, and the national legislation provides that uniformity by establishing—
    - (i) norms and standards; or
    - (ii) national policies; or

- (c) the national legislation is necessary for—
  - (i) the maintenance of national security;
  - (ii) the maintenance of economic unity;
  - (iii) the protection of the common market in respect of the mobility of goods, services, capital and labour;
  - (iv) the promotion of economic activities across county boundaries;
  - (v) the promotion of equal opportunity or equal access to government services; or
  - (vi) the protection of the environment.
- (4) County legislation prevails over national legislation if neither of the circumstances contemplated in clause (2) apply.
- (5) In considering an apparent conflict between legislation of different levels of government, a court shall prefer a reasonable interpretation of the legislation that avoids a conflict to an alternative interpretation that results in conflict.
- (6) A decision by a court that a provision of legislation of one level of government prevails over a provision of legislation of another level of government does not invalidate the other provision, but the other provision is inoperative to the extent of the inconsistency.

## PART 6 – SUSPENSION OF COUNTY GOVERNMENTS

### **192. Suspension of a county government**

- (1) The President may suspend a county government—
  - (a) in an emergency arising out of internal conflict or war; or
  - (b) in any other exceptional circumstances.
- (2) A county government shall not be suspended under clause (1)(b) unless an independent commission of inquiry has investigated allegations against the county government, the President is satisfied that the allegations are justified and the Senate has authorised the suspension.
- (3) During a suspension under this Article, arrangements shall be made for the performance of the functions of a county government in accordance with an Act of Parliament.
- (4) The Senate may at any time terminate the suspension.
- (5) A suspension under this Article shall not extend beyond a period of ninety days.
- (6) On the expiry of the period provided for under clause (5), elections for the relevant county government shall be held.

## PART 7 – GENERAL

### **193. Qualifications for election as member of county assembly**

- (1) Unless disqualified under clause (2), a person is eligible for election as a member of a county assembly if the person—
  - (a) is registered as a voter;

- (b) satisfies any educational, moral and ethical requirements prescribed by this Constitution or an Act of Parliament; and
- (c) is either—
  - (i) nominated by a political party; or
  - (ii) an independent candidate supported by at least five hundred registered voters in the ward concerned.

(2) A person is disqualified from being elected a member of a county assembly if the person—

- (a) is a State officer or other public officer, other than a member of the county assembly;
- (b) has, at any time within the five years immediately before the date of election, held office as a member of the Independent Electoral and Boundaries Commission;
- (c) has not been a citizen of Kenya for at least the ten years immediately preceding the date of election;
- (d) is of unsound mind;
- (e) is an undischarged bankrupt;
- (f) is serving a sentence of imprisonment of at least six months; or
- (g) has been found, in accordance with any law, to have misused or abused a State office or public office or to have contravened Chapter Six.

(3) A person is not disqualified under clause (2) unless all possibility of appeal or review of the relevant sentence or decision has been exhausted.

#### **194. Vacation of office of member of county assembly**

- (1) The office of a member of a county assembly becomes vacant—
- (a) if the member dies;
  - (b) if the member is absent from eight sittings of the assembly without permission, in writing, of the speaker of the assembly, and is unable to offer satisfactory explanation for the absence;
  - (c) if the member is removed from office under this Constitution or legislation enacted under Article 80;
  - (d) if the member resigns in writing addressed to the speaker of the assembly;
  - (e) if, having been elected to the assembly—
    - (i) as a member of a political party, the member resigns from the party, or is deemed to have resigned from the party as determined in accordance with the legislation contemplated in clause (2); or
    - (ii) as an independent candidate, the member joins a political party;
  - (f) at the end of the term of the assembly; or
  - (g) if the member becomes disqualified for election on grounds specified in Article 193(2).

(2) Parliament shall enact legislation providing for the circumstances under which a member of a political party shall be deemed, for the purposes of clause (1)(e), to have resigned from the party.

**195. County assembly power to summon witnesses**

(1) A county assembly or any of its committees has power to summon any person to appear before it for the purpose of giving evidence or providing information.

(2) For the purposes of clause (1), an assembly has the same powers as the High Court to—

- (a) enforce the attendance of witnesses and examining them on oath, affirmation or otherwise;
- (b) compel the production of documents; and
- (c) issue a commission or request to examine witnesses abroad.

**196. Public participation and county assembly powers, privileges and immunities**

(1) A county assembly shall—

- (a) conduct its business in an open manner, and hold its sittings and those of its committees, in public; and
- (b) facilitate public participation and involvement in the legislative and other business of the assembly and its committees.

(2) A county assembly may not exclude the public, or any media, from any sitting unless in exceptional circumstances the speaker has determined that there are justifiable reasons for doing so.

(3) Parliament shall enact legislation providing for the powers, privileges and immunities of county assemblies, their committees and members.

**197. County assembly gender balance and diversity**

(1) Not more than two-thirds of the members of any county assembly or county executive committee shall be of the same gender.

(2) Parliament shall enact legislation to—

- (a) ensure that the community and cultural diversity of a county is reflected in its county assembly and county executive committee; and
- (b) prescribe mechanisms to protect minorities within counties.

**198. County government during transition**

While an election is being held to constitute a county assembly under this Chapter, the executive committee of the county, as last constituted remains competent to perform administrative functions until a new executive committee is constituted after the election.

**199. Publication of county legislation**

(1) County legislation does not take effect unless published in the *Gazette*.

(2) National and county legislation may prescribe additional requirements in respect of the publication of county legislation.

## **200. Legislation on Chapter**

(1) Parliament shall enact legislation providing for all matters necessary or convenient to give effect to this Chapter.

(2) In particular, provision may be made with respect to—

- (a) the governance of the capital city, other cities and urban areas;
- (b) the transfer of functions and powers by one level of government to another, including the transfer of legislative powers from the national government to county governments;
- (c) the manner of election or appointment of persons to, and their removal from, offices in county governments, including the qualifications of voters and candidates;
- (d) the procedure of assemblies and executive committees including the chairing and frequency of meetings, quorums and voting; and
- (e) the suspension of assemblies and executive committees.

## CHAPTER TWELVE – PUBLIC FINANCE

### PART I – PRINCIPLES AND FRAMEWORK OF PUBLIC FINANCE

#### **201. Principles of public finance**

The following principles shall guide all aspects of public finance in the Republic

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- (a) there shall be openness and accountability, including public participation in financial matters;
- (b) the public finance system shall promote an equitable society, and in particular—
  - (i) the burden of taxation shall be shared fairly;
  - (ii) revenue raised nationally shall be shared equitably among national and county governments; and
  - (iii) expenditure shall promote the equitable development of the country, including by making special provision for marginalised groups and areas;
- (c) the burdens and benefits of the use of resources and public borrowing shall be shared equitably between present and future generations;
- (d) public money shall be used in a prudent and responsible way; and
- (e) financial management shall be responsible, and fiscal reporting shall be clear.

#### **202. Equitable sharing of national revenue**

(1) Revenue raised nationally shall be shared equitably among the national and county governments.

(2) County governments may be given additional allocations from the national government's share of the revenue, either conditionally or unconditionally.

**203. Equitable share and other financial laws**

(1) The following criteria shall be taken into account in determining the equitable shares provided for under Article 202 and in all national legislation concerning county government enacted in terms of this Chapter—

- (a) the national interest;
- (b) any provision that must be made in respect of the public debt and other national obligations;
- (c) the needs of the national government, determined by objective criteria;
- (d) the need to ensure that county governments are able to perform the functions allocated to them;
- (e) the fiscal capacity and efficiency of county governments;
- (f) developmental and other needs of counties;
- (g) economic disparities within and among counties and the need to remedy them;
- (h) the need for affirmative action in respect of disadvantaged areas and groups;
- (i) the need for economic optimisation of each county and to provide incentives for each county to optimise its capacity to raise revenue;
- (j) the desirability of stable and predictable allocations of revenue; and
- (k) the need for flexibility in responding to emergencies and other temporary needs, based on similar objective criteria.

(2) For every financial year, the equitable share of the revenue raised nationally that is allocated to county governments shall be not less than fifteen per cent of all revenue collected by the national government.

(3) The amount referred to in clause (2) shall be calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly.

**204. Equalisation Fund**

(1) There is established an Equalisation Fund into which shall be paid one half per cent of all the revenue collected by the national government each year calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly.

(2) The national government shall use the Equalisation Fund only to provide basic services including water, roads, health facilities and electricity to marginalised areas to the extent necessary to bring the quality of those services in those areas to the level generally enjoyed by the rest of the nation, so far as possible.

(3) The national government may use the Equalisation Fund—

- (a) only to the extent that the expenditure of those funds has been approved in an Appropriation Bill enacted by Parliament; and

- (b) either directly, or indirectly through conditional grants to counties in which marginalised communities exist.
- (4) The Commission on Revenue Allocation shall be consulted and its recommendations considered before Parliament passes any Bill appropriating money out of the Equalisation Fund.
- (5) Any unexpended money in the Equalisation Fund at the end of a particular financial year shall remain in that Fund for use in accordance with clauses (2) and (3) during any subsequent financial year.
- (6) This Article lapses twenty years after the effective date, subject to clause (7).
- (7) Parliament may enact legislation suspending the effect of clause (6) for a further fixed period of years, subject to clause (8).
- (8) Legislation under clause (7) shall be supported by more than half of all the members of the National Assembly, and more than half of all the county delegations in the Senate.
- (9) Money shall not be withdrawn from the Equalisation Fund unless the Controller of Budget has approved the withdrawal.

#### **205. Consultation on financial legislation affecting counties**

(1) When a Bill that includes provisions dealing with the sharing of revenue, or any financial matter concerning county governments is published, the Commission on Revenue Allocation shall consider those provisions and may make recommendations to the National Assembly and the Senate.

(2) Any recommendations made by the Commission shall be tabled in Parliament, and each House shall consider the recommendations before voting on the Bill.

### **PART 2 – OTHER PUBLIC FUNDS**

#### **206. Consolidated Fund and other public funds**

(1) There is established the Consolidated Fund into which shall be paid all money raised or received by or on behalf of the national government, except money that—

- (a) is reasonably excluded from the Fund by an Act of Parliament and payable into another public fund established for a specific purpose; or
  - (b) may, under an Act of Parliament, be retained by the State organ that received it for the purpose of defraying the expenses of the State organ.
- (2) Money may be withdrawn from the Consolidated Fund only—
- (a) in accordance with an appropriation by an Act of Parliament;
  - (b) in accordance with Article 222 or 223; or
  - (c) as a charge against the Fund as authorised by this Constitution or an Act of Parliament.

(3) Money shall not be withdrawn from any national public fund other than the Consolidated Fund, unless the withdrawal of the money has been authorised by an Act of Parliament.

(4) Money shall not be withdrawn from the Consolidated Fund unless the Controller of Budget has approved the withdrawal.

## **207. Revenue Funds for county governments**

(1) There shall be established a Revenue Fund for each county government, into which shall be paid all money raised or received by or on behalf of the county government, except money reasonably excluded by an Act of Parliament.

(2) Money may be withdrawn from the Revenue Fund of a county government only—

- (a) as a charge against the Revenue Fund that is provided for by an Act of Parliament or by legislation of the county; or
- (b) as authorised by an appropriation by legislation of the county.

(3) Money shall not be withdrawn from a Revenue Fund unless the Controller of Budget has approved the withdrawal.

(4) An Act of Parliament may—

- (a) make further provision for the withdrawal of funds from a county Revenue Fund; and
- (b) provide for the establishment of other funds by counties and the management of those funds.

## **208. Contingencies Fund**

(1) There is established a Contingencies Fund, the operation of which shall be in accordance with an Act of Parliament.

(2) An Act of Parliament shall provide for advances from the Contingencies Fund if the Cabinet Secretary responsible for finance is satisfied that there is an urgent and unforeseen need for expenditure for which there is no other authority.

## **PART 3 – REVENUE-RAISING POWERS AND THE PUBLIC DEBT**

### **209. Power to impose taxes and charges**

(1) Only the national government may impose—

- (a) income tax;
- (b) value-added tax;
- (c) customs duties and other duties on import and export goods; and
- (d) excise tax.

(2) An Act of Parliament may authorise the national government to impose any other tax or duty, except a tax specified in clause (3)(a) or (b).

(3) A county may impose—

- (a) property rates;
- (b) entertainment taxes; and

- 
- (c) any other tax that it is authorised to impose by an Act of Parliament.
  - (4) The national and county governments may impose charges for the services they provide.
  - (5) The taxation and other revenue-raising powers of a county shall not be exercised in a way that prejudices national economic policies, economic activities across county boundaries or the national mobility of goods, services, capital or labour.

#### **210. Imposition of tax**

- (1) No tax or licensing fee may be imposed, waived or varied except as provided by legislation.
- (2) If legislation permits the waiver of any tax or licensing fee—
  - (a) a public record of each waiver shall be maintained together with the reason for the waiver; and
  - (b) each waiver, and the reason for it, shall be reported to the Auditor-General.
- (3) No law may exclude or authorise the exclusion of a State officer from payment of tax by reason of—
  - (a) the office held by that State officer; or
  - (b) the nature of the work of the State officer.

#### **211. Borrowing by national government**

- (1) Parliament may, by legislation—
  - (a) prescribe the terms on which the national government may borrow; and
  - (b) impose reporting requirements.
- (2) Within seven days after either House of Parliament so requests by resolution, the Cabinet Secretary responsible for finance shall present to the relevant committee, information concerning any particular loan or guarantee, including all information necessary to show—
  - (a) the extent of the total indebtedness by way of principal and accumulated interest;
  - (b) the use made or to be made of the proceeds of the loan;
  - (c) the provision made for servicing or repayment of the loan; and
  - (d) the progress made in the repayment of the loan.

#### **212. Borrowing by counties**

- A county government may borrow only—
- (a) if the national government guarantees the loan; and
  - (b) with the approval of the county government's assembly.

**213. Loan guarantees by national government**

(1) An Act of Parliament shall prescribe terms and conditions under which the national government may guarantee loans.

(2) Within two months after the end of each financial year, the national government shall publish a report on the guarantees that it gave during that year.

**214. Public debt**

(1) The public debt is a charge on the Consolidated Fund, but an Act of Parliament may provide for charging all or part of the public debt to other public funds.

(2) For the purposes of this Article, “**the public debt**” means all financial obligations attendant to loans raised or guaranteed and securities issued or guaranteed by the national government.

**PART 4 – REVENUE ALLOCATION**

**215. Commission on Revenue Allocation**

(1) There is established the Commission on Revenue Allocation.

(2) The Commission shall consist of the following persons appointed by the President—

- (a) a chairperson, who shall be nominated by the President and approved by the National Assembly;
- (b) two persons nominated by the political parties represented in the National Assembly according to their proportion of members in the Assembly;
- (c) five persons nominated by the political parties represented in the Senate according to their proportion of members in the Senate; and
- (d) the Principal Secretary in the Ministry responsible for finance.

(3) The persons nominated under clause (2) shall not be members of Parliament.

(4) To be qualified to be a member of the Commission under clause (2)(a), (b) or (c), a person shall have extensive professional experience in financial and economic matters.

**216. Functions of the Commission on Revenue Allocation**

(1) The principal function of the Commission on Revenue Allocation is to make recommendations concerning the basis for the equitable sharing of revenue raised by the national government—

- (a) between the national and county governments; and
- (b) among the county governments.

(2) The Commission shall also make recommendations on other matters concerning the financing of, and financial management by, county governments, as required by this Constitution and national legislation.

- (3) In formulating recommendations, the Commission shall seek—
  - (a) to promote and give effect to the criteria set out in Article 203(1);
  - (b) when appropriate, to define and enhance the revenue sources of the national and county governments; and
  - (c) to encourage fiscal responsibility.
- (4) The Commission shall determine, publish and regularly review a policy in which it sets out the criteria by which to identify the marginalised areas for purposes of Article 204(2).
- (5) The Commission shall submit its recommendations to the Senate, the National Assembly, the national executive, county assemblies and county executives.

## **217. Division of revenue**

- (1) Once every five years, the Senate shall, by resolution, determine the basis for allocating among the counties the share of national revenue that is annually allocated to the county level of government.
- (2) In determining the basis of revenue sharing under clause (1), the Senate shall—
  - (a) take the criteria in Article 203(1) into account;
  - (b) request and consider recommendations from the Commission on Revenue Allocation;
  - (c) consult the county governors, the Cabinet Secretary responsible for finance and any organisation of county governments; and
  - (d) invite the public, including professional bodies, to make submissions to it on the matter.
- (3) Within ten days after the Senate adopts a resolution under clause (1), the Speaker of the Senate shall refer the resolution to the Speaker of the National Assembly.
- (4) Within sixty days after the Senate's resolution is referred under clause (3), the National Assembly may consider the resolution, and vote to approve it, with or without amendments, or to reject it.
- (5) If the National Assembly—
  - (a) does not vote on the resolution within sixty days, the resolution shall be regarded as having been approved by the National Assembly without amendment; or
  - (b) votes on the resolution, the resolution shall have been—
    - (i) amended only if at least two-thirds of the members of the Assembly vote in support of an amendment;
    - (ii) rejected only if at least two-thirds of the members of the Assembly vote against it, irrespective whether it has first been amended by the Assembly; or
    - (iii) approved, in any other case.

(6) If the National Assembly approves an amended version of the resolution, or rejects the resolution, the Senate, at its option, may either—

- (a) adopt a new resolution under clause (1), in which case the provisions of this clause and clauses (4) and (5) apply afresh; or
- (b) request that the matter be referred to a joint committee of the two Houses of Parliament for mediation under Article 113, applied with the necessary modifications.

(7) A resolution under this Article that is approved under clause (5) shall be binding until a subsequent resolution has been approved.

(8) Despite clause (1), the Senate may, by resolution supported by at least two-thirds of its members, amend a resolution at any time after it has been approved.

(9) Clauses (2) to (8), with the necessary modifications, apply to a resolution under clause (8).

## **218. Annual Division and Allocation of Revenue Bills**

(1) At least two months before the end of each financial year, there shall be introduced in Parliament—

- (a) a Division of Revenue Bill, which shall divide revenue raised by the national government among the national and county levels of government in accordance with this Constitution; and
- (b) a County Allocation of Revenue Bill, which shall divide among the counties the revenue allocated to the county level of government on the basis determined in accordance with the resolution in force under Article 217.

(2) Each Bill required by clause (1) shall be accompanied by a memorandum setting out—

- (a) an explanation of revenue allocation as proposed by the Bill;
- (b) an evaluation of the Bill in relation to the criteria set out in Article 203(1); and
- (c) a summary of any significant deviation from the Commission on Revenue Allocation's recommendations, with an explanation for each such deviation.

## **219. Transfer of equitable share**

A county's share of revenue raised by the national government shall be transferred to the county without undue delay and without deduction, except when the transfer has been stopped under Article 225.

## **PART 5 – BUDGETS AND SPENDING**

### **220. Form, content and timing of budgets**

(1) Budgets of the national and county governments shall contain—

- (a) estimates of revenue and expenditure, differentiating between recurrent and development expenditure;

- (b) proposals for financing any anticipated deficit for the period to which they apply; and
  - (c) proposals regarding borrowing and other forms of public liability that will increase public debt during the following year.
- (2) National legislation shall prescribe—
- (a) the structure of the development plans and budgets of counties;
  - (b) when the plans and budgets of the counties shall be tabled in the county assemblies; and
  - (c) the form and manner of consultation between the national government and county governments in the process of preparing plans and budgets.

**221. Budget estimates and annual Appropriation Bill**

(1) At least two months before the end of each financial year, the Cabinet Secretary responsible for finance shall submit to the National Assembly estimates of the revenue and expenditure of the national government for the next financial year to be tabled in the National Assembly.

(2) The estimates referred to in clause (1) shall—

- (a) include estimates for expenditure from the Equalisation Fund; and
- (b) be in the form, and according to the procedure, prescribed by an Act of Parliament.

(3) The National Assembly shall consider the estimates submitted under clause (1) together with the estimates submitted by the Parliamentary Service Commission and the Chief Registrar of the Judiciary under Articles 127 and 173 respectively.

(4) Before the National Assembly considers the estimates of revenue and expenditure, a committee of the Assembly shall discuss and review the estimates and make recommendations to the Assembly.

(5) In discussing and reviewing the estimates, the committee shall seek representations from the public and the recommendations shall be taken into account when the committee makes its recommendations to the National Assembly.

(6) When the estimates of national government expenditure, and the estimates of expenditure for the Judiciary and Parliament have been approved by the National Assembly, they shall be included in an Appropriation Bill, which shall be introduced into the National Assembly to authorise the withdrawal from the Consolidated Fund of the money needed for the expenditure, and for the appropriation of that money for the purposes mentioned in the Bill.

(7) The Appropriation Bill mentioned in clause (6) shall not include expenditures that are charged on the Consolidated Fund by this Constitution or an Act of Parliament.

**222. Expenditure before annual budget is passed**

(1) If the Appropriation Act for a financial year has not been assented to, or is not likely to be assented to, by the beginning of that financial year, the National Assembly may authorise the withdrawal of money from the Consolidated Fund.

(2) Money withdrawn under clause (1) shall—

- (a) be for the purpose of meeting expenditure necessary to carry on the services of the national government during that year until such time as the Appropriation Act is assented to;
- (b) not exceed in total one-half of the amount included in the estimates of expenditure for that year that have been tabled in the National Assembly; and
- (c) be included, under separate votes for the several services in respect of which they were withdrawn, in the Appropriation Act.

### **223. Supplementary appropriation**

(1) Subject to clauses (2) to (4), the national government may spend money that has not been appropriated if—

- (a) the amount appropriated for any purpose under the Appropriation Act is insufficient or a need has arisen for expenditure for a purpose for which no amount has been appropriated by that Act; or
- (b) money has been withdrawn from the Contingencies Fund.

(2) The approval of Parliament for any spending under this Article shall be sought within two months after the first withdrawal of the money, subject to clause (3).

(3) If Parliament is not sitting during the time contemplated in clause (2), or is sitting but adjourns before the approval has been sought, the approval shall be sought within two weeks after it next sits.

(4) When the National Assembly has approved spending under clause (2), an appropriation Bill shall be introduced for the appropriation of the money spent.

(5) In any particular financial year, the national government may not spend under this Article more than ten per cent of the sum appropriated by Parliament for that financial year unless, in special circumstances, Parliament has approved a higher percentage.

### **224. County appropriation Bills**

On the basis of the Division of Revenue Bill passed by Parliament under Article 218, each county government shall prepare and adopt its own annual budget and appropriation Bill in the form, and according to the procedure, prescribed in an Act of Parliament.

## PART 6 – CONTROL OF PUBLIC MONEY

### **225. Financial control**

(1) An Act of Parliament shall provide for the establishment, functions and responsibilities of the national Treasury.

(2) Parliament shall enact legislation to ensure both expenditure control and transparency in all governments and establish mechanisms to ensure their implementation.

(3) Legislation under clause (2) may authorise the Cabinet Secretary responsible for finance to stop the transfer of funds to a State organ or any other public entity—

- (a) only for a serious material breach or persistent material breaches of the measures established under that legislation; and
- (b) subject to the requirements of clauses (4) to (7).

(4) A decision to stop the transfer of funds under clause (3) may not stop the transfer of more than fifty per cent of funds due to a county government.

(5) A decision to stop the transfer of funds as contemplated in clause (3)—

- (a) shall not stop the transfer of funds for more than sixty days; and
- (b) may be enforced immediately, but will lapse retrospectively unless, within thirty days after the date of the decision, Parliament approves it by resolution passed by both Houses.

(6) Parliament may renew a decision to stop the transfer of funds but for no more than sixty days at a time.

(7) Parliament may not approve or renew a decision to stop the transfer of funds unless—

- (a) the Controller of Budget has presented a report on the matter to Parliament; and
- (b) the public entity has been given an opportunity to answer the allegations against it, and to state its case, before the relevant parliamentary committee.

## **226. Accounts and audit of public entities**

(1) An Act of Parliament shall provide for—

- (a) the keeping of financial records and the auditing of accounts of all governments and other public entities, and prescribe other measures for securing efficient and transparent fiscal management; and
- (b) the designation of an accounting officer in every public entity at the national and county level of government.

(2) The accounting officer of a national public entity is accountable to the National Assembly for its financial management, and the accounting officer of a county public entity is accountable to the county assembly for its financial management.

(3) Subject to clause (4), the accounts of all governments and State organs shall be audited by the Auditor-General.

(4) The accounts of the office of the Auditor-General shall be audited and reported on by a professionally qualified accountant appointed by the National Assembly.

(5) If the holder of a public office, including a political office, directs or approves the use of public funds contrary to law or instructions, the person is liable for any loss arising from that use and shall make good the loss, whether the person remains the holder of the office or not.

**227. Procurement of public goods and services**

(1) When a State organ or any other public entity contracts for goods or services, it shall do so in accordance with a system that is fair, equitable, transparent, competitive and cost-effective.

(2) An Act of Parliament shall prescribe a framework within which policies relating to procurement and asset disposal shall be implemented and may provide for all or any of the following—

- (a) categories of preference in the allocation of contracts;
- (b) the protection or advancement of persons, categories of persons or groups previously disadvantaged by unfair competition or discrimination;
- (c) sanctions against contractors that have not performed according to professionally regulated procedures, contractual agreements or legislation; and
- (d) sanctions against persons who have defaulted on their tax obligations, or have been guilty of corrupt practices or serious violations of fair employment laws and practices.

**PART 7 – FINANCIAL OFFICERS AND INSTITUTIONS**

**228. Controller of Budget**

(1) There shall be a Controller of Budget who shall be nominated by the President and, with the approval of the National Assembly, appointed by the President.

(2) To be qualified to be the Controller, a person shall have extensive knowledge of public finance or at least ten years experience in auditing public finance management.

(3) The Controller shall, subject to Article 251, hold office for a term of eight years and shall not be eligible for re-appointment.

(4) The Controller of Budget shall oversee the implementation of the budgets of the national and county governments by authorising withdrawals from public funds under Articles 204, 206 and 207.

(5) The Controller shall not approve any withdrawal from a public fund unless satisfied that the withdrawal is authorised by law.

(6) Every four months, the Controller shall submit to each House of Parliament a report on the implementation of the budgets of the national and county governments.

**229. Auditor-General**

(1) There shall be an Auditor-General who shall be nominated by the President and, with the approval of the National Assembly, appointed by the President.

(2) To be qualified to be the Auditor-General, a person shall have extensive knowledge of public finance or at least ten years experience in auditing or public finance management.

(3) The Auditor-General holds office, subject to Article 251, for a term of eight years and shall not be eligible for re-appointment.

(4) Within six months after the end of each financial year, the Auditor-General shall audit and report, in respect of that financial year, on—

- (a) the accounts of the national and county governments;
- (b) the accounts of all funds and authorities of the national and county governments;
- (c) the accounts of all courts;
- (d) the accounts of every commission and independent office established by this Constitution;
- (e) the accounts of the National Assembly, the Senate and the county assemblies;
- (f) the accounts of political parties funded from public funds;
- (g) the public debt; and
- (h) the accounts of any other entity that legislation requires the Auditor-General to audit.

(5) The Auditor-General may audit and report on the accounts of any entity that is funded from public funds.

(6) An audit report shall confirm whether or not public money has been applied lawfully and in an effective way.

(7) Audit reports shall be submitted to Parliament or the relevant county assembly.

(8) Within three months after receiving an audit report, Parliament or the county assembly shall debate and consider the report and take appropriate action.

### **230. Salaries and Remuneration Commission**

(1) There is established the Salaries and Remuneration Commission.

(2) The Salaries and Remuneration Commission consists of the following persons appointed by the President—

- (a) a chairperson;
- (b) one person each nominated by the following bodies from among persons who are not members or employees of those bodies—
  - (i) the Parliamentary Service Commission;
  - (ii) the Public Service Commission;
  - (iii) the Judicial Service Commission;
  - (iv) the Teachers Service Commission;
  - (v) the National Police Service Commission;
  - (vi) the Defence Council; and
  - (vii) the Senate, on behalf of the county governments;
- (c) one person each nominated by—
  - (i) an umbrella body representing trade unions;

- (ii) an umbrella body representing employers; and
  - (iii) a joint forum of professional bodies as provided by legislation;
  - (d) one person each nominated by—
    - (i) the Cabinet Secretary responsible for finance; and
    - (ii) the Attorney-General; and
  - (e) one person who has experience in the management of human resources in the public service, nominated by the Cabinet Secretary responsible for public service.
- (3) The Commissioners under clause (1)(d) and (e) shall have no vote.
- (4) The powers and functions of the Salaries and Remuneration Commission shall be to—
- (a) set and regularly review the remuneration and benefits of all State officers; and
  - (b) advise the national and county governments on the remuneration and benefits of all other public officers.
- (5) In performing its functions, the Commission shall take the following principles into account—
- (a) the need to ensure that the total public compensation bill is fiscally sustainable;
  - (b) the need to ensure that the public services are able to attract and retain the skills required to execute their functions;
  - (c) the need to recognise productivity and performance; and
  - (d) transparency and fairness.

### **231. Central Bank of Kenya**

- (1) There is established the Central Bank of Kenya.
- (2) The Central Bank of Kenya shall be responsible for formulating monetary policy, promoting price stability, issuing currency and performing other functions conferred on it by an Act of Parliament.
- (3) The Central Bank of Kenya shall not be under the direction or control of any person or authority in the exercise of its powers or in the performance of its functions.
- (4) Notes and coins issued by the Central Bank of Kenya may bear images that depict or symbolise Kenya or an aspect of Kenya but shall not bear the portrait of any individual.
- (5) An Act of Parliament shall provide for the composition, powers, functions and operations of the Central Bank of Kenya.

## **CHAPTER THIRTEEN – THE PUBLIC SERVICE**

### **PART 1 – VALUES AND PRINCIPLES OF PUBLIC SERVICE**

#### **232. Values and principles of public service**

- (1) The values and principles of public service include—
  - (a) high standards of professional ethics;

- (b) efficient, effective and economic use of resources;
  - (c) responsive, prompt, effective, impartial and equitable provision of services;
  - (d) involvement of the people in the process of policy making;
  - (e) accountability for administrative acts;
  - (f) transparency and provision to the public of timely, accurate information;
  - (g) subject to paragraphs (h) and (i), fair competition and merit as the basis of appointments and promotions;
  - (h) representation of Kenya's diverse communities; and
  - (i) affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service, of—
    - (i) men and women;
    - (ii) the members of all ethnic groups; and
    - (iii) persons with disabilities.
- (2) The values and principles of public service apply to public service in—
- (a) all State organs in both levels of government; and
  - (b) all State corporations.
- (3) Parliament shall enact legislation to give full effect to this Article.

## PART 2 – THE PUBLIC SERVICE COMMISSION

### **233. The Public Service Commission**

- (1) There is established the Public Service Commission.
- (2) The Public Service Commission consists of a chairperson, a vice chairperson and seven other members appointed by the President with the approval of the National Assembly.
- (3) Subject to clause (4), a person is not eligible for appointment as a member of the Commission if the person—
  - (a) has, at any time within the preceding five years, held office, or stood for election as—
    - (i) a member of Parliament or of a county assembly; or
    - (ii) a member of the governing body of a political party; or
  - (b) holds any State office;
  - (c) is, or has at any time been, a candidate for election as a member of Parliament or of a county assembly; or
  - (d) is, or has at any time been, the holder of an office in any political organisation that sponsors or otherwise supports, or has at any time sponsored or otherwise supported, a candidate for election as a member of Parliament or of a county assembly.
- (4) Clause (3)(c) and (d) cease to apply to a person after two general elections for Parliament have been held since the person ceased to be such a candidate or office holder.

- (5) There shall be a secretary to the Commission.
- (6) The secretary—
  - (a) is the chief executive of the Commission; and
  - (b) shall be appointed by the Commission for a term of five years, and is eligible for re-appointment once.

**234. Functions and powers of the Public Service Commission**

- (1) The functions and powers of the Commission are as set out in this Article.
- (2) The Commission shall—
  - (a) subject to this Constitution and legislation—
    - (i) establish and abolish offices in the public service; and
    - (ii) appoint persons to hold or act in those offices, and to confirm appointments;
  - (b) exercise disciplinary control over and remove persons holding or acting in those offices;
  - (c) promote the values and principles referred to in Articles 10 and 232 throughout the public service;
  - (d) investigate, monitor and evaluate the organisation, administration and personnel practices of the public service;
  - (e) ensure that the public service is efficient and effective;
  - (f) develop human resources in the public service;
  - (g) review and make recommendations to the national government in respect of conditions of service, code of conduct and qualifications of officers in the public service;
  - (h) evaluate and report to the President and Parliament on the extent to which the values and principles referred to in Articles 10 and 232 are complied with in the public service;
  - (i) hear and determine appeals in respect of county governments' public service; and
  - (j) perform any other functions and exercise any other powers conferred by national legislation.
- (3) Clauses (1) and (2) shall not apply to any of the following offices in the public service—
  - (a) State offices;
  - (b) an office of high commissioner, ambassador or other diplomatic or consular representative of the Republic;
  - (c) an office or position subject to—
    - (i) the Parliamentary Service Commission;
    - (ii) the Judicial Service Commission;
    - (iii) the Teachers Service Commission;
    - (iv) the National Police Service Commission; or

- (d) an office in the service of a county government, except as contemplated in clause (2)(i).
- (4) The Commission shall not appoint a person under clause (2) to hold or act in any office on the personal staff of the President or a retired President, except with the consent of the President or retired President.
- (5) The Commission may delegate, in writing, with or without conditions, any of its functions and powers under this Article to any one or more of its members, or to any officer, body or authority in the public service.

### **235. Staffing of county governments**

(1) A county government is responsible, within a framework of uniform norms and standards prescribed by an Act of Parliament, for—

- (a) establishing and abolishing offices in its public service;
- (b) appointing persons to hold or act in those offices, and confirming appointments; and
- (c) exercising disciplinary control over and removing persons holding or acting in those offices.

(2) Clause (1) shall not apply to any office or position subject to the Teachers Service Commission.

### **236. Protection of public officers**

A public officer shall not be—

- (a) victimised or discriminated against for having performed the functions of office in accordance with this Constitution or any other law; or
- (b) dismissed, removed from office, demoted in rank or otherwise subjected to disciplinary action without due process of law.

## **PART 3 – TEACHERS SERVICE COMMISSION**

### **237. Teachers Service Commission**

(1) There is established the Teachers Service Commission.

(2) The functions of the Commission are—

- (a) to register trained teachers;
- (b) to recruit and employ registered teachers;
- (c) to assign teachers employed by the Commission for service in any public school or institution;
- (d) to promote and transfer teachers;
- (e) to exercise disciplinary control over teachers; and
- (f) to terminate the employment of teachers.

(3) The Commission shall—

- (a) review the standards of education and training of persons entering the teaching service;

- (b) review the demand for and the supply of teachers; and
- (c) advise the national government on matters relating to the teaching profession.

## CHAPTER FOURTEEN – NATIONAL SECURITY

### PART 1 – NATIONAL SECURITY ORGANS

#### **238. Principles of national security**

(1) National security is the protection against internal and external threats to Kenya's territorial integrity and sovereignty, its people, their rights, freedoms, property, peace, stability and prosperity, and other national interests.

(2) The national security of Kenya shall be promoted and guaranteed in accordance with the following principles—

- (a) national security is subject to the authority of this Constitution and Parliament;
- (b) national security shall be pursued in compliance with the law and with the utmost respect for the rule of law, democracy, human rights and fundamental freedoms;
- (c) in performing their functions and exercising their powers, national security organs shall respect the diverse culture of the communities within Kenya; and
- (d) recruitment by the national security organs shall reflect the diversity of the Kenyan people in equitable proportions.

#### **239. National security organs**

(1) The national security organs are—

- (a) the Kenya Defence Forces;
- (b) the National Intelligence Service; and
- (c) the National Police Service.

(2) The primary object of the national security organs and security system is to promote and guarantee national security in accordance with the principles mentioned in Article 238(2).

(3) In performing their functions and exercising their powers, the national security organs and every member of the national security organs shall not—

- (a) act in a partisan manner;
- (b) further any interest of a political party or cause; or
- (c) prejudice a political interest or political cause that is legitimate under this Constitution.

(4) A person shall not establish a military, paramilitary, or similar organisation that purports to promote and guarantee national security, except as provided for by this Constitution or an Act of Parliament.

(5) The national security organs are subordinate to civilian authority.

(6) Parliament shall enact legislation to provide for the functions, organisation and administration of the national security organs.

**240. Establishment of the National Security Council**

- (1) There is established a National Security Council.
- (2) The Council consists of—
  - (a) the President;
  - (b) the Deputy President;
  - (c) the Cabinet Secretary responsible for defence;
  - (d) the Cabinet Secretary responsible for foreign affairs;
  - (e) the Cabinet Secretary responsible for internal security;
  - (f) the Attorney-General;
  - (g) the Chief of Kenya Defence Forces;
  - (h) the Director-General of the National Intelligence Service; and
  - (i) the Inspector-General of the National Police Service.
- (3) The Council shall exercise supervisory control over national security organs and perform any other functions prescribed by national legislation.
- (4) The President shall preside at meetings of the Council.
- (5) The Council shall appoint its secretary.
- (6) The Council shall—
  - (a) integrate the domestic, foreign and military policies relating to national security in order to enable the national security organs to co-operate and function effectively; and
  - (b) assess and appraise the objectives, commitments and risks to the Republic in respect of actual and potential national security capabilities.
- (7) The Council shall report annually to Parliament on the state of the security of Kenya.
- (8) The Council may, with the approval of Parliament—
  - (a) deploy national forces outside Kenya for—
    - (i) regional or international peace support operations; or
    - (ii) other support operations; and
  - (b) approve the deployment of foreign forces in Kenya.

**PART 2 – THE KENYA DEFENCE FORCES**

**241. Establishment of Defence Forces and Defence Council**

- (1) There are established the Kenya Defence Forces.
- (2) The Defence Forces consist of—
  - (a) the Kenya Army;
  - (b) the Kenya Air Force; and

- (c) the Kenya Navy.
- (3) The Defence Forces—
  - (a) are responsible for the defence and protection of the sovereignty and territorial integrity of the Republic;
  - (b) shall assist and cooperate with other authorities in situations of emergency or disaster, and report to the National Assembly whenever deployed in such circumstances; and
  - (c) may be deployed to restore peace in any part of Kenya affected by unrest or instability only with the approval of the National Assembly.
- (4) The composition of the command of the Defence Forces shall reflect the regional and ethnic diversity of the people of Kenya.
- (5) There is established a Defence Council.
- (6) The Council consist of—
  - (a) the Cabinet Secretary responsible for defence, who is the chairperson;
  - (b) the Chief of the Kenya Defence Forces;
  - (c) the three commanders of the defence forces; and
  - (d) the Principal Secretary in the Ministry responsible for defence.
- (7) The Council—
  - (a) is responsible for the overall policy, control, and supervision of the Kenya Defence Forces; and
  - (b) performs any other functions prescribed by national legislation.

#### PART 3 – THE NATIONAL INTELLIGENCE SERVICE

##### **242. Establishment of National Intelligence Service**

- (1) There is established the National Intelligence Service.
- (2) The National Intelligence Service—
  - (a) is responsible for security intelligence and counter intelligence to enhance national security in accordance with this Constitution; and
  - (b) performs any other functions prescribed by national legislation.

#### PART 4 – THE NATIONAL POLICE SERVICE

##### **243. Establishment of the National Police Service**

- (1) There is established the National Police Service.
- (2) The National Police Service consists of—
  - (a) the Kenya Police Service; and
  - (b) the Administration Police Service.
- (3) The National Police Service is a national service and shall function throughout Kenya.
- (4) Parliament shall enact legislation to give full effect to this Article.

**244. Objects and functions of the National Police Service**

The National Police Service shall—

- (a) strive for the highest standards of professionalism and discipline among its members;
- (b) prevent corruption and promote and practice transparency and accountability;
- (c) comply with constitutional standards of human rights and fundamental freedoms;
- (d) train staff to the highest possible standards of competence and integrity and to respect human rights and fundamental freedoms and dignity; and
- (e) foster and promote relationships with the broader society.

**245. Command of the National Police Service**

(1) There is established the office of the Inspector-General of the National Police Service.

(2) The Inspector-General—

- (a) is appointed by the President with the approval of Parliament; and
- (b) shall exercise independent command over the National Police Service, and perform any other functions prescribed by national legislation.

(3) The Kenya Police Service and the Administration Police Service shall each be headed by a Deputy Inspector-General appointed by the President in accordance with the recommendation of the National Police Service Commission.

(4) The Cabinet secretary responsible for police services may lawfully give a direction to the Inspector-General with respect to any matter of policy for the National Police Service, but no person may give a direction to the Inspector-General with respect to—

- (a) the investigation of any particular offence or offences;
- (b) the enforcement of the law against any particular person or persons; or
- (c) the employment, assignment, promotion, suspension or dismissal of any member of the National Police Service.

(5) Any direction given to the Inspector-General by the Cabinet secretary responsible for police services under clause (4), or any direction given to the Inspector-General by the Director of Public Prosecutions under Article 157(4), shall be in writing.

(6) The Inspector-General shall be appointed for a single four-year term, and is not eligible for re-appointment.

(7) The Inspector-General may be removed from office by the President only on the grounds of—

- (a) serious violation of this Constitution or any other law, including a contravention of Chapter Six;

- (b) gross misconduct whether in the performance of the office holder's functions or otherwise;
  - (c) physical or mental incapacity to perform the functions of office;
  - (d) incompetence;
  - (e) bankruptcy; or
  - (f) any other just cause.
- (8) Parliament shall enact legislation to give full effect to this Article.

**246. National Police Service Commission**

- (1) There is established the National Police Service Commission.
- (2) The Commission consists of—
  - (a) the following persons, each appointed by the President—
    - (i) a person who is qualified to be appointed as a High Court Judge;
    - (ii) two retired senior police officers; and
    - (iii) three persons of integrity who have served the public with distinction;
  - (b) the Inspector-General of the National Police Service; and
  - (c) both Deputy Inspectors-General of the National Police Service.
- (3) The Commission shall—
  - (a) recruit and appoint persons to hold or act in offices in the service, confirm appointments, and determine promotions and transfers within the National Police Service;
  - (b) observing due process, exercise disciplinary control over and remove persons holding or acting in offices within the Service; and
  - (c) perform any other functions prescribed by national legislation.
- (4) The composition of the National Police Service shall reflect the regional and ethnic diversity of the people of Kenya.

**247. Other police services**

Parliament may enact legislation establishing other police services under the supervision of the National Police Service and the command of the Inspector-General of the Service.

**CHAPTER FIFTEEN – COMMISSIONS AND INDEPENDENT OFFICES**

**248. Application of Chapter**

- (1) This Chapter applies to the commissions specified in clause (2) and the independent offices specified in clause (3), except to the extent that this Constitution provides otherwise.
- (2) The commissions are—
  - (a) the Kenya National Human Rights and Equality Commission;
  - (b) the National Land Commission;

- (c) the Independent Electoral and Boundaries Commission;
  - (d) the Parliamentary Service Commission;
  - (e) the Judicial Service Commission;
  - (f) the Commission on Revenue Allocation;
  - (g) the Public Service Commission;
  - (h) the Salaries and Remuneration Commission;
  - (i) the Teachers Service Commission; and
  - (j) the National Police Service Commission.
- (3) The independent offices are—
- (a) the Auditor-General; and
  - (b) the Controller of Budget.

**249. Objects, authority and funding of commissions and independent offices**

- (1) The objects of the commissions and the independent offices are to—
  - (a) protect the sovereignty of the people;
  - (b) secure the observance by all State organs of democratic values and principles; and
  - (c) promote constitutionalism.
- (2) The commissions and the holders of independent offices—
  - (a) are subject only to this Constitution and the law; and
  - (b) are independent and not subject to direction or control by any person or authority.
- (3) Parliament shall allocate adequate funds to enable each commission and independent office to perform its functions and the budget of each commission and independent office shall be a separate vote.

**250. Composition, appointment and terms of office**

- (1) Each commission shall consist of at least three, but not more than nine, members.
- (2) The chairperson and each member of a commission, and the holder of an independent office, shall be—
  - (a) identified and recommended for appointment in a manner prescribed by national legislation;
  - (b) approved by the National Assembly; and
  - (c) appointed by the President.
- (3) To be appointed, a person shall have the specific qualifications required by this Constitution or national legislation.
- (4) Appointments to commissions and independent offices shall take into account the national values referred to in Article 10, and the principle that the composition of the commissions and offices, taken as a whole, shall reflect the regional and ethnic diversity of the people of Kenya.

- (5) A member of a commission may serve on a part-time basis.
- (6) A member of a commission, or the holder of an independent office—
  - (a) unless *ex officio*, shall be appointed for a single term of six years and is not eligible for re-appointment; and
  - (b) unless *ex officio* or part-time, shall not hold any other office or employment for profit, whether public or private.
- (7) The remuneration and benefits payable to or in respect of a commissioner or the holder of an independent office shall be a charge on the Consolidated Fund.
- (8) The remuneration and benefits payable to, or in respect of, the members of a commission or the holder of an independent office shall not be varied to the disadvantage of that person during their respective terms of office.
- (9) A member of a commission, or the holder of an independent office, is not liable for anything done in good faith in the performance of a function of office.
- (10) The members of a commission shall elect a vice-chairperson from among themselves—
  - (a) at the first sitting of the commission; and
  - (b) whenever it is necessary to fill a vacancy in the office of the vice-chairperson.
- (11) The chairperson and vice-chairperson of a commission shall not be of the same gender.
- (12) There shall be a Secretary to each commission who shall be—
  - (a) appointed by the commission; and
  - (b) the chief executive officer of the commission.

#### **251. Removal from office**

- (1) A member of a commission (other than an *ex officio* member), or the holder of an independent office, may be removed from office only for—
  - (a) serious violation of this Constitution or any other law, including a contravention of Chapter Six;
  - (b) gross misconduct, whether in the performance of the member's or office holder's functions or otherwise;
  - (c) physical or mental incapacity to perform the functions of office;
  - (d) incompetence; or
  - (e) bankruptcy.
- (2) A person desiring the removal of a member of a commission or of a holder of an independent office on any ground specified in clause (1) may present a petition to the National Assembly setting out the alleged facts constituting that ground.
- (3) The National Assembly shall consider the petition and, if it is satisfied that it discloses a ground under clause (1), shall send the petition to the President.

- (4) On receiving a petition under clause (3), the President—
  - (a) may suspend the member or office holder pending the outcome of the complaint; and
  - (b) shall appoint a tribunal in accordance with clause (5).
- (5) The tribunal shall consist of—
  - (a) a person who holds or has held office as a judge of a superior court, who shall be the chairperson;
  - (b) at least two persons who are qualified to be appointed as High Court judges; and
  - (c) one other member who is qualified to assess the facts in respect of the particular ground for removal.
- (6) The tribunal shall investigate the matter expeditiously, report on the facts and make a binding recommendation to the President, who shall act in accordance with the recommendation within thirty days.
- (7) A person suspended under this Article is entitled to continue to receive one-half of the remuneration and benefits of the office while suspended.

## **252. General functions and powers**

- (1) Each commission, and each holder of an independent office—
  - (a) may conduct investigations on its own initiative or on a complaint made by a member of the public;
  - (b) has the powers necessary for conciliation, mediation and negotiation;
  - (c) shall recruit its own staff; and
  - (d) may perform any functions and exercise any powers prescribed by legislation, in addition to the functions and powers conferred by this Constitution.
- (2) A complaint to a commission or the holder of an independent office may be made by any person entitled to institute court proceedings under Article 22(1) and (2).
- (3) The following commissions and independent offices have the power to issue a summons to a witness to assist for the purposes of its investigations—
  - (a) the Kenya National Human Rights and Equality Commission;
  - (b) the Judicial Service Commission;
  - (c) the National Land Commission; and
  - (d) the Auditor-General.

## **253. Incorporation of commissions and independent offices**

Each commission and each independent office—

- (a) is a body corporate with perpetual succession and a seal; and
- (b) is capable of suing and being sued in its corporate name.

**254. Reporting by commissions and independent offices**

(1) As soon as practicable after the end of each financial year, each commission, and each holder of an independent office, shall submit a report to the President and to Parliament.

(2) At any time, the President, the National Assembly or the Senate may require a commission or holder of an independent office to submit a report on a particular issue.

(3) Every report required from a commission or holder of an independent office under this Article shall be published and publicised.

**CHAPTER SIXTEEN – AMENDMENT OF THIS CONSTITUTION**

**255. Amendment of this Constitution**

(1) A proposed amendment to this Constitution shall be enacted in accordance with Article 256 or 257, and approved in accordance with clause (2) by a referendum, if the amendment relates to any of the following matters—

- (a) the supremacy of this Constitution;
- (b) the territory of Kenya;
- (c) the sovereignty of the people;
- (d) the national values and principles of governance referred to in Article 10(2)(a) to (d);
- (e) the Bill of Rights;
- (f) the term of office of the President;
- (g) the independence of the Judiciary and the commissions and independent offices to which Chapter Fifteen applies;
- (h) the functions of Parliament;
- (i) the objects, principles and structure of devolved government; or
- (j) the provisions of this Chapter.

(2) A proposed amendment shall be approved by a referendum under clause (1) if—

- (a) at least twenty per cent of the registered voters in each of at least half of the counties vote in the referendum; and
- (b) the amendment is supported by a simple majority of the citizens voting in the referendum.

(3) An amendment to this Constitution that does not relate to a matter specified in clause (1) shall be enacted either—

- (a) by Parliament, in accordance with Article 256; or
- (b) by the people and Parliament, in accordance with Article 257.

**256. Amendment by parliamentary initiative**

(1) A Bill to amend this Constitution—

- (a) may be introduced in either House of Parliament;

- (b) may not address any other matter apart from consequential amendments to legislation arising from the Bill;
- (c) shall not be called for second reading in either House within ninety days after the first reading of the Bill in that House; and
- (d) shall have been passed by Parliament when each House of Parliament has passed the Bill, in both its second and third readings, by not less than two-thirds of all the members of that House.

(2) Parliament shall publicise any Bill to amend this Constitution, and facilitate public discussion about the Bill.

(3) After Parliament passes a Bill to amend this Constitution, the Speakers of the two Houses of Parliament shall jointly submit to the President—

- (a) the Bill, for assent and publication; and
- (b) a certificate that the Bill has been passed by Parliament in accordance with this Article.

(4) Subject to clause (5), the President shall assent to the Bill and cause it to be published within thirty days after the Bill is enacted by Parliament.

(5) If a Bill to amend this Constitution proposes an amendment relating to a matter specified in Article 255(1)—

- (a) the President shall, before assenting to the Bill, request the Independent Electoral and Boundaries Commission to conduct, within ninety days, a national referendum for approval of the Bill; and
- (b) within thirty days after the chairperson of the Independent Electoral and Boundaries Commission has certified to the President that the Bill has been approved in accordance with Article 255(2), the President shall assent to the Bill and cause it to be published.

## **257. Amendment by popular initiative**

(1) An amendment to this Constitution may be proposed by a popular initiative signed by at least one million registered voters.

(2) A popular initiative for an amendment to this Constitution may be in the form of a general suggestion or a formulated draft Bill.

(3) If a popular initiative is in the form of a general suggestion, the promoters of that popular initiative shall formulate it into a draft Bill.

(4) The promoters of a popular initiative shall deliver the draft Bill and the supporting signatures to the Independent Electoral and Boundaries Commission, which shall verify that the initiative is supported by at least one million registered voters.

(5) If the Independent Electoral and Boundaries Commission is satisfied that the initiative meets the requirements of this Article, the Commission shall submit the draft Bill to each county assembly for consideration within three months after the date it was submitted by the Commission.

(6) If a county assembly approves the draft Bill within three months after the date it was submitted by the Commission, the speaker of the county assembly shall deliver a copy of the draft Bill jointly to the Speakers of the two Houses of Parliament, with a certificate that the county assembly has approved it.

(7) If a draft Bill has been approved by a majority of the county assemblies, it shall be introduced in Parliament without delay.

(8) A Bill under this Article is passed by Parliament if supported by a majority of the members of each House.

(9) If Parliament passes the Bill, it shall be submitted to the President for assent in accordance with Article 256(4) and (5).

(10) If either House of Parliament fails to pass the Bill, or the Bill relates to a matter specified in Article 255(1), the proposed amendment shall be submitted to the people in a referendum.

(11) Article 255(2) applies, with any necessary modifications, to a referendum under clause (10).

## CHAPTER SEVENTEEN – GENERAL PROVISIONS

### **258. Enforcement of this Constitution**

(1) Every person has the right to institute court proceedings, claiming that this Constitution has been contravened, or is threatened with contravention.

(2) In addition to a person acting in their own interest, court proceedings under clause (1) may be instituted by—

- (a) a person acting on behalf of another person who cannot act in their own name;
- (b) a person acting as a member of, or in the interest of, a group or class of persons;
- (c) a person acting in the public interest; or
- (d) an association acting in the interest of one or more of its members.

### **259. Construing this Constitution**

(1) This Constitution shall be interpreted in a manner that—

- (a) promotes its purposes, values and principles;
- (b) advances the rule of law, and the human rights and fundamental freedoms in the Bill of Rights;
- (c) permits the development of the law; and
- (d) contributes to good governance.

(2) If there is a conflict between different language versions of this Constitution, the English language version prevails.

(3) Every provision of this Constitution shall be construed according to the doctrine of interpretation that the law is always speaking and, therefore, among other things—

- (a) a function or power conferred by this Constitution on an office may be performed or exercised as occasion requires, by the person holding the office;
- (b) any reference in this Constitution to a State or other public office or officer, or a person holding such an office, includes a reference to the person acting in or otherwise performing the functions of the office at any particular time;
- (c) a reference in this Constitution to an office, State organ or locality named in this Constitution shall be read with any formal alteration necessary to make it applicable in the circumstances; and
- (d) a reference in this Constitution to an office, body or organisation is, if the office, body or organisation has ceased to exist, a reference to its successor or to the equivalent office, body or organisation.

(4) In this Constitution, unless the context otherwise requires—

- (a) if a word or expression is defined in this Constitution, any grammatical variation or cognate expression of the word or expression has a corresponding meaning, read with the changes required by the context; and
- (b) the word “includes” means “includes, but is not limited to”.

(5) In calculating time between two events for any purpose under this Constitution, if the time is expressed—

- (a) as days, the day on which the first event occurs shall be excluded, and the day by which the last event may occur shall be included;
- (b) as months, the time period ends at the beginning of the day in the relevant month—
  - (i) that has the same number as the date on which the period began, if that month has a corresponding date; or
  - (ii) that is the last day of that month, in any other case; or
- (c) as years, the period of time ends at the beginning of the date of the relevant year that corresponds to the date on which the period began.

(6) If a period of time prescribed by this Constitution for any purpose is six days or less, Sundays and public holidays shall not count when calculating the time.

(7) If, in any particular circumstances, the period of time prescribed by this Constitution ends on a Sunday or a public holiday, the period extends to the first subsequent day that is not a Sunday or public holiday.

(8) If a particular time is not prescribed by this Constitution for performing a required act, the act shall be done without unreasonable delay, and as often as occasion arises.

(9) If any person or State organ has authority under this Constitution to extend a period of time prescribed by this Constitution, the authority may be exercised either before or after the end of the period, unless a contrary intention is expressly specified in the provision conferring the authority.

(10) Except to the extent that this Constitution provides otherwise, if a person has vacated an office established under this Constitution, the person may, if qualified, again be appointed, elected or otherwise selected to hold the office in accordance with this Constitution.

(11) If a function or power conferred on a person under this Constitution is exercisable by the person only on the advice or recommendation, with the approval or consent of, or on consultation with, another person, the function may be performed or the power exercised only on that advice, recommendation, with that approval or consent, or after that consultation, except to the extent that this Constitution provides otherwise.

## 260. Interpretation

In this Constitution, unless the context requires otherwise—

“adult” means an individual who has attained the age of eighteen years;

“affirmative action” includes any measure designed to overcome or ameliorate an inequity or the systemic denial or infringement of a right or fundamental freedom;

“child” means an individual who has not attained the age of eighteen years;

“contravene” includes fail to comply with;

“county legislation” means a law made by a county government or under authority conferred by a county Assembly;

“disability” includes any physical, sensory, mental, psychological or other impairment, condition or illness that has, or is perceived by significant sectors of the community to have, a substantial or long-term effect on an individual’s ability to carry out ordinary day-to-day activities;

“document” includes—

(a) any publication, or any matter written, expressed, or inscribed on any substance by means of letters, figures or marks, or by more than one of those means, that is intended to be used or may be used for the purpose of recording that matter; and

(b) electronic files;

“effective date” means the date that this Constitution came into force;

“fail” includes refuse;

“financial year” means the period of twelve months ending on the thirtieth day of June or other day prescribed by national legislation, but the initial financial year of any entity is the period of time from its coming into existence until the immediately following thirtieth day of June, or other day prescribed by national legislation;

**“Gazette”** means the *Kenya Gazette* published by authority of the national government, or a supplement to the *Kenya Gazette*;

**“guarantee”** means any absolute or conditional promise, commitment or undertaking by the national government to partially or completely re-pay any loan to a county government or any person;

**“judicial officer”** means a registrar, deputy registrar, magistrate, Kadhi or the presiding officer of a court established under Article 169(1)(d);

**“land”** includes—

- (a) the surface of the earth and the subsurface rock;
- (b) any body of water on or under the surface;
- (c) marine waters in the territorial sea and exclusive economic zone;
- (d) natural resources completely contained on or under the surface; and
- (e) the air space above the surface;

**“legislation”** includes—

- (a) an Act of Parliament, or a law made under authority conferred by an Act of Parliament; or
- (b) a law made by an assembly of a county government, or under authority conferred by such a law;

**“loan”** includes any form of borrowing, lending or deferred payment in respect of which money from a public fund may be used, or is required to be used, for payment or repayment;

**“marginalised community”** means—

- (a) a community that, because of its relatively small population or for any other reason, has been unable to fully participate in the integrated social and economic life of Kenya as a whole;
- (b) a traditional community that, out of a need or desire to preserve its unique culture and identity from assimilation, has remained outside the integrated social and economic life of Kenya as a whole;
- (c) an indigenous community that has retained and maintained a traditional lifestyle and livelihood based on a hunter or gatherer economy; or
- (d) pastoral persons and communities, whether they are—
  - (i) nomadic; or
  - (ii) a settled community that, because of its relative geographic isolation, has experienced only marginal participation in the integrated social and economic life of Kenya as a whole;

**“marginalised group”** means a group of people who, because of laws or practices before, on, or after the effective date, were or are disadvantaged by discrimination on one or more of the grounds in Article 27(4);

**“national legislation”** means an Act of Parliament, or a law made under authority conferred by an Act of Parliament;

**“natural resources”** means the physical non-human factors and components, whether renewable or non-renewable, including—

- (a) sunlight;
- (b) surface and groundwater;
- (c) forests, biodiversity and genetic resources; and
- (d) rocks, minerals, fossil fuels and other sources of energy;

**“older member of society”** means a person who has attained the age of sixty years;

**“person”** includes a company, association or other body of persons whether incorporated or unincorporated;

**“political party”** means an association contemplated in Part 3 of Chapter Seven;

**“property”** includes any vested or contingent right to, or interest in or arising from—

- (a) land, or permanent fixtures on, or improvements to, land;
- (b) goods or personal property;
- (c) intellectual property; or
- (d) money, choses in action or negotiable instruments;

**“public office”** means an office in the national government, a county government or the public service, if the remuneration and benefits of the office are payable directly from the Consolidated Fund or directly out of money provided by Parliament;

**“public officer”** means—

- (a) any State officer; or
- (b) any person, other than a State Officer, who holds a public office;

**“public service”** means the collectivity of all individuals, other than State officers, performing a function within a State organ;

**“Republic”** means the Republic of Kenya;

**“State”**, when used as a noun, means the collectivity of offices, organs and other entities comprising the government of the Republic under this Constitution;

**“State office”** means any of the following offices—

- (a) President;
- (b) Deputy President;
- (c) Cabinet Secretary;
- (d) Member of Parliament;
- (e) Judges and Magistrates;
- (f) member of a commission to which Chapter Fifteen applies;
- (g) holder of an independent office to which Chapter Fifteen applies;

- (h) member of a county assembly, governor or deputy governor of a county, or other member of the executive committee of a county government;
- (i) Attorney-General;
- (j) Director of Public Prosecutions;
- (k) Secretary to the Cabinet;
- (l) Principal Secretary;
- (m) Chief of the Kenya Defence Forces;
- (n) commander of a service of the Kenya Defence Forces;
- (o) Director-General of the National Intelligence Service;
- (p) Inspector-General, and the Deputy Inspectors-General, of the National Police Service; or
- (q) an office established and designated as a State office by national legislation;

**“State officer”** means a person holding a State office;

**“State organ”** means a commission, office, agency or other body established under this Constitution;

**“writing”** includes printing, photography, lithography, typewriting, Braille, and any other means of representing or reproducing words in a visible form; and

**“youth”** means the collectivity of all individuals in the Republic who—

- (a) have attained the age of eighteen years; but
- (b) have not attained the age of thirty-five years.

## CHAPTER EIGHTEEN – TRANSITIONAL AND CONSEQUENTIAL PROVISIONS

### 261. Consequential legislation

(1) Parliament shall enact any legislation required by this Constitution to be enacted to govern a particular matter within the period specified in the Fifth Schedule, commencing on the effective date.

(2) Despite clause (1), the National Assembly may, by resolution supported by the votes of at least two-thirds of all the members of the National Assembly, extend the period prescribed in respect of any particular matter under clause (1), by a period not exceeding one year.

(3) The power of the National Assembly contemplated under clause (2), may be exercised—

- (a) only once in respect of any particular matter; and
- (b) only in exceptional circumstances to be certified by the Speaker of the National Assembly.

(4) For the purposes of clause (1), the Attorney-General, in consultation with the Commission for the Implementation of the Constitution, shall prepare the

relevant Bills for tabling before Parliament, as soon as reasonably practicable, to enable Parliament to enact the legislation within the period specified.

(5) If Parliament fails to enact any particular legislation within the specified time, any person may petition the High Court on the matter.

(6) The High Court in determining a petition under clause (5) may—

- (a) make a declaratory order on the matter; and
- (b) transmit an order directing Parliament and the Attorney-General to take steps to ensure that the required legislation is enacted, within the period specified in the order, and to report the progress to the Chief Justice.

(7) If Parliament fails to enact legislation in accordance with an order under clause (6)(b), the Chief Justice shall advise the President to dissolve Parliament and the President shall dissolve Parliament.

(8) If Parliament has been dissolved under clause (7), the new Parliament shall enact the required legislation within the periods specified in the Fifth Schedule beginning with the date of commencement of the term of the new Parliament.

(9) If the new Parliament fails to enact legislation in accordance with clause (8), the provisions of clauses (1) to (8) shall apply afresh.

## **262. Transitional and consequential provisions**

The transitional and consequential provisions set out in the Sixth Schedule shall take effect on the effective date.

## **263. Effective Date**

This Constitution shall come into force on its promulgation by the President or on the expiry of a period of fourteen days from the date of the publication in the *Gazette* of the final result of the referendum ratifying this Constitution, whichever is the earlier.

## **264. Repeal of previous constitution**

Subject to the Sixth Schedule, for the avoidance of doubt, the Constitution in force immediately before the effective date shall stand repealed on the effective date.

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## SCHEDULES

### FIRST SCHEDULE

[Article 6(1).]

#### COUNTIES

- 1.** Mombasa
- 2.** Kwale
- 3.** Kilifi
- 4.** Tana River
- 5.** Lamu
- 6.** Taita/Taveta
- 7.** Garissa
- 8.** Wajir
- 9.** Mandera
- 10.** Marsabit
- 11.** Isiolo
- 12.** Meru
- 13.** Tharaka-Nithi
- 14.** Embu
- 15.** Kitui
- 16.** Machakos
- 17.** Makueni
- 18.** Nyandarua
- 19.** Nyeri
- 20.** Kirinyaga
- 21.** Murang'a
- 22.** Kiambu
- 23.** Turkana
- 24.** West Pokot
- 25.** Samburu
- 26.** Trans Nzoia
- 27.** Uasin Gishu
- 28.** Elgeyo/Marakwet

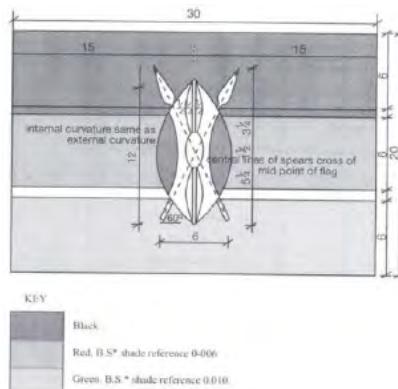
- 29.** Nandi
  - 30.** Baringo
  - 31.** Laikipia
  - 32.** Nakuru
  - 33.** Narok
  - 34.** Kajiado
  - 35.** Kericho
  - 36.** Bomet
  - 37.** Kakamega
  - 38.** Vihiga
  - 39.** Bungoma
  - 40.** Busia
  - 41.** Siaya
  - 42.** Kisumu
  - 43.** Homa Bay
  - 44.** Migori
  - 45.** Kisii
  - 46.** Nyamira
  - 47.** Nairobi City
-

## SECOND SCHEDULE

[Article 9(2).]

### NATIONAL SYMBOLS

#### (a) THE NATIONAL FLAG



*Note* - All dimensions given do not necessarily represent any particular measurement and are merely proportional.

#### Description—

Three major strips of equal width coloured from top to bottom black, red and green and separated by narrow white strips, with a symmetrical shield and white spears superimposed centrally.

#### (b) THE NATIONAL ANTHEM

1	1
Ee Mungu nguvu yetu	O God of all creation
Ilete baraka kwetu.	Bless this our land and nation.
Haki iwe ngao na mlinzi	Justice be our shield and defender
Natukae na undugu	May we dwell in unity
Amani na uhuru	Peace and liberty
Raha tupate na ustawi.	Plenty be found within our border
2	2
Amkeni ndugu zetu	Let one and all arise
Tufanye sote bidii.	With hearts both strong and true.
Nasi tujitoe kwa nguvu	Service be our earnest endeavour
Nchi yetu ya Kenya,	And our Homeland of Kenya,
Tunayoipenda,	Heritage of splendour,
Tuwe tayari kulinda.	Firm may we stand to defend.

3

3

Natujenge taifa letu	Let all with one accord
Ee, ndio wajibu wetu,	In common bond united,
Kenya istahili heshima	Build this our nation together
Tuungane mikono	And the glory of Kenya
Pamoja kazini	The fruit of our labour
Kila siku tuwe na shukrani.	Fill every heart with thanksgiving.

(c) THE COAT OF ARMS



(d) THE PUBLIC SEAL



THIRD SCHEDULE

**NATIONAL OATHS AND AFFIRMATIONS**

[Articles 74, 141(3), 148(5) and 152(4).]

**OATH OR SOLEMN AFFIRMATION OF ALLEGIANCE OF THE  
PRESIDENT/ACTING PRESIDENT AND THE DEPUTY PRESIDENT**

I, ..... in full realisation of the high calling I assume as President/Acting President/ Deputy President of the Republic of Kenya, do swear/solemnly affirm that I will be faithful and bear true allegiance to the Republic of Kenya; that I will obey, preserve, protect and defend this Constitution of Kenya, as by law established, and all other laws of the Republic; and that I will protect and uphold the sovereignty, integrity and dignity of the people of Kenya. (In the case of an oath — So help me God.)

**OATH OR SOLEMN AFFIRMATION OF DUE EXECUTION  
OF OFFICE FOR THE PRESIDENT/ACTING PRESIDENT**

I, ..... swear/solemnly affirm that I will truly and diligently serve the people and the Republic of Kenya in the office of the President/ Acting President of the Republic of Kenya; that I will diligently discharge my duties and perform my functions in the Office of President/Acting President of the Republic of Kenya; and I will do justice to all in accordance with this Constitution, as by law established, and the laws of Kenya, without fear, favour, affection or ill-will. (In the case of an oath— So help me God.)

**OATH OR SOLEMN AFFIRMATION OF DUE EXECUTION  
OF OFFICE FOR THE DEPUTY PRESIDENT**

I, ..... do swear/solemnly affirm that I will always truly and diligently serve the people and the Republic of Kenya in the office of the Deputy President of the Republic of Kenya; that I will diligently discharge my duties and perform my functions in the said office, to the best of my judgment; that I will at all times, when so required, faithfully and truly give my counsel and advice to the President of the Republic of Kenya; that I will do justice to all without fear, favour, affection or ill-will; and that I will not directly or indirectly reveal such matters as shall come to my knowledge in the discharge of my duties and committed to my secrecy. (In the case of an oath— So help me God.)

**OATH OR SOLEMN AFFIRMATION OF DUE  
EXECUTION OF OFFICE FOR A CABINET SECRETARY**

I, ..... being appointed a Cabinet Secretary of Kenya, do swear/solemnly affirm that I will at all times be faithful to the Republic of Kenya; that I will obey, respect and uphold this Constitution of Kenya and all other laws of the Republic; that I will well and truly serve the people and the Republic of Kenya in the Office of a Cabinet Secretary; that I undertake to hold my office as Cabinet Secretary with honour and dignity; that I will be a true and faithful counsellor to the President for the good management of the public affairs of the Republic of Kenya; that I will not divulge directly or indirectly such matters as shall come to my knowledge in the discharge of my duties and committed to my secrecy except as may be required for the due discharge of my duties as Cabinet Secretary; and that I will perform the functions of my office conscientiously and to the best of my ability. (In the case of an oath— So help me God.)

**OATH OR SOLEMN AFFIRMATION OF DUE EXECUTION OF OFFICE  
FOR SECRETARY TO THE CABINET/ A PRINCIPAL SECRETARY**

I, ..... , being called on to exercise the functions of Secretary to the Cabinet /a Principal Secretary, do swear/solemnly affirm that, except with the authority of the President, I will not directly or indirectly reveal the nature or contents of any business, proceedings or document of the Cabinet committed to my secrecy, except as may be required for the due discharge of my duties as Secretary to the Cabinet /such Principal Secretary. (In the case of an oath— So help me God.)

**OATHS FOR THE CHIEF JUSTICE/PRESIDENT OF THE SUPREME  
COURT, JUDGES OF THE SUPREME COURT, JUDGES OF  
THE COURT OF APPEAL AND JUDGES OF THE HIGH COURT**

I, ..... , (The Chief Justice/President of the Supreme Court, a judge of the Supreme Court, a judge of the Court of Appeal, a judge of the High Court) do (swear in the name of the Almighty God)/(solemnly affirm) to diligently serve the people and the Republic of Kenya and to impartially do Justice in accordance with this Constitution as by law established, and the laws and customs of the Republic, without any fear, favour, bias, affection, ill-will, prejudice or any political, religious or other influence. In the exercise of the judicial functions entrusted to me, I will at all times, and to the best of my knowledge and ability, protect, administer and defend this Constitution with a view to upholding the dignity and the respect for the judiciary and the judicial system of Kenya and promoting fairness, independence, competence and integrity within it. (So help me God.)

**OATH /AFFIRMATION OF MEMBER OF  
PARLIAMENT (SENATE/ NATIONAL ASSEMBLY)**

I,..... , having been elected a member of the Senate/National Assembly do swear (in the name of the Almighty God) (solemnly affirm) that I will bear true faith and allegiance to the People and the Republic of Kenya; that I will obey, respect, uphold, preserve, protect and defend this Constitution of the Republic of Kenya; and that I will faithfully and conscientiously discharge the duties of a member of Parliament. (So help me God.)

**OATH FOR SPEAKER/DEPUTY SPEAKER  
OF THE SENATE/NATIONAL ASSEMBLY**

I, ..... , having been elected as Speaker/ Deputy Speaker of the Senate/ National Assembly do swear (in the name of the Almighty God) (solemnly affirm) that I will bear true faith and allegiance to the people and the Republic of Kenya; that I will faithfully and conscientiously discharge my duties as Speaker/Deputy Speaker of the Senate/National Assembly; that I will obey, respect, uphold, preserve, protect and defend this Constitution of the Republic of Kenya; and that I will do right to all manner of persons in accordance with this Constitution of Kenya and the laws and conventions of Parliament without fear or favour, affection or ill will. (So help me God.)

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**FOURTH SCHEDULE**

[Articles 185(2), 186(1) and 187(2).]

**DISTRIBUTION OF FUNCTIONS BETWEEN THE NATIONAL GOVERNMENT AND THE COUNTY GOVERNMENTS**

**PART 1 – NATIONAL GOVERNMENT**

- 1.** Foreign affairs, foreign policy and international trade.
- 2.** The use of international waters and water resources.
- 3.** Immigration and citizenship.
- 4.** The relationship between religion and state.
- 5.** Language policy and the promotion of official and local languages.
- 6.** National defence and the use of the national defence services.
- 7.** Police services, including—
  - (a)** the setting of standards of recruitment, training of police and use of police services;
  - (b)** criminal law; and
  - (c)** correctional services.
- 8.** Courts.
- 9.** National economic policy and planning.
- 10.** Monetary policy, currency, banking (including central banking), the incorporation and regulation of banking, insurance and financial corporations.
- 11.** National statistics and data on population, the economy and society generally.
- 12.** Intellectual property rights.
- 13.** Labour standards.
- 14.** Consumer protection, including standards for social security and professional pension plans.
- 15.** Education policy, standards, curricula, examinations and the granting of university charters.
- 16.** Universities, tertiary educational institutions and other institutions of research and higher learning and primary schools, special education, secondary schools and special education institutions.
- 17.** Promotion of sports and sports education.
- 18.** Transport and communications, including, in particular—
  - (a)** road traffic;
  - (b)** the construction and operation of national trunk roads;
  - (c)** standards for the construction and maintenance of other roads by counties;

- (d) railways;
- (e) pipelines;
- (f) marine navigation;
- (g) civil aviation;
- (h) space travel;
- (i) postal services;
- (j) telecommunications; and
- (k) radio and television broadcasting.

**19.** National public works.

**20.** Housing policy.

**21.** General principles of land planning and the co-ordination of planning by the counties.

**22.** Protection of the environment and natural resources with a view to establishing a durable and sustainable system of development, including, in particular—

- (a) fishing, hunting and gathering;
- (b) protection of animals and wildlife;
- (c) water protection, securing sufficient residual water, hydraulic engineering and the safety of dams; and
- (d) energy policy.

**23.** National referral health facilities.

**24.** Disaster management.

**25.** Ancient and historical monuments of national importance.

**26.** National elections.

**28.** Health policy.

**29.** Agricultural policy.

**30.** Veterinary policy.

**31.** Energy policy including electricity and gas reticulation and energy regulation.

**32.** Capacity building and technical assistance to the counties.

**33.** Public investment.

**34.** National betting, casinos and other forms of gambling.

**35.** Tourism policy and development.

## PART 2 – COUNTY GOVERNMENTS

The functions and powers of the county are—

- 1. Agriculture, including—**
  - (a) crop and animal husbandry;
  - (b) livestock sale yards;
  - (c) county abattoirs;
  - (d) plant and animal disease control; and
  - (e) fisheries.
- 2. County health services, including, in particular—**
  - (a) county health facilities and pharmacies;
  - (b) ambulance services;
  - (c) promotion of primary health care;
  - (d) licensing and control of undertakings that sell food to the public;
  - (e) veterinary services (excluding regulation of the profession);
  - (f) cemeteries, funeral parlours and crematoria; and
  - (g) refuse removal, refuse dumps and solid waste disposal.
- 3. Control of air pollution, noise pollution, other public nuisances and outdoor advertising.**
- 4. Cultural activities, public entertainment and public amenities, including—**
  - (a) betting, casinos and other forms of gambling;
  - (b) racing;
  - (c) liquor licensing;
  - (d) cinemas;
  - (e) video shows and hiring;
  - (f) libraries;
  - (g) museums;
  - (h) sports and cultural activities and facilities; and
  - (i) county parks, beaches and recreation facilities.
- 5. County transport, including—**
  - (a) county roads;
  - (b) street lighting;
  - (c) traffic and parking;
  - (d) public road transport; and
  - (e) ferries and harbours, excluding the regulation of international and national shipping and matters related thereto.
- 6. Animal control and welfare, including—**
  - (a) licensing of dogs; and
  - (b) facilities for the accommodation, care and burial of animals.

**7. Trade development and regulation, including—**

- (a) markets;
- (b) trade licences (excluding regulation of professions);
- (c) fair trading practices;
- (d) local tourism; and
- (e) cooperative societies.

**8. County planning and development, including—**

- (a) statistics;
- (b) land survey and mapping;
- (c) boundaries and fencing;
- (d) housing; and
- (e) electricity and gas reticulation and energy regulation.

**9. Pre-primary education, village polytechnics, homecraft centres and childcare facilities.**

**10. Implementation of specific national government policies on natural resources and environmental conservation, including—**

- (a) soil and water conservation; and
- (b) forestry.

**11. County public works and services, including—**

- (a) storm water management systems in built-up areas; and
- (b) water and sanitation services.

**12. Fire fighting services and disaster management.**

**13. Control of drugs and pornography.**

**14. Ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level.**

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FIFTH SCHEDULE

[Article 261(1).]

LEGISLATION TO BE ENACTED BY PARLIAMENT

<i>Chapter and Article</i>	<i>Time Specification</i>
CHAPTER TWO – REPUBLIC	
Legislation in respect of culture (Article 11(3))	Five years
CHAPTER THREE – CITIZENSHIP	
Legislation on citizenship (Article 18)	One year
CHAPTER FOUR – THE BILL OF RIGHTS	
Freedom of the media (Article 34)	Three years
Family (Article 45)	Five years
Consumer protection (Article 46)	Four years
Fair administrative action (Article 47)	Four years
Fair hearing (Article 50)	Four years
Rights of persons detained, held in custody or detained (Article 51)	Four years
Kenya National Human Rights and Equality Commission (Article 59)	One year
CHAPTER FIVE – LAND AND ENVIRONMENT	
Community land (Article 63)	Five years
Regulation of land use and property (Article 66)	Five years
Legislation on land (Article 68)	18 months
Agreements relating to natural resources (Article 71)	Five years
Legislation regarding environment (Article 72)	Four years
CHAPTER SIX – LEADERSHIP AND INTEGRITY	
Ethics and anti-corruption commission (Article 79)	One year
Legislation on leadership (Article 80)	Two years
CHAPTER SEVEN – REPRESENTATION OF THE PEOPLE	
Legislation on elections (Article 82)	One year
Electoral disputes (Article 87)	One year
Independent Electoral and Boundaries Commission (Article 88)	One year
Legislation on political parties (Article 92)	One year

<i>Chapter and Article</i>	<i>Time Specification</i>
CHAPTER EIGHT – THE LEGISLATURE	
Promotion of representation of marginalised groups (Article 100)	Five years
Vacation of office of member of Parliament (Article 103)	One year
Right of recall (Article 104)	Two years
Determination of questions of membership of Parliament (Article 105)	Two years
Right to petition Parliament (Article 119)	Two years
CHAPTER NINE – EXECUTIVE	
Power of mercy (Article 133)	One year
Assumption of office of president (Article 141)	Two years
CHAPTER TEN – JUDICIARY	
System of courts (Article 162)	One year
Removal from office (Article 168)	One year
Judiciary Fund (Article 173)	Two years
Vetting of judges and magistrates (Sixth schedule, Section 23)	One year
CHAPTER ELEVEN – DEVOLVED GOVERNMENT	
Speaker of a county assembly (Article 178)	One year
Urban areas and cities (Article 183)	One year
Support for county governments (Article 190)	Three years
Removal of a county governor (Article 181)	18 months
Vacation of office of member of county assembly (Article 194)	18 months
Public participation and county assembly powers, privileges and immunities (Article 196)	Three years
County assembly gender balance and diversity (Article 197)	Three years
Legislation to effect Chapter eleven (Article 200 and Sixth Schedule, section 15) and	18 months
CHAPTER TWELVE – PUBLIC FINANCE	
Revenue Funds for county governments (Article 207)	18 months
Contingencies Fund (Article 208)	One year

<i>Chapter and Article</i>	<i>Time Specification</i>
Loan guarantees by national government (Article 213)	One year
Financial control (Article 225)	Two years
Accounts and audit of public entities (Article 226)	Four years
Procurement of public goods and services (Article 227)	Four years
CHAPTER THIRTEEN – PUBLIC SERVICE	
Values and principles of public service (Article 232)	Four years
CHAPTER FOURTEEN – NATIONAL SECURITY	
National security organs (Article 239)	Two years
Command of the National Police Service (Article 245)	Two years
GENERAL	
Any other legislation required by this Constitution	Five years

## SIXTH SCHEDULE

[Article 262.]

### TRANSITIONAL AND CONSEQUENTIAL PROVISIONS

#### PART 1 - GENERAL

##### 1. Interpretation

In this Schedule, unless the context requires otherwise—

- (a) "**Boundaries Commission**" means Interim Independent Boundaries Commission;
- (b) "**Electoral Commission**" means Interim Independent Electoral Commission;
- (c) "**former Constitution**" means the Constitution in force before this Constitution came into force.

##### 2. Suspension of provisions of this Constitution

(1) The following provisions of this Constitution are suspended until the final announcement of all the results of the first elections for Parliament under this Constitution—

- (a) Chapter Seven, except that the provisions of the Chapter shall apply to the first general elections under this Constitution;
- (b) Chapter Eight, except that the provisions of the Chapter relating to the election of the National Assembly and the Senate shall apply to the first general elections under this Constitution; and

- (c) Articles 129 to 155 of Chapter Nine, except that the provisions of the Chapter relating to the election of the President shall apply to the first general elections under this Constitution.
- (2) The provisions of this Constitution relating to devolved government, including Article 187, are suspended until the date of the first elections for county assemblies and governors held under this Constitution.
- (3) Despite subsection (2)—
  - (a) elections for county assemblies and governors shall be held in accordance with Articles 177 and 180 of this Constitution; and
  - (b) the laws relating to devolved government, required by this Schedule and Chapters Eleven and Twelve of this Constitution, shall be enacted within the period stipulated in the Fifth Schedule.
- (4) Article 62 (2) and (3) is suspended until the National Land Commission is established.

### **3. Extension of application of provisions of the former constitution**

- (1) Until Parliament passes the Act anticipated in Articles 15 and 18, section 93 of the former Constitution continues to apply.
- (2) Sections 30 to 40, 43 to 46 and 48 to 58 of the former Constitution, the provisions of the former Constitution concerning the executive, and the National Accord and Reconciliation Act, shall continue to operate until the first general elections held under this Constitution, but the provisions of this Constitution concerning the system of elections, eligibility for election and the electoral process shall apply to that election.
- (3) Until the National Police Service Commission referred to in Article 246 is established, section 108(2) of the former Constitution applies to appointments, discipline and the removal of persons from office in the National Police Service.

### **4. Parliamentary select committee**

There shall be a select committee of Parliament to be known as the Constitutional Implementation Oversight Committee which shall be responsible for overseeing the implementation of this Constitution and which, among other things—

- (a) shall receive regular reports from the Commission on the Implementation of the Constitution on the implementation of this Constitution including reports concerning—
  - (i) the preparation of the legislation required by this Constitution and any challenges in that regard;
  - (ii) the process of establishing the new commissions;
  - (iii) the process of establishing the infrastructure necessary for the proper operation of each county including progress on locating offices and assemblies and establishment and transfers of staff;
  - (iv) the devolution of powers and functions to the counties under the legislation contemplated in section 15 of this Schedule; and

- (v) any impediments to the process of implementing this Constitution;
- (b) coordinate with the Attorney-General, the Commission on the Implementation of the Constitution and relevant parliamentary committees to ensure the timely introduction and passage of the legislation required by this Constitution; and
- (c) take appropriate action on the reports including addressing any problems in the implementation of this Constitution.

## **5. Commission for the Implementation of the Constitution**

(1) There is established the Commission for the Implementation of the Constitution.

(2) The Commission consists of—

- (a) a chairperson; and
- (b) eight other members.

(3) The members of the Commission shall—

- (a) include persons with experience in public administration, human rights and government; and
- (b) not include any person who served as a member of the Committee of Experts appointed under the Constitution of Kenya Review Act, 2008.

(4) Articles 248 to 254 apply to the Commission.

(5) After the Commission on Revenue Allocation has been established, the Commission for the Implementation of the Constitution shall send a notice of its meetings to that Commission, and a member of the Commission on Revenue Allocation shall be permitted to attend and participate in any such meeting, but shall not vote.

(6) The functions of the Commission shall be to—

- (a) monitor, facilitate and oversee the development of legislation and administrative procedures required to implement this Constitution;
- (b) co-ordinate with the Attorney-General and the Kenya Law Reform Commission in preparing, for tabling in Parliament, the legislation required to implement this Constitution;
- (c) report regularly to the Constitutional Implementation Oversight Committee on—
  - (i) progress in the implementation of this Constitution; and
  - (ii) any impediments to its implementation; and
- (d) work with each constitutional commission to ensure that the letter and spirit of this Constitution is respected.

(7) The Commission for the Implementation of the Constitution shall stand dissolved five years after it is established or at the full implementation of this Constitution as determined by Parliament, whichever is sooner, but the National Assembly may, by resolution, extend its life.

## PART 2 - EXISTING OBLIGATIONS, LAWS AND RIGHTS

### 6. Rights, duties and obligations of the State

Except to the extent that this Constitution expressly provides to the contrary, all rights and obligations, however arising, of the Government or the Republic and subsisting immediately before the effective date shall continue as rights and obligations of the national government or the Republic under this Constitution.

### 7. Existing laws

(1) All law in force immediately before the effective date continues in force and shall be construed with the alterations, adaptations, qualifications and exceptions necessary to bring it into conformity with this Constitution.

(2) If, with respect to any particular matter—

- (a) a law that was in effect immediately before the effective date assigns responsibility for that matter to a particular State organ or public officer; and
  - (b) a provision of this Constitution that is in effect assigns responsibility for that matter to a different State organ or public officer,
- the provisions of this Constitution prevail to the extent of the conflict.

### 8. Existing land holdings and agreements relating to natural resources

(1) On the effective date, any freehold interest in land in Kenya held by a person who is not a citizen shall revert to the Republic of Kenya to be held on behalf of the people of Kenya, and the State shall grant to the person a ninety-nine year lease at a peppercorn rent.

(2) On the effective date, any other interest in land in Kenya greater than a ninety-nine year lease held by a person who is not a citizen shall be converted to a ninety-nine year lease.

(3) The provisions of Article 71 shall not take effect until the legislation contemplated under that Article is enacted.

## PART 3 - NATIONAL GOVERNMENT

### 9. Elections and by-elections

(1) The first elections for the President, the National Assembly, the Senate, county assemblies and county governors under this Constitution shall be held at the same time, within sixty days after the dissolution of the National Assembly at the end of its term.

(2) Despite subsection (1), if the coalition established under the National Accord is dissolved and general elections are held before 2012, elections for the first county assemblies and governors shall be held during 2012.

### 10. National Assembly

The National Assembly existing immediately before the effective date shall continue as the National Assembly for the purposes of this Constitution for its unexpired term.

## **11. The Senate**

- (1) Until the first Senate has been elected under this Constitution—
  - (a) the functions of the Senate shall be exercised by the National Assembly; and
  - (b) any function or power that is required to be performed or exercised by both Houses, acting jointly or one after the other, shall be performed or exercised by the National Assembly.
- (2) Any function or power of the Senate shall, if performed or exercised by the National Assembly before the date contemplated in subsection (1), be deemed to have been duly performed or exercised by the Senate.

## **12. The Executive**

(1) The persons occupying the offices of President and Prime Minister immediately before the effective date shall continue to serve as President and Prime Minister respectively, in accordance with the former Constitution and the National Accord and Reconciliation Act, 2008 until the first general elections held under this Constitution, unless they vacate office in terms of the former Constitution and the Accord.

(2) The persons occupying the offices of Vice-President and Deputy Prime Minister or holding a position in the Cabinet or as an Assistant Minister immediately before the effective date shall continue to serve in accordance with the former Constitution until the first general elections held under this Constitution unless they vacate or are removed from office in accordance with the former Constitution and the National Accord and Reconciliation Act, 2008.

(3) A person who was elected President before the effective date is not eligible to stand for election as President under this Constitution.

## **13. Oath of allegiance to this Constitution**

On the effective date, the President and any State officer or other person who had, before the effective date, taken and subscribed an oath or affirmation of office under the former Constitution, or who is required to take and subscribe an oath or affirmation of office under this Constitution, shall take and subscribe the appropriate oath or affirmation under this Constitution.

## **PART 4 — DEVOLVED GOVERNMENT**

### **14. Operation of provisions relating to devolved government**

(1) The laws contemplated in section 2(3)(b) and section 15 may be enacted only after the Commission on the Implementation of the Constitution and, if it has been established, the Commission on Revenue Allocation, have been consulted and any recommendations of the Commissions have been considered by Parliament.

(2) The Commissions shall be given at least thirty days to consider legislation under subsection (1).

(3) Subsections (1) and (2) lapse when the Commission on the Implementation of the Constitution is dissolved.

**15. Provision for devolution of functions to be made by Act of Parliament**

(1) Parliament shall, by legislation, make provision for the phased transfer, over a period of not more than three years from the date of the first election of county assemblies, from the national government to county governments of the functions assigned to them under Article 185.

(2) The legislation referred to in subsection (1) shall—

- (a) provide for the way in which the national government shall—
  - (i) facilitate the devolution of power;
  - (ii) assist county governments in building their capacity to govern effectively and provide the services for which they are responsible; and
  - (iii) support county governments;
- (b) establish criteria that must be met before particular functions are devolved to county governments to ensure that those governments are not given functions which they cannot perform;
- (c) permit the asymmetrical devolution of powers to ensure that functions are devolved promptly to counties that have the capacity to perform them but that no county is given functions it cannot perform; and
- (d) provide mechanisms that ensure that the Commission on the Implementation of the Constitution can perform its role in monitoring the implementation of the system of devolved government effectively.

**16. Division of revenue**

Despite Article 217(1), the first and second determinations of the basis of the division of revenue among the counties shall be made at three year intervals, rather than every five years as provided in that Article.

**17. Provincial Administration**

Within five years after the effective date, the national government shall restructure the system of administration commonly known as the provincial administration to accord with and respect the system of devolved government established under this Constitution.

**18. Local authorities**

All local authorities established under the Local Government Act (Cap. 265) existing immediately before the effective date shall continue to exist subject to any law that might be enacted.

**PART 5 - ADMINISTRATION OF JUSTICE**

**19. Rules for the enforcement of the Bill of Rights**

Until the Chief Justice makes the rules contemplated by Article 22, the Rules for the enforcement of the fundamental rights and freedoms under section 84(6) of the former Constitution shall continue in force with the alterations, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with Article 22.

## **20. The Judicial Service Commission**

(1) The Judicial Service Commission shall be appointed within sixty days after the effective date and the Commission shall be deemed to be properly constituted under this Constitution despite the fact that there may be a vacancy in its membership because of any of the bodies nominating or electing members have not done so.

(2) Despite subsection (1), the Judicial Service Commission may not perform its functions unless five members have been appointed.

(3) To ensure continuity in the operation of the Judicial Service Commission, despite Article 171(4), when the Commission is first constituted the following members shall be appointed to serve for three years only—

- (a) the Court of Appeal judge appointed under Article 171(4)(c);
- (b) the High Court judge appointed under Article 171(4)(d);
- (c) one of the advocates appointed under Article 171(4)(f), to be identified by the statutory body responsible for the professional regulation of advocates; and
- (d) one of the members appointed by the President under Article 171(4)(h), to be identified by the President.

(4) Until the Public Service Commission contemplated in Article 233 is established, a person nominated by the Public Service Commission established under section 106 of the former Constitution shall serve on the Judicial Service Commission but, when the new Public Service Commission is established, the person shall cease to be a member of the Judicial Service Commission and the new Public Service Commission shall nominate a person to serve on the Judicial Service Commission.

## **21. Establishment of the Supreme Court**

(1) The establishment of, and appointment of judges to, the Supreme Court shall be completed within one year after the effective date.

(2) Until the Supreme Court is established, the Court of Appeal shall have jurisdiction over matters assigned to the Supreme Court.

## **22. Judicial proceedings and pending matters**

All judicial proceedings pending before any court shall continue to be heard and shall be determined by the same court or a corresponding court established under this Constitution or as directed by the Chief Justice or the Registrar of the High Court.

## **23. Judges**

(1) Within one year after the effective date, Parliament shall enact legislation, which shall operate despite Article 160, 167 and 168, establishing mechanisms and procedures for vetting, within a timeframe to be determined in the legislation, the suitability of all judges and magistrates who were in office on the effective date to continue to serve in accordance with the values and principles set out in Articles 10 and 159.

(2) A removal, or a process leading to the removal, of a judge, from office by virtue of the operation of legislation contemplated under subsection (1) shall not be subject to question in, or review by, any court.

**24. Chief Justice**

(1) The Chief Justice in office immediately before the effective date shall, within six months after the effective date, vacate office and may choose either—

- (a) to retire from the judiciary; or
- (b) subject to the process of vetting under section 23, to continue to serve on the Court of Appeal.

(2) A new Chief Justice shall be appointed by the President, subject to the National Accord and Reconciliation Act, and after consultation with the Prime Minister and with the approval of the National Assembly.

(3) Subsection (2) also applies if there are further vacancies in the office of Chief Justice before the first general elections under this Constitution.

**PART 6 - COMMISSIONS AND OFFICES**

**25. Constitutional Commissions**

(1) The Commission on the Implementation of the Constitution and the Commission on Revenue Allocation shall be constituted within ninety days after the effective date.

(2) The Salaries and Remuneration Commission shall be constituted within nine months after the effective date.

(3) Until the legislation anticipated in Article 250 is in force, the persons appointed as members or as chairperson of the Salaries and Remuneration Commission shall be appointed by the President, subject to the National Accord and Reconciliation Act, and after consultation with the Prime Minister and with the approval of the National Assembly.

**26. The Kenya National Human Rights and Equality Commission**

(1) The commissioners of the Kenya National Commission on Human Rights appointed under the Kenya National Commission on Human Rights Act, 2002 (No. 9 of 2002) and the commissioners of the National Commission on Gender and Development, appointed under the National Commission on Gender and Development Act, 2003 (No. 13 of 2003) other than the Permanent Secretaries and the Attorney-General or a representative of the Attorney-General, shall become members of the Kenya National Human Rights and Equality Commission for their unexpired term but each shall retain the terms of service as at the effective date.

(2) The chairperson of the Kenya National Commission on Human Rights shall be the chairperson of the Kenya National Human Rights and Equality Commission for the unexpired term of that chairperson, and the chairperson of the National Commission on Gender and Development shall be the Vice-Chairperson of the Kenya National Human Rights and Equality Commission for that chairperson's unexpired term.

## **27. The Interim Independent Boundaries Commission**

(1) The Boundaries Commission established under the former Constitution shall continue to function as constituted under that Constitution and in terms of sections 41B and 41C but—

- (a) it shall not determine the boundaries of the counties established under this Constitution;
- (b) it shall determine the boundaries of constituencies and wards using the criteria mentioned in this Constitution; and
- (c) members of the Commission shall be subject to Chapter Seven of this Constitution.

(3) The requirement in Article 89(2) that a review of constituency and ward boundaries shall be completed at least twelve months before a general election does not apply to the review of boundaries preceding the first elections under this Constitution.

(4) The Boundaries Commission shall ensure that the first review of constituencies undertaken in terms of this Constitution shall not result in the loss of a constituency existing on the effective date.

## **28. The Interim Independent Electoral Commission and Independent Electoral and Boundaries Commission**

(1) The Interim Independent Electoral Commission established under section 41 of the former Constitution shall continue in office in terms of the former Constitution for its unexpired term or until the Independent Electoral and Boundaries Commission established under this Constitution is established, whichever is later.

(2) When members of the Independent Electoral and Boundaries Commission are selected, regard shall be had to the need for continuity and the retention of expertise and experience.

## **29. New appointments**

(1) The process of appointment of persons to fill vacancies arising in consequence of the coming into force of this Constitution shall begin on the effective date and be finalised within one year.

(2) Unless this Schedule prescribes otherwise, when this Constitution requires an appointment to be made by the President with the approval of the National Assembly, until after the first elections under this Constitution, the President shall, subject to the National Accord and Reconciliation Act, appoint a person after consultation with the Prime Minister and with the approval of the National Assembly.

## PART 6 - MISCELLANEOUS MATTERS

### **30. Citizenship by birth**

A Kenyan citizen is a citizen by birth if that citizen—

- (1) acquired citizenship under Article 87 or 88(1) of the former Constitution; or
- (2) would have acquired citizenship if Article 87(2) read as follows—

"Every person who, having been born outside Kenya, is on 11th December, 1963 a citizen of the United Kingdom and Colonies or a British protected person shall, if his father or mother becomes, or would but for his or her death have become, a citizen of Kenya by virtue of subsection (1), become a citizen of Kenya on 12th December, 1963."

### **31. Existing offices**

(1) Unless this Schedule provides otherwise, a person who immediately before the effective date, held or was acting in an office established by the former Constitution shall on the effective date continue to hold or act in that office under this Constitution for the unexpired period, if any, of the term of the person.

(2) Subject to subsection (7) and section 24, a person who immediately before the effective date held or was acting in a public office established by law, so far as is consistent with this Constitution, shall continue to hold or act in that office as if appointed to that position under this Constitution.

(3) The provisions of this section shall not affect the powers conferred on any person or authority under this Constitution or legislation to abolish offices or remove persons from an office contemplated in subsection (2).

(4) If a person has vacated an office that the person held before the effective date, and that office is retained or established under this Constitution, the person may, if qualified, again be appointed, elected, or otherwise selected to hold that office in accordance with the provisions of this Constitution, except to the extent that this Constitution expressly provides otherwise.

(5) The functions of the Director of Public Prosecutions shall be performed by the Attorney-General until a Director of Public Prosecutions is appointed under this Constitution.

(6) The functions of the Controller of Budget shall be performed by the Auditor-General until a Controller of Budget is appointed under this Constitution.

(7) Despite subsection (1), the Attorney-General and the Auditor-General shall continue in office for a period of no more than twelve months after the effective date and the subsequent appointments to those offices shall be made under this Constitution.

### **32. Pensions, gratuities and other benefits**

The law applicable to pensions in respect of holders of constitutional offices under the former Constitution shall be either the law that was in force at the date on which those benefits were granted or any law in force at a later date that is not less favourable to the person.

**33. Succession of institutions, offices, assets and liabilities**

An office or institution established under this Constitution is the legal successor of the corresponding office or institution, established under the former Constitution or by an Act of Parliament in force immediately before the effective date, whether known by the same or a new name.

**34. Currency**

Nothing in Article 231(4) affects the validity of coins and notes issued before the effective date.

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# **CONSTITUTION OF KENYA, 2010**

## SUBSIDIARY LEGISLATION

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THE CONSTITUTION OF KENYA

THE CONSTITUTION OF KENYA REVIEW ACT, 2008  
(No. 9 of 2008)

**THE NEW CONSTITUTION OF KENYA PROMULGATION**

[L.N. 133/2010.]

L.S.

By His Excellency the Honourable Mwai Kibaki,  
President and Commander-in-Chief of the Armed  
Forces of the Republic of Kenya.

WHEREAS the people of Kenya, in exercise of their sovereign right to replace the Constitution, ratified the proposed New Constitution of Kenya through a referendum held on the 4th August, 2010, in accordance with the provisions of section 47A of the Constitution of Kenya and Part V of the Constitution of Kenya Review Act, 2008;

AND WHEREAS the Constitution of Kenya (Amendment) Act, 2008 and the Constitution of Kenya Review Acts of 1997 and 2008, as variously amended, provided a legal framework for the comprehensive review and replacement of the current Constitution by the people of Kenya, which ensured that the review process—

- (a) accommodated the diversity of the Kenyan people, including socio economic status, race, ethnicity, gender, religious faith, age, occupation, learning, persons with disabilities and the disadvantaged and was guided by respect for the universal principles of human rights, gender equity and democracy;
- (b) provided the people of Kenya an opportunity to actively, freely and meaningfully participate in generating and debating proposals to alter the Constitution;
- (c) resulted in a new Constitution which faithfully reflected the wishes of the people of Kenya;

AND WHEREAS for the last two decades, the people of Kenya have yearned for a new Constitution which—

- (a) guarantees peace, national unity and integrity of the Republic of Kenya in order to safeguard the well-being of the people of Kenya;
- (b) establishes a free and democratic system of Government that ensures good governance, constitutionalism, the rule of law, human rights and gender equity;
- (c) recognises and demarcates divisions of responsibility among the various state organs, including the executive, the legislature and the judiciary, so as to create checks and balances between them and to ensure accountability of the Government and its officers to the people of Kenya;
- (d) promotes the people's participation in the governance of the country through democratic, free and fair elections and the devolution and exercise of power and further ensures the full participation of the people in the management of public affairs;
- (e) respects the pride of the people of Kenya in their ethnic, cultural and religious diversity and their determination to live in peace and unity as one indivisible sovereign nation;

[Subsidiary]

- (f) ensures the provision of basic needs of all Kenyans through the establishment of an equitable framework for economic growth and equitable access to national resources;
- (g) strengthens national integration and unity and commits Kenyans to peaceful resolution of national issues through dialogue and consensus;

NOW THEREFORE, in exercise of the powers conferred on me by section 47A (6) of the Constitution of Kenya and section 43A of the Constitution of Kenya Review Act, 2008, I, Mwai Kibaki, President and Commander-in-Chief of the Armed Forces of the Republic of Kenya, declare that the Constitution set out in the Schedule shall be the new Constitution of Kenya with effect from the 27th August, 2010.

SCHEDULE—(*The Constitution of Kenya*).

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CONSTITUTION OF KENYA

**CONCERNING CREATION OF A COMMEMORATIVE AWARD**

[L.N. 197/2010.]

**PROCLAMATION**

L.S.

By His Excellency the Hon. Mwai Kibaki, President and Commander-in-Chief of the Defence Forces of the Republic of Kenya.

IN EXERCISE of the powers vested in me by section 132(4)(c) of the Constitution of Kenya and all other powers enabling me in that behalf, I, Mwai Kibaki, President and Commander-in-Chief of the Defence Forces of the Republic of Kenya, create the commemorative award specified in the First Schedule and establish in respect thereof the rules set out in the Second Schedule.

**FIRST SCHEDULE**

**PROMULGATION OF THE NEW CONSTITUTION COMMEMORATIVE MEDAL**

**SECOND SCHEDULE**

**RULES GOVERNING THE COMMEMORATIVE AWARD**

1. The Medal shall be known as the "Promulgation of the New Constitution Commemorative Medal."
2. The Medal shall consist of cupro-nickel with beaded finish designed round with an insignia of the President holding the New Constitution Booklet aloft on the top side with the wording "PRESIDENT MWAI KIBAKI-PROMULGATION OF NEW CONSTITUTION" and on the reverse shall be the map of Kenya and the Emblem of Justice.
3. The Medal may be awarded to all members of the Disciplined Services, recommended Public Service Officers, political leaders, members of the Defence Forces and other uniformed services and to prominent personalities who contributed significantly to the realization of the New Constitution of 27th August, 2010.
4. Non-Kenyan may be awarded the Medal.
5. The Medal may be awarded posthumously approval of the award of the medal shall maintain records of the names.
6. The officers to whom authority has been delegated for the approval of the award of the media shall maintain records of the names of those to whom it has been awarded and publish those names in appropriate orders.
7. The Medal shall be worn on the left breast pendant from its riband in such a position in regard to other orders, decorations or medals.
8. The issue of the Promulgation of the New Constitution Commemorative Medal shall be restricted to a single award on the anniversary of the Promulgation of the New Constitution, the 27<sup>th</sup> August, 2010.
9. The President may annul the award of the medal and may also restore it after annulment and any annulment or restoration shall be published in the Kenya Gazette.



CONSTITUTION OF KENYA

**PUBLIC PROSECUTIONS – DELEGATION OF POWERS**

[L.N. 72/2005, L.N. 134/2010, L.N. 104/2011.]

IN EXERCISE of the powers conferred by Article 157(9) of the Constitution of Kenya, the Director of Public Prosecutions orders that all powers vested in him by Article 157(4) and (6) of the Constitution shall be exercised by the persons for the time being holding the offices specified in the Schedule, acting in accordance with his general or special instructions.

SCHEDULE

Chief Public Prosecutor.

Deputy Chief Public Prosecutor.

Chief State Counsel.

Special Public Prosecutor.

Senior Deputy Prosecution Counsel.

Deputy Prosecution Counsel.

Assistant Deputy Public Prosecutor/Senior Principal State.

Counsel/Senior Principal Prosecution Counsel.

Principal State Counsel/Principal Prosecution Counsel.

Senior State Counsel/Senior Prosecution Counsel.

State Counsel/Prosecution Counsel.

This Notice shall be deemed to have come into operation on the 20th June, 2011.

Legal Notice No. 134 of 2010 is revoked.

CONSTITUTION OF KENYA

**PUBLIC PROSECUTIONS – DELEGATION OF POWERS**

[L.N. 138/2012.]

IN EXERCISE of the powers conferred by article 157(9) of the Constitution of Kenya, the Director of Public Prosecutions orders that all powers vested in him by article 157(4) and (6) of the Constitution shall be exercised by the persons for the time being holding the offices specified in the Schedule, acting in accordance with his general or special instructions.

SCHEDULE

- Deputy Director of Public Prosecutions.
  - Senior Assistant Director of Public Prosecutions.
  - Assistant Director of Public Prosecutions.
  - Senior Principal Prosecution Counsel.
  - Principal Prosecution Counsel.
  - Senior Prosecution Counsel.
  - Prosecution Counsel I.
  - Prosecution Counsel II.
-

CONSTITUTION OF KENYA  
PROCLAMATION

**CONCERNING CREATION OF A COMMEMORATIVE AWARD**

[L.N. 106/2012.]

By His Excellency the Honourable Mwai Kibaki, President and Commander-in-Chief of the Defence Forces of the Republic of Kenya.

In Exercise of the powers conferred by section 23 of the former Constitution and all powers enabling me in that behalf, I, Mwai Kibaki, President and Commander-in-Chief of the Defence Forces of the Republic of Kenya, create the commemorative award specified in the First Schedule and establish in respect thereof the rules set out in the Second Schedule.

FIRST SCHEDULE

THE LINDA NCHI CAMPAIGN MEDAL



SECOND SCHEDULE

RULES GOVERNING THE COMMEMORATIVE AWARD

1. The medal shall be known as "The Linda Nchi Campaign Medal" (hereinafter referred to as "the medal").
2. The medal shall consist of a cupro-nickel finishing polished and circular in design measuring 36 millimetres in diameters bearing an insignia of the head and bust image of the President of the Republic of Kenya at the centre surrounded by the inscriptions "H.E. HON. MWAI KIBAKI" and the "PRESIDENT OF THE REPUBLIC OF KENYA" on the obverse and on the reverse it shall depict a lion holding a spear surmounted on the map of Kenya in its background surrounded with the inscriptions "REPUBLIC OF KENYA" and "LINDA NCHI CAMPAIGN MEDAL". The medal is suspended from a bead and on a ring. The ring is attached to a ribbon, 32 millimetres in width and on 50 millimetres in length. On the ribbon bar are golden stripes at each end of 35 millimetres and two small stripes of green colour separated in the middle by a thin white stripe at the centre measuring 4 millimetres.
3. The medal shall be awarded to all ranks of the Kenya Army, the Kenya Air Force, the Kenya Navy and the National Police Service who have served for at least thirty days, not necessarily consecutively, in Operation Linda Nchi, an operation against the Al-Shabaab in the operation area.
4. For the purpose of this proclamation—
  - (a) "**Operation Area**" means the territory of the Republic of Somalia including its territorial seas and the exclusive economic zone; and
  - (b) "**serving in an operation area**" means either being stationed in the Operation Area or accompanying or escorting a convoy or carrying out operational flights or operational maritime manoeuvres into the Operation Area.
5. Notwithstanding paragraph 3, the medal shall be awarded to—
  - (a) all ranks of the Kenya Defence forces who participated or assisted in the planning of the operations against Al Shabaab and in the command and control of the Kenya Defence Forces during the operation; and
  - (b) the aircrew of all ranks who flew sorties or missions during the operation.
6. The medal may be awarded posthumously to a deceased officer and it shall not be mandatory that the officer should have served for at least thirty cumulative days in the Operation Area before the date of death, provided that the proximate cause of death arose in the Operation Area.
7. The officer to whom authority has been delegated for the approval of the award of the medal shall maintain records of the names of those to whom the medal has been awarded and publish those names in the appropriate order.
8. The medal shall be worn on the left breast pendant from its ribband in such a position in regard to other orders, decorations and medals.
9. The President may annul and restore the award of the medal by notice in the Gazette.

CONSTITUTION OF KENYA

**FIRST SITTING OF THE NATIONAL ASSEMBLY**

[L.N. 55/2013.]

In Exercise of the powers conferred by Article 126(2) of the Constitution of Kenya, I, Mwai Kibaki, President and Commander-in-Chief of the Kenya Defence Forces appoint that the first sitting of the National Assembly of the Eleventh Parliament shall be held at the main Parliament Buildings, Nairobi, on Thursday, 28th March, 2013, at 9.00 a.m.

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CONSTITUTION OF KENYA

**FIRST SITTING OF THE SENATE**

[L.N. 56/2013.]

In Exercise of the powers conferred by Article 126(2) of the Constitution of Kenya, I, Mwai Kibaki, President and Commander-in-Chief of the Kenya Defence Forces appoint that the first sitting of the Senate shall be held at the Kenyatta International Conference Centre, Nairobi, on Thursday, 28th March, 2013, at 9.00 a.m.

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**CONSTITUTION OF KENYA (PROTECTION OF  
RIGHTS AND FUNDAMENTAL FREEDOMS)  
PRACTICE AND PROCEDURE RULES, 2013**

**ARRANGEMENT OF RULES**

**PART I – PRELIMINARY**

***Rule***

1. Citation.
2. Interpretation.
3. Scope and objectives.

**PART II – PROCEDURE FOR INSTITUTING COURT PROCEEDINGS**

4. Contravention of rights or fundamental freedoms.
5. Addition, joinder, substitution and striking out of parties.
6. Friend of the Court.
7. Interested party.
8. Place of filing.
9. Notice of institution of the petition.
10. Form of petition.
11. Documents to be annexed to affidavit or petition.
12. Registrar to assist in filing of petitions.
13. Petitions filed under certificate of urgency.
14. Service of petition.
15. Reply to a petition.
16. Failure to respond within stipulated time.
17. Consolidation.
18. Amendment of pleadings.
18. Amendment of pleadings.
19. Formal applications.

**PART III – HEARING AND DETERMINATION OF COURT PROCEEDINGS**

20. Hearing of petition.
21. Evaluating petition for directions and allocating hearing dates.
22. Written submissions.
23. Conservatory or interim orders.
24. Application under rule 23.
25. Setting aside, varying or discharge.
26. Costs.
27. Withdrawal or discontinuance.
28. Acquiescence.
29. Settlement by consent.
30. Extension of time.
31. Use of alternative dispute resolution.
32. Stay pending appeal.
33. Court Fees.
34. Waiver of court fees.

[Subsidiary]

35. Practice Directions.
36. Review.

SCHEDULE

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**CONSTITUTION OF KENYA (PROTECTION OF  
RIGHTS AND FUNDAMENTAL FREEDOMS)  
PRACTICE AND PROCEDURE RULES, 2013**

[L.N. 117/2013.]

**PART I – PRELIMINARY**

**1. Citation**

These rules may be cited as the Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013.

**2. Interpretation**

In these rules, unless the context requires otherwise—

“**Constitution**” means the Constitution of Kenya;

“**costs**” means lawyers’ fees and other disbursements of the parties but does not include court fees;

“**Court of Appeal**” means the Court of Appeal of Kenya established by Article 164 of the Constitution;

“**document**” includes—

- (a) any publication, or any matter written, expressed, or inscribed on any substance by means of letters, figures or marks, or by more than one of those means, that is intended to be used or may be used for the purpose of recording that matter; and
- (b) electronic files;

“**friend of the court**” is an independent and impartial expert on an issue which is the subject matter of proceedings but is not party to the case and serves to benefit the court with their expertise;

“**High Court**” means the High Court of Kenya established by Article 165 of the Constitution and includes courts with the status of a High Court established under Article 162(2) of the Constitution;

“**informal documentation**” includes any legible document in any language that is simple, does not conform to any particular form or rules of grammar and conveys information;

“**interested party**” means a person or entity that has an identifiable stake or legal interest or duty in the proceedings before the court but is not a party to the proceedings or may not be directly involved in the litigation;

“**person**” includes an individual, organisation, company, association or any other body of persons whether incorporated or unincorporated;

“**petitioner**” means any person who institutes proceedings or cross petitions under these rules and for the purposes of a cross petition includes a cross petitioner;

“**Registrar**” includes assistant and deputy registrar in any particular court;

“**respondent**” means a person who is alleged to have denied, violated or infringed, or threatened to deny, violate or infringe a right or fundamental freedom;

“**service**” means delivery of an order, summons, or other legal papers to the person required to respond to them; and

“**Supreme Court**” means the Supreme Court of Kenya established by Article 163 of the Constitution.

### **3. Scope and objectives**

- (1) These Rules shall apply to all proceedings made under Article 22 of the Constitution.
- (2) The overriding objective of these rules is to facilitate access to justice for all persons as required under Article 48 of the Constitution.
- (3) These Rules shall be interpreted in accordance with Article 259(1) of the Constitution and shall be applied with a view to advancing and realising the—
  - (a) rights and fundamental freedoms enshrined in the Bill of Rights; and
  - (b) values and principles in the Constitution.
- (4) The Court in exercise of its jurisdiction under these rules shall facilitate the just, expeditious, proportionate and affordable resolution of all cases.
- (5) For the purpose of furthering the overriding objective, the Court shall handle all matters presented before it to achieve the—
  - (a) just determination of the proceedings;
  - (b) efficient use of the available and administrative resources;
  - (c) timely disposal of proceedings at a cost affordable by the respective parties; and
  - (d) use of appropriate technology.
- (6) A party to proceedings commenced under these Rules, or an advocate for such party is under a duty to assist the Court to further the overriding objective of these rules and in that regard to—
  - (a) participate in the processes of the Court; and
  - (b) comply with the directions and orders of the Court.
- (7) The Court shall pursue access to justice for all persons including the—
  - (a) poor;
  - (b) illiterate;
  - (c) uninformed;
  - (d) unrepresented; and
  - (e) persons with disabilities
- (8) Nothing in these rules shall limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court.

### **PART II – PROCEDURE FOR INSTITUTING COURT PROCEEDINGS**

#### **4. Contravention of rights or fundamental freedoms**

- (1) Where any right or fundamental freedom provided for in the Constitution is allegedly denied, violated or infringed or threatened, a person so affected or likely to be affected, may make an application to the High Court in accordance to these rules.
- (2) In addition to a person acting in their own interest, court proceedings under sub rule (1) may be instituted by—
  - (i) a person acting on behalf of another person who cannot act in their own name;
  - (ii) a person acting as a member of, or in the interest of, a group or class of persons;
  - (iii) a person acting in the public interest; or
  - (iv) an association acting in the interest of one or more of its members.

## **5. Addition, joinder, substitution and striking out of parties**

The following procedure shall apply with respect to addition, joinder, substitution and striking out of parties—

- (a) Where the petitioner is in doubt as to the persons from whom redress should be sought, the petitioner may join two or more respondents in order that the question as to which of the respondent is liable, and to what extent, may be determined as between all parties.
- (b) A petition shall not be defeated by reason of the misjoinder or non-joinder of parties, and the Court may in every proceeding deal with the matter in dispute.
- (c) Where proceedings have been instituted in the name of the wrong person as petitioner, or where it is doubtful whether it has been instituted in the name of the right petitioner, the Court may at any stage of the proceedings, if satisfied that the proceedings have been instituted through a mistake made in good faith, and that it is necessary for the determination of the matter in dispute, order any other person to be substituted or added as petitioner upon such terms as it thinks fit.
- (d) The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear just—
  - (i) order that the name of any party improperly joined, be struck out; and
  - (ii) that the name of any person who ought to have been joined, or whose presence before the court may be necessary in order to enable the court adjudicate upon and settle the matter, be added.
- (e) Where a respondent is added or substituted, the petition shall unless the court otherwise directs, be amended in such a manner as may be necessary, and amended copies of the petition shall be served on the new respondent and, if the court thinks, fit on the original respondents.

## **6. Friend of the Court**

The following procedure shall apply with respect to a friend of the court—

- (a) The Court may allow any person with expertise in a particular issue which is before the Court to appear as a friend of the Court.
- (b) Leave to appear as a friend of the Court may be granted to any person on application orally or in writing.
- (c) The Court may on its own motion request a person with expertise to appear as a friend of the Court in proceedings before it.

## **7. Interested party**

- (1) A person, with leave of the Court, may make an oral or written application to be joined as an interested party.
- (2) A court may on its own motion join any interested party to the proceedings before it.

## **8. Place of filing**

- (1) Every case shall be instituted in the High Court within whose jurisdiction the alleged violation took place.
- (2) Despite sub rule (1), the High Court may order that a petition be transferred to another court of competent jurisdiction either on its own motion or on the application of a party.

[Subsidiary]

## **9. Notice of institution of the petition**

- (1) The Court may direct that notice of institution of petition be posted on the Court notice board or be published in the Gazette, a daily newspaper with national circulation or the Judiciary's website.
- (2) The notice referred to in sub rule (1) shall—
- (a) contain a brief summary of the case, reference to the provisions of the Constitution violated or infringed and the relief sought; and
  - (b) be approved by the Registrar.

## **10. Form of petition**

- (1) An application under rule 4 shall be made by way of a petition as set out in Form A in the Schedule with such alterations as may be necessary.
- (2) The petition shall disclose the following—
- (a) the petitioner's name and address;
  - (b) the facts relied upon;
  - (c) the constitutional provision violated;
  - (d) the nature of injury caused or likely to be caused to the petitioner or the person in whose name the petitioner has instituted the suit; or in a public interest case to the public, class of persons or community;
  - (e) details regarding any civil or criminal case, involving the petitioner or any of the petitioners, which is related to the matters in issue in the petition;
  - (f) the petition shall be signed by the petitioner or the advocate of the petitioner; and
  - (g) the relief sought by the petitioner.
- (3) Subject to rules 9 and 10, the Court may accept an oral application, a letter or any other informal documentation which discloses denial, violation, infringement or threat to a right or fundamental freedom.
- (4) An oral application entertained under sub rule (3) shall be reduced into writing by the Court.

## **11. Documents to be annexed to affidavit or petition**

- (1) The petition filed under these rules may be supported by an affidavit.
- (2) If a party wishes to rely on any document, the document shall be annexed to the supporting affidavit or the petition where there is no supporting affidavit.

## **12. Registrar to assist in filing of petitions**

The Registrar shall cause a prescribed form to be available in the Registry to assist petitioners who bring oral applications to have them reduced in writing.

## **13. Petition filed under certificate of urgency**

A petition filed under certificate of urgency may be placed before a Judge for appropriate orders or directions.

## **14. Service of petition**

- (1) The petitioner shall serve the respondent with the petition, documents and relevant annexures within 15 days of filing or such time as the court may direct.
- (2) Proof of service shall be the affidavit of service set out in Form B in the Schedule with such variations as may be necessary.

## **15. Reply to a petition**

(1) The Attorney-General or any other State organ shall within fourteen days of service of a petition respond by way of a replying affidavit and if any document is relied upon, it shall be annexed to the replying affidavit.

(2)

- (a) A respondent not in the category of sub-rule (1) shall within seven days file a memorandum of appearance and either a—
  - (i) replying affidavit; or
  - (ii) statement setting out the grounds relied upon to oppose the petition.
- (b) After filing either of the documents referred to in sub-rule (2)(a), a respondent may respond by way of a replying affidavit or provide any other written document as a response to the petition within fourteen days.

(3) The respondent may file a cross-petition which shall disclose the matter set out in rule 10(2).

## **16. Failure to respond within stipulated time**

(1) If the respondent does not respond within the time stipulated in rule 15, the Court may hear and determine the petition in the respondent's absence.

(2) The Court may set aside an order made under subrule (1) on its own motion or upon the application of the respondent or a party affected by the order.

## **17. Consolidation**

The Court may on its own motion or on application by any party consolidate several petitions on such terms as it may deem just.

## **18. Amendment of pleadings**

A party that wishes to amend its pleadings at any stage of the proceedings may do so with the leave of the Court.

## **19. Formal applications**

A formal application under these rules shall be by Notice of Motion set out in Form D in the Schedule and may be supported by an affidavit.

## **PART III – HEARING AND DETERMINATION OF COURT PROCEEDINGS**

### **20. Hearing of the petition**

(1) The hearing of the petition shall, unless the Court otherwise directs, be by way of—

- (a) affidavits;
- (b) written submissions; or
- (c) oral evidence.

(2) The Court may limit the time for oral submissions by the parties.

(3) The Court may upon application or on its own motion direct that the petition or part thereof be heard by oral evidence.

(4) The Court may on its own motion, examine any witness or call and examine or recall any witness if the Court is of the opinion that the evidence is likely to assist the court to arrive at a decision.

(5) A person summoned as a witness by the court may be cross examined by the parties to the petition.

## **21. Evaluating petition for directions and allocating hearing dates**

(1) In giving directions on the hearing of the case, a Judge may require that parties file and serve written submissions within fourteen days of such directions or such other time as the Judge may direct.

(2) A party who wishes to file further information at any stage of the proceedings may do so with the leave of the Court.

(3) The Court may frame the issues for determination at the hearing and give such directions as are necessary for the expeditious hearing of the case.

## **22. Written submissions**

(1) Each party may file written submissions.

(2) Subject to such directions as may be issued by the court, written submissions shall contain the following—

- (a) a brief statement of facts with reference to exhibits, if any, attached to the petition;
- (b) issues arising for determination; and
- (c) a concise statement of argument on each issue incorporating the relevant authorities referred to together with the full citation of each authority.

(3) Copies of the authorities to be relied on shall be attached to the written submissions.

## **23. Conservatory or interim orders**

(1) Despite any provision to the contrary, a Judge before whom a petition under rule 4 is presented shall hear and determine an application for conservatory or interim orders.

(2) Service of the application in sub rule (1) may be dispensed with, with leave of the Court.

(3) The orders issued in sub-rule (1) shall be personally served on the respondent or the advocate on record or with leave of the Court, by substituted service within such time as may be limited by the Court.

## **24. Application under rule 21**

(1) An application under rule 23 may be made by way of notice of motion or by informal documentation.

(2) Where an oral application is made under rule 23, the Court shall reduce it in writing.

## **25. Setting aside, varying or discharge**

An order issued under rule 22 may be discharged, varied or set aside by the Court either on its own motion or on application by a party dissatisfied with the order.

## **26. Costs**

(1) The award of costs is at the discretion of the Court.

(2) In exercising its discretion to award costs, the Court shall take appropriate measures to ensure that every person has access to the Court to determine their rights and fundamental freedoms.

## **27. Withdrawal or discontinuance**

(1) The petitioner may—

- (a) on notice to the court and to the respondent, apply to withdraw the petition; or
- (b) with the leave of the court, discontinue the proceedings.

(2) The Court shall, after hearing the parties to the proceedings, decide on the matter and determine the juridical effects of that decision.

(3) Despite sub rule (2), the Court may, for reasons to be recorded, proceed with the hearing of a case petition in spite of the wish of the petitioner to withdraw or discontinue the proceedings.

**28. Acquiescence**

If the respondent does not dispute the facts in the petition whether wholly or in part, the Court shall, after hearing the parties, make such orders as it may deem fit.

**29. Settlement by consent**

The parties may, with leave of the Court, record an amicable settlement reached by the parties in partial or final determination of the case.

**30. Extension of time**

The Court may extend time limited by these rules, or by any decision of the Court.

**31. Use of alternative dispute resolution**

The Court may refer a matter for hearing and determination by alternative dispute resolution mechanism.

**32. Stay pending appeal**

(1) An appeal or a second appeal shall not operate as a stay of execution or proceedings under a decree or order appealed.

(2) An application for stay of execution may be made informally immediately following the delivery of judgment or ruling and the court may issue such orders as it deems fit and just.

(3) A formal application for stay may be filed within 14 days of the decision appealed from or within such time as the court may direct.

**33. Court Fees**

There shall be paid in respect of all proceedings under these Rules the same court fees as are payable in respect of civil proceedings in the High Court in so far as the same are applicable.

**34. Waiver of court fees**

(1) A person who wishes to be exempted from paying court fees may apply to the Registrar.

(2) An application under sub-rule (1) may be made by informal documentation.

(3) The reasons for the Registrar's decision shall be recorded.

**35. Practice Directions**

The Chief Justice may issue practice directions for the better carrying out of these rules.

**36. Review**

The Chief Justice may review these rules from time to time.

[Subsidiary]

**SCHEDULE**

**Form A**

[Rule 10(1).]

IN THE HIGH COURT OF KENYA AT .....

PETITION NO. .... OF ..... 20 .....

IN THE MATTER OF ARTICLE 22(1)

IN THE MATTER OF ALLEGED CONTRAVENTION OF RIGHTS  
OR FUNDAMENTAL FREEDOMS UNDER ARTICLE (*insert  
article*) .....

BETWEEN

A.B. (*insert names of parties*) ..... PETITIONER

AND

C.D. (*insert names of parties*) ..... RESPONDENT

TO:

The High Court of Kenya

The Petition of A.B (*insert names of Petitioner*) of (*insert address of Petitioner*) ..... in the Republic of Kenya is as follows— ..... (*the allegations upon which the Petitioner(s) rely must be concisely set out, in consecutively numbered paragraphs and should address the following:*

- (a) the facts of the case,
- (b) nature of the injury caused or likely to be caused to Petitioner or public in public interest suits,
- (c) details regarding any civil, criminal or other litigation involving the Petitioner which could have a legal nexus with the issue raised in the suit) .....

Your Petitioner(s) therefore pray(s) that .....

(*set out exact order(s) sought*) .....

Or that such other order(s) as this Honourable Court shall deem just.

DATED at ..... this ..... day of ..... 20 .....

*Signed .....*  
*Petitioner/Advocate for the Petitioner*

DRAWN & FILED BY:

TO BE SERVED UPON:

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**Form B**

[Rule 14(2).]

**AFFIDAVIT OF SERVICE**

(*Title*)

I.....of..... an adult of sound mind/ advocate/ a police officer/a process server of the court make oath and say as follows:

- (1) On ..... , 20 ..... at ..... (time) I served the petition/replying affidavit/document in this case on .....(name) at ..... (place) by tendering a copy thereof to him/her and requiring a signature on the original. He/She signed/refused to sign the petition/replying affidavit/document. He/She was personally known to me/was identified to me by ..... and admitted that he/she was the respondent/petitioner.
- (2) Not being able to find the respondent/petitioner on ..... , 20 ..... at ..... (time) I served the petition/ replying affidavit/document on ..... (name) an adult member of the family of the respondent/petitioner who is residing with him/her.
- (3) Not being able to find the respondent/petitioner or any person on whom service could be made, on ..... , 20 ..... at ..... (time), I affixed a copy of the petition/ replying affidavit/document to the outer door of ..... being the house in which he/she ordinarily resides/carries on business/personally works for gain. I was accompanied by ..... who identified the house to me.
- (4) (Otherwise specify the manner in which the petition/replying affidavit/document was served).

SWORN by the said ..... this .....

day ..... of ..... , 20 .....

Before me .....

.....  
A Commissioner of Oaths/Magistrate.

**Form C**

[Rule 22(3).]

**SUBSTITUTED SERVICE BY ADVERTISEMENT**

To: .....  
of .....

Take notice that a petition has been filed in the ..... Court at ..... in Civil Suit No. ..... of 20 ....., in which you are named as respondent. Service of the petition on you has been ordered by means of this advertisement. A copy of the petition may be obtained from the court at ..... (insert postal address of registry).

And further take notice that, unless you enter an appearance within ..... days, the case will be heard in your absence.

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[Subsidiary]

**Form D**

(Title)

(as in the Petition)

**NOTICE OF MOTION**

TAKE NOTICE THAT that this Honorable Court Shall be moved on the..... day of ..... 20 ..... at 9:00 o'clock in the forenoon or as soon thereafter as the applicant/counsel for the applicant may be heard on an application FOR ORDERS:—

- (a) .....
- (b) .....

WHICH APPLICATION is made on the following grounds:—

- (i) .....
- (ii) .....
- (iii) .....

AND WHICH APPLICATION is supported by the annexed affidavit of and by such other grounds, reasons and arguments as shall be adduced at the hearing hereof.

DATED at ..... this day of ..... 20 .....

APPLICANT/ADVOCATES FOR THE APPLICANTS

Drawn and filed by:

To be served upon:

*"If any person served does not appear at the time and place abovementioned such orders shall be made and proceedings taken as the court deems just and expedient".*

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**Appellate Jurisdiction  
Act (Cap. 9)**



**THE REPUBLIC OF KENYA**

**LAWS OF KENYA**

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**APPELLATE JURISDICTION ACT**

**CHAPTER 9**

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## CHAPTER 9

### APPELLATE JURISDICTION ACT

#### ARRANGEMENT OF SECTIONS

*Section*

1. Short title.
  2. Interpretation.
  3. Jurisdiction of Court of Appeal.
  - 3A. Objective of Act.
  - 3B. Duty of Court.
  4. Execution.
  5. Rules.
  6. Power of High Court to admit to bail or postpone fine.
  7. Power of High Court to extend time.
  8. Transitional provisions.
-



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## CHAPTER 9

### APPELLATE JURISDICTION ACT

[*Date of assent: 25th October, 1977.*]

[*Date of commencement: 28th October, 1977.*]

#### **An Act of Parliament to confer on the Court of Appeal jurisdiction to hear appeals from the High Court and for purposes incidental thereto**

[Act No. 15 of 1977, Act No. 6 of 2009, Act No. 12 of 2012.]

##### **1. Short title**

This Act may be cited as the Appellate Jurisdiction Act.

##### **2. Interpretation**

In this Act—

“**judgment**” includes decree, order, sentence and decision;

“**the Court of Appeal**” means the Court of Appeal established by section 64(1) of the Constitution;

“**the Court of Appeal Rules**” means the Court of Appeal for East Africa Rules, 1972 (L.N. 199/1972), as amended up to and in force on 1st June, 1977;

“**the Old Court of Appeal**” means the Court of Appeal for East Africa, referred to in section 17 of the Treaty for East African Co-operation Act (Cap. 4), or any Court replaced by that Court.

##### **3. Jurisdiction of Court of Appeal**

(1) The Court of Appeal shall have jurisdiction to hear and determine appeals from the High Court and any other Court or Tribunal prescribed by an Act of Parliament in cases in which an appeal lies to the Court of Appeal under law.

(2) For all purposes of and incidental to the hearing and determination of any appeal in the exercise of the jurisdiction conferred by this Act, the Court of Appeal shall have, in addition to any other power, authority and jurisdiction conferred by this Act, the power, authority and jurisdiction vested in the High Court.

(3) In the hearing of an appeal in the exercise of the jurisdiction conferred by this Act, the law to be applied shall be the law applicable to the case in the High Court.

[Act No. 12 of 2012, Sch.]

##### **3A. Objective of Act**

(1) The overriding objective of this Act and the rules made hereunder is to facilitate the just, expeditious, proportionate and affordable resolution of the appeals governed by the Act.

(2) The Court shall, in the exercise of its powers under this Act or the interpretation of any of its provisions, seek to give effect to the overriding objective specified in subsection (1).

(3) An advocate in an appeal presented to the Court is under a duty to assist the Court to further the overriding objective and, to that effect, to participate in the processes of the Court and to comply with directions and orders of the Court.

[Act No. 6 of 2009, Sch.]

### **3B. Duty of Court**

(1) For the purpose of furthering the overriding objective specified in section 3A, the Court shall handle all matters presented before it for the purpose of attaining the following aims—

- (a) the just determination of the proceedings;
- (b) the efficient use of the available judicial and administrative resources;
- (c) the timely disposal of the proceedings, and all other proceedings in the Court, at a cost affordable by the respective parties; and
- (d) the use of suitable technology.

[Act No. 6 of 2009, Sch.]

### **4. Execution**

Any judgment of the Court of Appeal given in exercise of its jurisdiction under this Act may be executed and enforced as if it were a judgment of the High Court.

### **5. Rules**

(1) The Rules Committee may make rules of court or regulating the practice and procedure of the Court of Appeal with respect to appeals and, in connection with such appeal, for regulating the practice and procedure of the High Court.

(2) Without prejudice to the generality of subsection (1), rules of court for the Court of Appeal may be made for the following purposes—

- (a) for regulating the sittings of the Court, whether in divisions or otherwise, and the selection of judges for any purpose;
- (b) for regulating the right of practising before the Court and the representation of persons concerned in any proceedings in the Court;
- (c) for prescribing cases in which, and conditions upon which, an appellant in a criminal appeal to the Court shall be entitled to be present at the hearing of the appeal;
- (d) for providing for summary determination of any appeal which appears to the Court to be frivolous or vexatious or to be brought for the purposes of delay;
- (e) for prescribing forms and fees in respect of proceedings in the Court and regulating the costs of and incidental to any such proceedings;
- (f) for prescribing and regulating the powers and duties of officers of the Court;

- (g) for prescribing the time within which any requirement of the rules is to be complied with;
- (h) for providing for a reference from a decision of a single judge to the Court.

(3) Rules made under this section may fix the number of judges of the Court who may sit for any purpose:

Provided that—

- (i) an uneven number of judges shall sit, which, for the purposes of any final determination by the Court other than the summary dismissal of an appeal, shall not be less than three; and
- (ii) any determination by the Court on any matter (whether final or otherwise) shall, where more than one judge sits, be according to the opinion of a majority of the judges who sit for the purpose of determining that matter.

(4) Rules made under this section may amend or revoke the Court of Appeal Rules, and the Court of Appeal Rules shall continue in force, subject to any amendments so made, until so revoked, as if they were rules made under this section.

## **6. Power of High Court to admit to bail or postpone fine**

The High Court may, if it thinks fit, pending the determination of an appeal from the High Court to the Court of Appeal—

- (a) admit the appellant to bail; or
- (b) postpone the payment of a fine.

## **7. Power of High Court to extend time**

The High Court may extend the time for giving notice of intention to appeal from a judgment of the High Court or for making an application for leave to appeal or for a certificate that the case is fit for appeal, notwithstanding that the time for giving such notice or making such appeal may have already expired:

Provided that in the case of a sentence of death no extension of time shall be granted after the issue of the warrant for the execution of that sentence.

## **8. Transitional provisions**

Notwithstanding the provisions of section 3 and the replacement of the old Court of Appeal—

- (a) all proceedings pending before the old Court of Appeal in exercise of its jurisdiction under the Law of Kenya immediately before the commencement of this Act may be continued and concluded before the Court of Appeal as if they had been commenced under or by virtue of this Act and the Law of Kenya now in force or may be recommenced *de novo* before the Court of Appeal within such period as may be approved by that Court; and

*Appellate Jurisdiction*

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- (b) every judgment of the old Court of Appeal which immediately before the commencement of this Act had not been fully executed or enforced may be executed and enforced in the same manner as if it were a judgment of the Court of Appeal made in exercise of its jurisdiction under this Act.
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**CHAPTER 9**  
**APPELLATE JURISDICTION ACT**  
SUBSIDIARY LEGISLATION

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**COURT OF APPEAL RULES, 1972**

[L. N. 199/1972.]

***Revoked by L. N. 152/2010, r. 116.***

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**COURT OF APPEAL RULES, 2010**

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**COURT OF APPEAL RULES, 2010**

[L.N. 152/2010.]

**PART I – GENERAL****1. Short title, commencement and application**

(1) These Rules of Court may be cited as the Court of Appeal Rules, 2010 and shall come into force ninety days after publication in the *Gazette*.

(2) Nothing in these Rules shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court.

**2. Interpretation**

In these Rules, unless the context otherwise requires—

**“advocate”** means a person who, under rule 25, has the right of audience before the Court;

**“appeal”**, in relation to appeals to the Court, includes an intended appeal; and “appellant” includes an intended appellant;

**“appellate jurisdiction”**, in relation to a superior court, includes the jurisdiction of the court in matters of revision, review, reference, case stated and point of law reserved;

**“appropriate registry”** has the meaning assigned to it by rule 6;

**“Court”** means the Court of Appeal and includes a division thereof and a single judge exercising any power vested in him sitting alone;

**“deputy registrar”** means a deputy registrar of the Court;

**“judge”** means a judge of the Court acting as such;

**“notice of appeal”**, in relation to a criminal appeal, means a notice lodged in accordance with rule 59 and, in relation to a civil appeal, means a notice lodged in accordance with rule 75;

**“notice of cross-appeal”** means a notice lodged in accordance with rule 93;

**“notice of grounds for affirming the decision”** means a notice lodged in accordance with rule 94;

**“prison”** includes any other place of detention to which any person may have been committed by a court;

**“Registrar”** means the Registrar of the Court and includes a deputy registrar thereof;

**“registrar of a superior court”** includes a district, a deputy and an assistant registrar of that court;

**“respondent”**, in relation to a civil application, includes any person on whom the notice of motion has been served, and, in relation to a civil appeal, includes any person on whom a notice of appeal has been served and any person other than the appellant on whom a notice of cross-appeal has been served;

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[Subsidiary]

“Rules” means these Rules and as amended from time to time; and

“Superior court” means a court of unlimited jurisdiction from which an appeal lies to the Court.

### **3. Computation of time**

Any period of time fixed by these Rules or by any decision of the Court for doing any act shall be reckoned in accordance with the following provisions—

- (a) a period of days from the happening of an event or the doing of any act or thing shall be deemed to be exclusive of the day in which the event happens or that act or thing is done;
- (b) if the last day of the period is a Sunday or a public holiday (which days are in this rule referred to as excluded days) the period shall include the next following day, not being an excluded day;
- (c) where any act or proceeding is directed or allowed to be done or taken on a certain day, then if that day happens to be an excluded day, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, not being an excluded day;
- (d) where any act or proceeding is directed or allowed to be done or taken within any time not exceeding six days, excluded days shall not be reckoned in the computation of time; or
- (e) unless the Court otherwise directs, the period of the Christmas vacation shall not be reckoned in the computation of time.

### **4. Extension of time**

The Court may, on such terms as it thinks just, by order extend the time limited by these Rules, or by any decision of the Court or of a superior court, for the doing of any act authorized or required by these Rules, whether before or after the doing of the act, and a reference in these Rules to any such time shall be construed as a reference to that time as extended.

### **5. Suspension of sentence, injunction and stay of execution and stay of further proceedings**

(1) No sentence of death shall be carried out until the time for giving notice of appeal has expired or, where notice of appeal has been given, until the appeal has been determined.

(2) Subject to sub-rule (1), the institution of an appeal shall not operate to suspend any sentence or to stay execution, but the Court may—

- (a) in any criminal proceedings, where notice of appeal has been given in accordance with rule 59, order that the appellant be released on bail or that the execution of any warrant of distress be suspended pending the determination of the appeal;
- (b) in any civil proceedings, where a notice of appeal has been lodged in accordance with rule 75,

order a stay of execution, an injunction or a stay of any further proceedings on such terms as the Court may think just.

**6. Registry and sub-registries**

(1) The Registry of the Court shall be situate at Nairobi:

Provided that where the Court is sitting or about to sit in any place other than Nairobi, then for the purpose of any application or appeal to be heard in that place, the Registry shall be deemed to be situate in that place.

(2) There shall be such sub-registries of the Court in Kenya as the Chief Justice may from time to time order and pending such order there shall be sub-registries at Kisumu, Mombasa, Nyeri, Eldoret and Nakuru.

(3) Any reference in these Rules to "**the appropriate registry**" shall be construed—

- (a) in the case of an appeal from the High Court of Kenya—
  - (i) sitting in the Nyanza Province or the Western Province, as a reference to the sub-registry at Kisumu;
  - (ii) sitting in the Coast Province, as a reference to the subregistry at Mombasa;
  - (iii) sitting in the Rift Valley Province, as a reference to the sub-registries at Nakuru and Eldoret;
  - (iv) sitting in Meru, Embu and Nyeri as a reference to the subregistry at Nyeri;
- (v) sitting elsewhere, as a reference to the Registry situate at Nairobi.

**7. Hours for lodging documents**

The Chief Justice may from time to time direct the hours during which the Registry or any sub-registry or any registry of a superior court shall be open for the receipt of documents lodged under the provisions of these Rules.

**8. Maintenance of registers**

(1) The Registrar shall maintain—

- (a) a register of criminal applications, in which shall be entered particulars of every application lodged in the Registry or sent to the Registrar by any deputy registrar relating to a criminal appeal;
- (b) a register of civil applications, in which shall be entered particulars of every application lodged in the Registry or sent to the Registrar by any deputy registrar relating to a civil appeal;
- (c) a register of criminal appeals, in which shall be entered particulars of every notice of appeal lodged in any criminal matter and of the subsequent proceedings; and
- (d) a register of civil appeals, in which shall be entered particulars of every memorandum of appeal lodged in any civil matter and of the subsequent proceedings.

(2) Every deputy registrar in charge of a sub-registry shall maintain—

- (a) a register of criminal applications, in which shall be entered particulars of every application lodged in his sub-registry relating to a criminal appeal; and
- (b) a register of civil applications, in which shall be entered particulars of every application lodged in his sub-registry relating to a civil appeal.

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[Subsidiary]

(3) The registers to be maintained under this rule shall show the number of the application or appeal, the number of the proceedings in the superior court, the names of the parties, the dates when the essential steps in the proceedings were taken and the result of the application or appeal:

Provided that the registers kept in sub-registries need not show the results of applications, other than applications heard locally; but shall show the dates when the material documents were sent to the Registrar.

(4) The registers of criminal and civil appeals shall in addition contain against the entry relating to each appeal a reference to every application made in relation to that appeal, whether made before or after the institution of the appeal.

## **9. Numbering of applications and appeals**

(1) Every application to the Court, other than an application made informally in the course of a hearing, shall, whether lodged before or after the institution of an appeal, be given a serial number and for this purpose there shall be maintained in the Registry and in each sub-registry two series of numbers for each calendar year, one for criminal and one for civil applications, and the serial number shall be prefixed by letters indicative of the Registry or sub-registry.

(2) Every criminal appeal shall be given a serial number in the Registry, which number shall be allotted as soon as the notice of appeal is received, and for this purpose a series of numbers shall be maintained for each calendar year.

(3) Every civil appeal shall be given a serial number in the Registry, which number shall be allotted as soon as the memorandum of appeal is received, and for this purpose a series of numbers shall be maintained for each calendar year.

## **10. Endorsement of documents lodged**

Whenever any document is lodged in the Registry or in a sub-registry or in the registry of a superior court under or in accordance with these Rules, the Registrar or deputy registrar or registrar of the superior court, as the case may be, shall forthwith cause to be endorsed showing the date and time when it was so lodged.

## **11. Registrar's discretion to allow documents to be lodged otherwise than at appointed place**

(1) Notwithstanding any provision in these Rules appointing the appropriate registry as the place where any document is to be lodged, the Registrar shall have power in any particular case to permit the lodging of any document in the Registry or in any sub registry and application for such permission may be made informally but shall be in writing.

(2) The Registrar or a deputy registrar receiving a document so lodged shall forthwith send the same to the appropriate registry, at the expense of the applicant, except where the document is lodged with the Registrar and is one which, if lodged in the appropriate registry, would have been required by these Rules to be sent to the Registrar.

## **12. Acceptance of documents lodged out of time**

(1) The Registrar or the registrar of a superior court, as the case may be, shall not refuse to accept any document on the ground that it is lodged out of time but shall mark the document "Lodged out of time" and inform the person lodging it thereof.

(2) When a document is accepted out of time by the Registrar of a superior court, he shall inform the Registrar thereof.

**13. Requirements as to size and production of documents, binding of records and numbering of pages and lines**

(1) Unless the nature of the document renders it impracticable, every document prepared for use in the Court shall be on foolscap paper of durable quality; only one side of the paper shall be used and a margin of not less than one and a half inches shall be left on the left side of the sheet.

(2) All documents prepared for use in the Court shall be clear and easily legible and may be produced by printing, type lithography, stencil duplicating, photography, xerography, typewriting, writing, other appropriate technology or any combination of these media.

(3) In every criminal appeal, the record of appeal, and, in every civil appeal, the memorandum of appeal together with the record of appeal, shall be bound in book form with a cover of stout paper and may be in more volumes than one, and the title of the appeal shall appear on the cover.

(4) The pages of every application and, in criminal cases, of the record of appeal, and, in civil cases, of the memorandum of appeal and the record of appeal shall be numbered consecutively.

(5) In all applications and appeals, every tenth line of each page of the record shall be indicated in the margin on the right side of the sheet.

**14. Power for Registrar and registrars of superior courts to reject documents**

(1) The Registrar or the registrar of a superior court, as the case may be, may refuse to accept any document which does not comply with the requirements of rule 13.

(2) Subject to rules 113 and 115, the Registrar or the registrar of a superior court, as the case may be, shall refuse to accept any document tendered without the required fee, if any, or, in the case of the memorandum of appeal in a civil appeal, the lodging of security for costs.

(3) If, as the result of an error, a document is accepted which ought to have been rejected under sub-rule (2), the document shall be deemed to have been duly lodged but the person who lodged it shall, as soon as practicable after the error is discovered, pay the fee or the balance thereof or lodge the required security.

(4) Any person who is dissatisfied with a decision of the Registrar or of the registrar of a superior court rejecting any document under the powers conferred by this rule may require the matter to be referred to a judge for his decision and an application under this subrule may be made informally at the time when the decision is given or in writing within seven days thereafter.

**15. Signature of documents**

(1) Any document may be signed on behalf of the person making it by any person entitled under rule 22 to appear on his behalf.

(2) In or in relation to criminal appeals, a document may be signed on behalf of an appellant who is alleged to be of unsound mind by a person entitled under rule 22 to appear on his behalf or by any person in whose care he may be for the time being, including a medical officer, police officer or prisons officer.

**16. Form of amendments**

(1) Where any person obtains leave to amend any document, the document itself may be amended or, if it is more convenient, an amended version of the document may be lodged.

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(2) Where any person lodges an amended version of a document, the person shall show clearly—

- (a) any words or figures deleted from the original, by including those words or figures and striking them through with red ink, so that what was written remains legible;
- (b) any words or figures added to the original, by writing them in red ink or underlining them in red ink.

(3) Where any record of appeal includes any amended document, the amendments shall similarly be shown in each copy of the record of appeal.

## **17. Service and transmission of documents**

(1) Where by these Rules any document is required to be served on any person, service may be effected in such way as the Court may in any case direct, and in the absence of any special direction shall be made personally on the person to be served or any person entitled under rule 22 to appear on his behalf or by any other recognized mode of service as provided under Order 5 of the Civil Procedure Rules, 2010.

(2) Where any document is required to be served on the appellant or on the respondent and two or more appellants or respondents, as the case may be, are represented by one advocate, it shall be sufficient if one copy of that document is served on that advocate.

(3) For the purpose of this rule, service on a partner or a clerk of an advocate at the office of the advocate shall be deemed to be service on the advocate.

(4) Proof of service may be given where necessary by affidavit, unless in any case the Court shall require proof by oral evidence:

Provided that in the case of a person in prison, a letter purporting to be signed by the officer in charge of the prison certifying that the document was delivered to the prisoner on a specified date may be accepted as sufficient proof of service.

(5) Where any document is required to be sent to any person, the document may be sent by hand, a licensed courier service provider approved by court or by registered post to that person or to any person entitled under rule 22 to appear on his behalf.

(6) Notice of the date fixed for the hearing of an application or appeal or for the delivery of judgment or the reasons for any decision may be given by telephone or telegram or other electronic means approved by the court.

## **18. Change of address for service**

A person who has given an address for service may at any time change his address for service by lodging a notice of such change in the appropriate registry and serving copies of it on all persons who have been served with the previous address.

## **19. Sittings of the Court**

The sittings of the Court and the matters to be disposed of at such sittings shall be determined by the Chief Justice and shall be advertised and notified in such manner as he may direct but nothing in this rule shall preclude the Court from disposing of any business that has not been so advertised or notified.

## **20. Vacations**

(1) The vacations of the Court and the arrangements for business during vacations shall be determined by the Chief Justice and shall be advertised and notified in such manner as the Chief Justice may direct.

(2) No business will be conducted during the vacations, unless the Chief Justice otherwise directs, except the delivery of judgments and, when the matter is shown to be of urgency, the hearing of applications and the taxation of bills.

## 21. Places where appeals are to be heard

(1) Appeals or formal applications to the Court shall be heard in such places as the Chief Justice may from time to time designate.

(2) Application for an appeal to be heard otherwise than in accordance with sub-rule (1) may be made informally but shall be in writing.

## 22. Appearances

(1) Subject to the provisions of rule 71, a party to any proceedings in the Court may appear in person or by advocate.

(2) A corporation may appear either by advocate or by a director, manager or secretary thereof appointed by resolution under the seal of the company, a sealed copy of which resolution shall be lodged with the Registrar.

(3) A person under disability may appear by advocate or by his committee, next friend or guardian *ad litem* as the case may be and where any person has acted as next friend or guardian *ad litem* in the court below for a person under disability and the person under disability becomes respondent in an appeal to the Court, the next friend or guardian *ad litem* may, if he desires to act as such in the appeal, lodge a consent to act as such and shall thereupon be deemed to have been duly appointed and in any other case, the Court may appoint a guardian *ad litem* for the purposes of an appeal and the Court may at any time remove and replace any guardian *ad litem*, however appointed.

## 23. Change of advocate

(1) Where a party to any application or appeal changes his advocate or, having been represented by an advocate, decides to act in person or, having acted in person, engages an advocate, he shall, as soon as practicable, lodge with the Registrar a notice of the change and shall serve a copy of such notice on the other party or on every other party appearing in person or separately represented, as the case may be.

(2) An advocate who desires to cease acting for any party in a civil appeal or application, may apply by notice of motion before a single Judge for leave to so cease acting, and such advocate shall be deemed to have ceased to act for such party upon service on the party of a certified copy of the order of the judge.

## 24. Assignment of advocates

(1) In any criminal application or appeal, the Chief Justice or the presiding judge may at any time assign an advocate to represent an applicant or appellant if it appears desirable in the interests of justice.

(2) In any civil appeal involving a point of law of public importance, if the Chief Justice is satisfied that any appellant, or respondent, lacks the means to employ an advocate, the Chief Justice may, with the consent of such appellant or respondent, as the case may be, assign an advocate to represent him, and may require any such appellant, or respondent, as a condition of having an advocate assigned to him, to undertake to refund the fees and expenses of such advocate out of any money or property he may recover in or in consequence of the appeal.

(3) The fees and expenses of an advocate assigned under the sub-rule (1) or sub-rule (2) shall be defrayed out of the funds of the Court.

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(4) The Registrar shall have power to take such action as he may think necessary to enforce any undertaking given in accordance with sub-rule (2) and any moneys so recovered shall be paid into the Consolidated Fund.

## **25. Right of audience of advocates**

(1) The Attorney-General and Solicitor-General shall have the right of audience before the Court and shall take precedence over all other advocates.

(2) Every advocate who is for the time being entitled to practice before the High Court shall have the right of audience before the Court:

Provided that an advocate who has been struck off the roll of advocates or who is under suspension from practice shall have no right of audience before the Court.

(3) Any other person entitled to appear as counsel or advocate before any court of unlimited jurisdiction, if licensed in that behalf by the Chief Justice and subject to payment of the prescribed fee, shall have the right of audience before the Court in respect of any one appeal, including any cross-appeal heard therewith, or any two or more appeals consolidated for hearing.

## **26. List of authorities and copies of judgments to be referred to**

(1) An advocate who intends at the hearing of any application or appeal to rely on the judgment in any reported case or to quote from any book shall lodge with the Registrar or with the deputy registrar at the place where the application or appeal is to be heard, a list containing the titles of such cases with their citations and the names, authors and editions of any such books and shall serve a copy of such list on the other party or on each other party appearing in person or separately represented, as the case may be:

Provided that a supplementary list may, when necessary, be produced at the time of the hearing.

(2) Such list shall be in quadruplicate, except in the case of an application to be heard by a single judge, when it shall be in duplicate, and shall be lodged at least twenty-four hours before the application or appeal is due to be heard.

(3) An advocate who intends at the hearing of any application or appeal to rely on the judgment in any unreported case shall, at or before the hearing, produce a certified or a photostat copy of such judgment and, except in the case of an application to be heard by a single judge, two other copies thereof, for the use of the Court, and, in every case, one copy for the use of the other party, or each other party appearing in person or separately represented, as the case may be.

## **27. Order of addresses**

Unless the Court otherwise directs—

- (1) The Court will, at the hearing of an application or appeal, hear the first applicant or appellant, then the respondent and then the applicant or appellant in reply.
- (2) At the hearing of an appeal where notice of cross-appeal has been given, the Court will ordinarily hear the appellant first on the appeal, then the respondent on the appeal and on the cross-appeal, then the appellant in reply on the appeal and on the cross-appeal and finally the respondent in reply on the cross-appeal.
- (3) The Court may dismiss but shall not allow any preliminary objection, application, appeal or cross-appeal without calling on the opposing party.
- (4) After hearing the opposing party, the Court may allow but shall not dismiss any preliminary objection, application, appeal or cross-appeal without giving the objector, applicant, appellant or cross appellant an opportunity to reply.

- (5) The provisions of this rule shall apply where notice of grounds for affirming the decision has been given, in the same way in all respects as where notice of cross-appeal has been given:

Provided that the Court may at any stage give any directions under this rule.

## **28. Appeals to be heard in court**

Every appeal shall be heard in Court, to which all members of the public shall have access so far as the space in the Court permits and so long as they conduct themselves in an orderly manner:

Provided that in exceptional circumstances the court may direct that the public be excluded, if the court is satisfied that national security or the interest of justice so require.

## **29. Power to re-appraise evidence and to take additional evidence**

(1) On any appeal from a decision of a superior court acting in the exercise of its original jurisdiction, the Court shall have power—

- (a) to re-appraise the evidence and to draw inferences of fact; and
- (b) in its discretion, for sufficient reason, to take additional evidence or to direct that additional evidence be taken by the trial court or by a commissioner.

(2) When additional evidence is taken by the Court, it may be oral or by affidavit and the Court may allow the cross-examination of any deponent.

(3) When additional evidence is taken by the trial court, it shall certify such evidence to the Court, with a statement of its opinion on the credibility of the witness or witnesses giving the additional evidence; when evidence is taken by a commissioner, he shall certify the evidence to the Court, without any such statements of opinion.

(4) The parties to the appeal shall be entitled to be present when such additional evidence is taken.

## **30. Power to call for report**

On any appeal from a decision of a superior court in the exercise of its original jurisdiction, the Court shall have power to call for and receive from a superior court a report on any matter connected with the proceedings before that court.

## **31. General powers of the Court**

On any appeal the Court shall have power, so far as its jurisdiction permits, to confirm, reverse or vary the decision of the superior court, or to remit the proceedings to the superior court with such directions as may be appropriate, or to order a new trial, and to make any necessary incidental or consequential orders, including orders as to costs.

## **32. Judgment**

(1) Judgment may be given at the close of the hearing of an application or appeal or reserved for delivery within 90 days unless the Court for reasons to be recorded orders otherwise.

(2) In criminal applications (other than applications heard by a single judge) and criminal appeals, one judgment shall be given as the judgment of the court, and may be given if one judge has died, ceased to hold office, or is unable to perform the functions of his office because of infirmity of mind or body, or refuses to sign the judgment, but the presiding judge may direct that separate judgments be given.

(3) In civil applications (other than applications heard by a single judge) and civil appeals, separate judgments shall be given by the members of the Court unless, the decision being unanimous, the presiding judge otherwise directs, but where one judge delays, dies, ceases to hold office, or is unable to perform the functions of his office because of infirmity of mind or body, separate concurring judgments may be given by the remaining members of the court.

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(4) The judgment or judgments of the Court on an application shall, where the application was heard in chambers, be delivered in chambers, and the judgment or judgments on an application heard in court and the judgment or judgments on an appeal shall be delivered in court:

Provided that the presiding judge may, in any particular case, direct that the decision of the Court only shall be so delivered and not the reasons therefor, and in such a case the judgment or judgments shall be deposited in the Registry or sub-registry in the place where the application or appeal was heard and copies thereof shall be available to the parties when the decision is delivered.

(5) Notwithstanding sub-rule (1), the Court may at the close of the hearing of an application or appeal, give its decision but reserve its reasons and in such a case the reasons may be delivered in court or deposited in the Registry or sub-registry in the place where the application or appeal was heard within ninety days and where the reasons are so deposited, copies thereof shall be available to the parties and they shall be so informed.

(6) Where one judgment is given at the close of the hearing as the judgment of the Court, it shall be delivered by the presiding judge or by such other member of the Court as the presiding judge may direct.

(7) Where judgment, or the reasons for a decision, has been reserved, the judgment of the Court, or a judgment of any judge, or such reasons, as the case may be, being in writing and signed, may be delivered by any judge, whether or not he sat at the hearing.

(8) A judgment shall be dated as of the day when it is delivered or, where a direction has been given under the proviso to sub-rule (4), as for the day when the decision was delivered.

(9) For the purposes of this rule, “**presiding judge**” includes the next senior judge, where the original presiding judge has died, ceased to hold office, or is unable to perform the functions of his office by reason of infirmity of mind or body.

### **33. Decisions to be embodied in orders**

(1) Every decision of the Court on an application or appeal, other than a decision on an application made informally in the course of a hearing, shall be embodied in an order.

(2) Every such order shall be dated as of the date on which the decision was delivered and shall in addition show the date on which the order was extracted.

(3) An order on an application shall be substantially in the Form I in the First Schedule and an order on an appeal substantially in the Form J in the Schedule.

### **34. Preparation of orders**

(1) Where a decision of the Court was given in a criminal application or appeal, the order shall be drawn up by the Registrar who, in drawing up the order, shall not be required to consult the parties or their advocates.

(2) Where a decision of the Court was given in a civil application or appeal—

- (a) the party who has substantially been successful shall within 14 days from date of judgment prepare a draft of the order and submit it for the approval of the other parties;
- (b) the party to whom the draft has been submitted shall approve the same within seven days from the date of delivery;
- (c) if all parties approve the draft, the order shall, unless the presiding judge otherwise directs, be in accordance with it;

- (d) if the parties do not agree on the form of the order, or if there is non-compliance with sub-rules (a) and (b), the form of the order shall be settled by the presiding judge or by such judge who sat at the hearing as the presiding judge shall direct, after giving all the parties an opportunity of being heard;
- (e) if the parties are unable to agree which party was substantially successful, the Registrar, on the application of either party, which application may be made informally, and after giving all parties an opportunity of being heard, shall direct by which party the draft is to be prepared, and such direction shall be final.

(3) The order embodying the decision on an application or in a civil appeal will be issued out of the Registry or sub-registry in the place where the application or appeal was heard.

### **35. Correction of errors**

(1) A clerical or arithmetical mistake in any judgment of the Court or any error arising therein from an accidental slip or omission may at any time, whether before or after the judgment has been embodied in an order, be corrected by the Court, either of its own motion or the application of any interested person so as to give effect to what the intention of the Court was when judgment was given.

(2) An order of the Court may at any time be corrected by the Court, either of its own motion or on the application of any interested person, if it does not correspond with the judgment it supports to embody or, where the judgment has been corrected under sub-rule (1), with the judgment as so corrected.

### **36. Notification of decisions**

(1) The Registrar shall send to the registrar of the superior court a sealed copy of the order embodying the decision of the Court in any civil or criminal appeal from that court.

(2) The Registrar shall, so far as is practicable, inform any party to any proceeding in the Court who was not present or represented at the hearing of the result of such proceeding.

(3) A deputy registrar of any sub-registry shall send to the Registrar a copy of every order issued out of the sub-registry.

### **37. Signature and sealing of documents**

Every summons, warrant, order, notice or other formal document issued by the Court shall be signed by a judge or by the Registrar and shall be sealed with the seal of the Court.

## PART II – APPLICATIONS

### **38. Application for certificate of fitness or leave to appeal in criminal matters**

#### (1) In criminal matters—

- (a) where an appeal lies on certification by the superior court certifies that the case is a fit case of appeal, application for such a certificate may be made informally and *ex parte*;
- (b) where an appeal lies with the leave of the Court, application for such leave shall be made in the manner laid down in rules 42 and 43.

(2) An application under this rule shall be made without unreasonable delay but need not be made before notice of appeal is lodged.

**39. Application for leave to appeal in civil matters**

In civil matters—

- (a) where an appeal lies on certification by the superior court that the case is fit for such leave may be made informally, at the time when the decision against which it is desired to appeal is given, or by motion or chamber summons according to the practice of the superior court, within fourteen days of such decision;
- (b) where an appeal lies with the leave of the Court, application for such leave shall be made in the manner laid down in rules 42 and 43 within fourteen days of the decision against which it is desired to appeal or, where application for leave to appeal has been made to the superior court and refused, within fourteen days of such refusal.

**40. Application for certificate that point of law of general public importance involved**

Where no appeal lies unless the superior court certifies that a point of law of general public importance is involved, application for such a certificate may be made—

- (a) informally, at the time when the decision against which it is desired to appeal is given; or
- (b) by motion or chamber summons according to the practice of the superior court, within fourteen days of that decision:

Provided that in any criminal appeal if the appellant is in prison and is not represented by an advocate, he shall be deemed to have complied with this rule if he gives the notice of motion or chamber to the officer in charge of the prison within that time.

**41. Application to superior Court**

The Court may in its discretion entertain an application for stay of execution, injunction, stay of further proceedings or extension of time for the doing of any act authorized or required by these Rules, notwithstanding the fact that no application has been made in the first instance to the superior court.

**42. Form of applications to Court**

- (1) Subject to sub-rule (3) and to any other rule allowing informal application, all applications to the Court shall be by motion, which shall state the grounds of the application.

**43. Supporting documents**

- (1) Every formal application to the Court shall be supported by one or more affidavits of the applicant or of some other person or persons having knowledge of the facts.
- (2) An applicant may, with the leave of a judge or with the consent of the other party, lodge one or more supplementary affidavits and application for such leave may be made informally.
- (3) Any application for leave to appeal shall, where practicable be accompanied by
  - (a) a copy of the decision, including the reasons therefor (if any) against which leave to appeal is sought; and
  - (b) where an application under rule 38(1)(a) or 39(a) has been refused, a copy of the decision, including the reasons therefor (if any), refusing that application.
- (4) Where the documents referred to in sub-rule (3) are not filed with the application, the applicant shall file and serve them at least twenty-four hours before the application is heard.

**44. Applications for leave to amend**

(1) Whenever a formal application is made to the Court for leave to amend any document, the amendment for which leave is sought shall be set out in writing and, if practicable, lodged with the Registrar and served on the respondent before the hearing of the application or, if that is not practicable, handed to the Court and to the respondent at the time of the hearing.

(2) Where the Court gives leave for the amendment of any document, whether on a formal or an informal application, the amendment shall be made or an amended version of the document be lodged within such time as the Court when giving leave may specify and if no time is so specified then within forty-eight hours of the giving of leave and on failure to comply with the requirements of this sub-rule, the leave so given shall determine.

**45. Applications to be lodged in appropriate registry**

(1) An application to the Court shall be lodged in the appropriate registry:

Provided that where the matter is one of urgency, an application may be lodged in the Registry, notwithstanding that it is not the appropriate registry.

(2) All subsequent documents required to be lodged in relation to an application shall, if the application is to be heard by a single judge, be lodged in the appropriate registry and in any other case, shall be lodged in the Registry.

**46. Procedure regarding applications lodged in sub-registries**

(1) When an application to be heard by a single judge is lodged in a sub-registry, the deputy registrar shall list it for hearing before a judge locally resident, or if there is no judge available locally, shall send it to the Registrar.

(2) When any other application is lodged in a sub-registry, the deputy registrar shall forthwith send it to the Registrar.

**47. Urgent applications**

(1) Any application which the applicant desires to set down for hearing as a matter of urgency shall be accompanied by a certificate of urgency signed by the applicant or his advocate, supported by affidavit setting forth the matters upon which the applicant relies as showing that his application should be heard without delay.

(2) The application, together with the certificate and the supporting affidavit shall be placed before a single judge, who shall peruse it, and the application shall not be set down for hearing as a matter of urgency unless the judge certifies that it is urgent.

(3) The Registrar shall maintain, in addition to the Court register of application, a separate register of every application made as a matter of urgency which shall be numbered consecutively in each year showing the date it is made, the parties, if any, and the decision of the single judge thereon.

(4) The provisions of this rule shall apply to the hearing of urgent applications during the term and in vacations.

(5) The refusal by the judge to certify an application as urgent under this rule shall not be subject to a reference to the court under rule 55, but the applicant may apply informally for the matter to be placed before a single judge for hearing *inter partes*.

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[Subsidiary]**48. Number of copies of applications required**

(1) When an application is to be heard by a single judge, the application and other documents relating thereto shall be filed in duplicate, and in all other cases, in quadruplicate.

(2) When an application is adjourned by a single judge for the determination of the Court and in any case where an application is referred to the Court under rule 55, the person applying to the Court shall before the date of the hearing by the Court file two extra copies of the application and the other documents relating thereto, including any affidavits filed by any other party prior to the adjournment or the giving of notice as the case may be.

**49. Service of notice of motion**

(1) The notice of motion and copies of all affidavits shall be served on all necessary parties not less than two clear days before the hearing:

Provided that in case of urgency, an application, other than an application under rule 115, may be made *ex parte*, but in any such case, if the applicant is represented by an advocate, the advocate shall sign a certificate of urgency, which shall be filed with the proceedings.

(2) Where any person required to be served with a notice of motion gave an address for service in or in connection with the proceedings in the superior court and has given no subsequent address for service, the notice may be served on him at that address, notwithstanding that it may be that of an advocate who has not been retained for the purpose of any subsequent proceedings.

**50. Affidavits in reply**

(1) Any person served with a notice of motion under rule 49 may lodge one or more affidavits in reply and shall as soon as practicable serve a copy or copies thereof on the applicant.

(2) Any such person may, with the leave of a judge or with the consent of the applicant, lodge one or more supplementary affidavits.

**51. Abatement of applications**

(1) A criminal application shall abate, where the applicant is the State, on the death of the respondent and, in any other case on the death of the applicant.

(2) A civil application shall not abate on the death of the applicant or the respondent but the Court shall, on the application of any interested person, cause the legal representative of the deceased to be made a party in place of the deceased.

(3) If no application is made under sub-rule (2) within 12 months by the applicant or the respondent, the application shall abate.

(4) The person claiming to be the legal representative of a deceased party or any interested person to an application may apply for an order to revive the application which has abated and, if it is proved that he was prevented by sufficient cause from continuing with the application, the court shall revive the application upon such terms as to costs or otherwise as it deems fit.

**52. Application for leave to withdraw**

An applicant may at any time apply to the Court for leave to withdraw the application and such application may be made informally.

**53. Hearing of applications**

(1) Every application, other than an application included in sub-rule (2), shall be heard by a single judge:

Provided that any such application may be adjourned by the judge for determination by the Court.

(2) This rule shall not apply to—

- (a) an application for leave to appeal;
- (b) an application for a stay of execution, injunction, or stay of further proceedings;
- (c) an application to strike out a notice of appeal or an appeal; or
- (d) an application made as ancillary to an application under paragraph (a) or (b) or made informally in the course of a hearing.

**54. Hearing in open court or chambers**

(1) An application to be heard by a single judge shall be heard in open court or in chambers as the judge may direct:

Provided that where an application is made informally by letter with the consent of all parties, the judge may dispense with the appearance of the parties.

(2) Any other application shall be heard in open court, unless the Chief Justice or the presiding judge shall otherwise direct.

**55. Reference from decision of a single judge**

(1) Where under the proviso to section 5 of the Act, any person being dissatisfied with the decision of a single judge—

- (a) in any criminal matter, wishes to have his application determined by the Court; or
- (b) in any civil matter wishes to have any order, direction or decision of a single judge varied, discharged or reversed by the Court,

he may apply therefor informally to the judge at the time when the decision is given or by writing to the Registrar within seven days thereafter.

(2) At the hearing by the court of an application previously decided by a single judge, no additional evidence shall be adduced.

**56. Procedure on non-appearance**

(1) If on any day fixed for the hearing of an application, the applicant does not appear, the application may be dismissed, unless the Court sees fit to adjourn the hearing.

(2) If the applicant appears and the respondent fails to appear, the application shall proceed in the absence of the respondent, unless the Court sees fit to adjourn the hearing.

(3) Where an application has been dismissed under sub-rule (1) or allowed under sub-rule (2), the party in whose absence the application was determined may apply to the Court to restore the application for hearing or to re-hear it, as the case may be, if he can show that he was prevented by any sufficient cause from appearing when the application was called on for hearing.

(4) An application made under sub-rule (3) shall be made within thirty days of the decision of the Court, or in the case of a party who would have been served with notice of the hearing but was not so served, within thirty days of his first hearing of that decision.

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(5) The provisions of sub-rule (1) shall not apply to any criminal application if the applicant is in prison and is not represented by an advocate and in any such case, the application shall be heard notwithstanding the absence of the applicant, unless the Court shall otherwise order.

### **57. Rescinding of orders**

(1) An order made on an application heard by a single judge may be varied or rescinded by that judge or in the absence of that judge by any other judge or by the Court on the application of any person affected thereby, if—

- (a) the order was one extending the time for doing any act, otherwise than to a specific date; or
- (b) the order was one permitting the doing of some act, without specifying the date by which the act was to be done,

and the person on whose application the order was made has failed to show reasonable diligence in the matter.

(2) An order made on an application to the Court may similarly be varied or rescinded by the Court.

## PART III – CRIMINAL APPEALS AND REVIEW

### **58. Application of Part III**

This Part shall apply only to appeals from superior courts acting in original and appellate jurisdiction in criminal cases and to matters related thereto.

### **59. Notice of appeal**

(1) Any person who desires to appeal to the Court shall give notice in writing, which shall be lodged in sextuplicate with the registrar of the superior court at the place where the decision against which it is desired to appeal was given, within fourteen days of the date of that decision, and the notice of appeal shall institute the appeal.

(2) Every notice of appeal shall—

- (a) state shortly the nature of the acquittal, conviction, sentence or finding against which it is desired to appeal; and
- (b) contain the address at which any documents connected with the appeal may be served on the appellant.

(3) Where two or more persons have been convicted at the same trial and any two or more of them desire to appeal to the Court, they may at their option lodge separate notices or a joint notice of appeal and where a joint notice of appeal is lodged, it may include, in addition to the grounds of appeal common to all the appellants, grounds peculiar to one or more of them.

(4) Where an appeal lies only on a certificate that the case is a fit case for appeal, or with leave, or on a certificate that a point of law of general public importance is involved, it shall not be necessary to obtain such certificate or leave before lodging the notice of appeal.

(5) Where a notice of appeal is signed by or on behalf of an appellant who is in prison, it shall include a statement that the appellant intends or does not intend, as the case may be, to appear at the hearing of his appeal.

(6) Where a notice of appeal is signed by an advocate, he shall add after his signature the words "Retained only to prepare this notice", "Retained to appear at the hearing of the appeal" or "Assigned to appear at the hearing of the appeal", as the case may be.

(7) Where the Attorney-General certifies under subsection (3) of section 379 of the Criminal Procedure Code (Cap. 75) that a sentence passed by the High Court should be revised, the certificate shall be lodged in sextuplicate with the Registrar within one month of the date of the sentence.

(8) A notice of appeal shall be substantially in the Form B in the First Schedule hereto and shall be signed by or on behalf of the appellant.

(9) Two additional copies of each notice of appeal shall be lodged by the appellant in the Nairobi Registry of the Court of Appeal within twenty-one days of the decision against which it is desired to appeal.

## **60. Consolidation of appeals**

(1) Where two or more appeals are brought from convictions or sentences passed at the same trial, they shall, unless the Court otherwise orders, be consolidated and shall proceed as one appeal.

(2) Where two or more persons convicted by a subordinate court have appealed to a superior court where their appeals were consolidated, and any two or more of them give notice of appeal to the Court, their appeals shall, unless the Court otherwise orders, be consolidated and shall proceed as one appeal.

## **61. Transmission of notices of appeal**

On receipt of a notice of appeal, the registrar of the superior court shall forthwith send a copy thereof to the Registrar and one to the respondent named therein.

## **62. Preparation of record of appeal**

(1) As soon as practicable after a notice of appeal has been lodged, the registrar of the superior court shall prepare the record of appeal.

(2) For the purpose of an appeal from a superior court in its original jurisdiction, the record of appeal shall contain copies of the following documents in the following order—

- (a) an index of all documents in the record with the numbers of pages at which they appear, showing also under the reference to the trial judge's notes and under the reference to the transcript, if any, of shorthand notes, the names of the witnesses and the pages of the record at which their evidence appears;
- (b) the information, indictment or charge;
- (c) the trial judge's notes of the hearing, including the proceedings on and after sentence;
- (d) the transcript of any shorthand notes taken at the trial;
- (e) a list of all exhibits put in at the trial;
- (f) all documentary exhibits, photographs and plans put in at the trial and all depositions read in consequence of the absence of the intended witnesses;

Provided that the registrar of the superior court may in his discretion omit copies of documents which are of great length or other exhibits which are difficult to reproduce or may include copies of the relevant parts only or any such documents;

- (g) the summing-up to the assessors, if there is a record of it, or of the judge's notes on which he based his summing up, and the opinions of the assessors;
- (h) the judgment;

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- (i) the order, if any, giving leave to appeal or the certificate, if any, that the case is a fit case for appeal;
- (j) the notice of appeal; and
- (k) any other documents which the trial judge may order to be included, which may include additional grounds or explanation of his decision which he considers would be of assistance to the Court, or which appear to the registrar of the superior court to be necessary for the proper disposal of the appeal, and such documents may include a report made after sentence on an appellant's health.

(3) Where any person convicted by a magistrate's court was committed for sentence to a superior court and is appealing to the Court against the sentence imposed by the superior court, the record of appeal shall, in addition to the documents set out in sub-rule (2), contain also a certificate by the registrar of the superior court—

- (a) that the appellant was convicted on his own plea of guilty; or
- (b) that the appellant has lodged no notice of appeal against conviction and that the time for lodging such a notice has expired; or
- (c) that the appellant has appealed against conviction to the superior court and that the appeal has been determined,

as the case may be.

(4) For the purpose of appeal from a superior court in its appellate jurisdiction, the record of appeal shall contain documents relating to the proceedings in the trial court corresponding as nearly as may be to those set out in sub-rule (2) and shall contain also copies of the following documents relating to the appeal to the first appellate court—

- (i) the petition of appeal;
- (ii) the record of proceedings;
- (iii) the judgment; and
- (iv) the order, if any.

(5) Notwithstanding sub-rule (1), the registrar of the superior court shall not prepare the record of appeal where—

- (a) the notice of appeal has been lodged out of time, until he has been notified that the time has been extended by order of the superior court or of the Court or unless the Chief Justice shall otherwise direct;
- (b) the appeal cannot be heard without leave to appeal or a certificate that the case is a fit case for appeal or a certificate that a point of law of general public importance is involved, until he has been notified that such leave or certificate has been given or unless the Chief Justice shall otherwise direct; or
- (c) the appeal is from a superior court in its appellate jurisdiction, until the prescribed fee, or such part thereof (if any) as the appellant may be liable to pay under an order made under rule 113, has been paid or a deposit on account thereof has been made to satisfaction of the registrar of the superior court.

(6) The registrar of the superior court shall certify each copy of the record of appeal to be a true copy of the original proceedings:

Provided that where the record is produced by printing, type lithography, stencil duplicating, photography, xerography, or other electronic means approved by the court.

### **63. Service and transmission of record of appeal and exhibits**

(1) As soon as the record of appeal has been prepared, the registrar of the superior court shall cause a copy of it to be served on the appellant and a copy on the respondent and shall send four copies to the Registrar.

(2) The registrar of the superior court shall at the same time send to the Registrar the original record of proceedings; in the superior court, the original documentary exhibits in the superior court, other than any of great bulk, and a copy of the record of the preliminary inquiry, if any, but shall not send any exhibits other than documentary ones, unless requested to do so by the Registrar.

(3) The registrar of the superior court shall ensure so far as practicable that all other exhibits are available for inspection by the Court at the hearing of the appeal.

### **64. Memorandum of appeal**

(1) The appellant shall within fourteen days after service on him of the record of appeal lodge a memorandum of appeal, in quintuplicate, with the Registrar or with the deputy registrar at the place where the appeal is to be heard:

Provided that where the memorandum of appeal is lodged with the deputy registrar at the place where the appeal is to be heard the appellant shall lodge two additional copies with the Registrar within twenty-one days after service on him of the record of appeal.

(2) The memorandum of appeal shall set forth concisely and under distinct heads numbered consecutively, without argument or narrative, the grounds of objection to the decision appealed against, specifying, in the case of a first appeal, the points of law or fact and, in the case of any other appeal, the points of law, which are alleged to have been wrongly decided.

(3) The Registrar or the deputy registrar, as the case may be, shall as soon as practicable cause a copy of the memorandum of appeal to be served on the respondent.

(4) A memorandum of appeal shall be substantially in the Form C in the First Schedule and shall be signed by or on behalf of the appellant.

(5) If no memorandum of appeal is lodged within the prescribed time, the Court may dismiss the appeal or may direct that it be set down for hearing:

Provided that where an appeal is dismissed under this sub-rule, the appellant, if he can show sufficient cause, may apply to the Court to restore it for hearing.

### **65. Supplementary memorandum**

(1) The appellant may at any time with the leave of the Court lodge a supplementary memorandum of appeal.

(2) An advocate who has been assigned by the Chief Justice or the presiding judge to represent an appellant may within fourteen days after the date when he is notified of his assignment and without requiring the leave of the Court, lodge a memorandum of appeal on behalf of the appellant as supplementary, to or in substitution for any memorandum which the appellant may have lodged.

(3) Any person lodging a supplementary memorandum under this rule shall cause a copy thereof to be served on the respondent.

### **66. Presentation of arguments in writing**

(1) An appellant or, where the appellant is the State, a respondent who does not intend to appear in person or by advocate at the hearing of the appeal may lodge with the Registrar or with the deputy registrar at the place where the appeal is to be heard a statement in writing of his argument's in support of or in opposition to the appeal, as the case may be.

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(2) Every such statement shall be signed by or on behalf of the appellant or respondent, as the case may be, and shall be lodged in quintuplicate at the time of or within fourteen days after lodging the memorandum of appeal.

(3) A person who has lodged a statement under this rule may with leave of the Court, address the Court at the hearing of the appeal.

(4) On receipt of a statement under sub-rule (1), the Registrar or deputy registrar shall forthwith send one copy of the statement to the other party.

### **67. Procedure where appellant in prison**

(1) If the appellant is in prison, he shall be deemed to have complied with the requirements of rules 59, 64, 65 and 66 or any of them if he gives to the officer in charge of such prison the notice of appeal, memorandum of appeal or statement, provided for in those rules respectively.

(2) In any such case, in computing the time limited for lodging such notice, memorandum or statement, there shall be excluded—

- (a) the time between the appellant's conviction and his arrival at the prison to which he was committed; and
- (b) the time between the giving of the notice, memorandum or statement to the officer in charge of the prison and its lodging by him with the registrar of the superior court or the Registrar or deputy registrar, as the case may be.

(3) An officer in charge of a prison receiving a notice or statement under this rule shall forthwith endorse the same with the date and time of receipt.

### **68. Withdrawal of appeals**

(1) An appeal may be withdrawn at any time before hearing by notice in writing to the Registrar signed by the appellant, and upon such notice being given the appeal shall be deemed to have been dismissed.

(2) When any appeal is withdrawn, the Registrar shall forthwith notify the respondent and the registrar of the superior court.

(3) An appeal which has been withdrawn may be restored by leave of the Court on the application of the appellant if the Court is satisfied that the notice of withdrawal was induced by fraud or mistake and that the interests of justice require that the appeal be heard.

(4) An appeal may be withdrawn by an informal application in court at any time before the hearing is concluded.

### **69. Abatement of appeals**

(1) An appeal shall abate—

- (a) in the case of an appeal, other than an appeal against a sentence of a fine or an order for costs, compensation or forfeiture, on the death of the appellant, or, where the appellant is the State, on the death of the respondent; or
- (b) in any case, where the fee, part thereof or deposit referred to in rule 61(5)
  - (c) has not been paid or made within fourteen days of the appellant having notified of the amount of the fee or deposit payable by him.

(2) For the purpose of sub-rule (1)(b), the appellant shall be deemed to have received notification four days after it has been dispatched by the registrar of the superior court to the appellant or advocate of the appellant at the address stated in the notice of appeal.

## **70. Notice of hearing**

(1) The Registrar shall cause notice to be given to the appellant and to the respondent of the time and place at which an appeal will be heard.

(2) Such notice shall be given not less than seven days before the date appointed for the hearing, unless in any case the Chief Justice or the presiding judge shall otherwise direct.

## **71. Appearance at hearing and dismissal for non-appearance**

(1) The appellant and the respondent shall be entitled to be present at the hearing of the appeal:

Provided that an appellant or respondent who is in prison other than an appellant under sentence of death not represented by an advocate, shall, unless in any particular case the Court otherwise directs, be so entitled only on terms of paying the expenses of his transport and that of his escort to and from the Court.

(2) Where an appellant is represented by advocate or has lodged a statement under rule 66 or is in prison, it shall not be necessary for him to attend personally the hearing of his appeal, unless the Court shall order his attendance:

Provided that if an appellant is on bail, he shall attend the hearing of his appeal or, with the leave of the Registrar, shall before the time of hearing attend at the superior court at the place where the bail bond was executed and submit himself to the order of such court pending disposal of the appeal.

(3) Where an appellant is in prison and has stated that he does not intend to appear at the hearing of his appeal, the appeal shall be heard in his absence, unless the Court shall order his attendance.

(4) Subject to sub-rule (3), if on the day fixed for the hearing of an appeal the appellant does not appear in person or by advocate and has not lodged a statement under rule 66, the appeal may be dismissed or may be heard in his absence:

Provided that where an appeal has been dismissed under this subrule, the Court may restore it for hearing if it is satisfied that the appellant was prevented by any sufficient cause from appearing when the appeal was called for hearing.

(5) The cost of transport to and from the Court of an appellant who is in prison and that of his escort shall be borne out of the funds of the Court where—

- (a) the appellant is under sentence of death and desires to attend hearing of his appeal; or
- (b) the Court has ordered his attendance under sub-rule (2) or sub-rule (3).

(6) If on the day fixed for the hearing of an appeal the appellant does not appear in person or by advocate, and it appears to the court that the appellant is no longer in custody and cannot be traced, or cannot be traced without an amount of delay or expense which, in the circumstances of the case, the Court considers unreasonable, the Court may, if it appears that no injustice will be done thereby, order that the appeal shall abate:

Provided that in such a case the appellant may apply to the court to restore the appeal for hearing and the Court may, if it considers that the ends of justice so require, restore the appeal for hearing.

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[Subsidiary]**72. Arguments at hearing**

At the hearing of an appeal—

- (a) the appellant shall not, without the leave of the Court, argue any ground of appeal not specified in the memorandum of appeal or in any supplementary memorandum lodged under rule 65; and
- (b) the arguments contained in any statement lodged under rule 66 shall receive the same consideration as if they had been advanced orally at the hearing.

**73. Review**

(1) Where, under the provisions of section 379(5) of the Criminal Procedure Code (Cap. 75) the Attorney-General has filed a certificate that the determination of a trial involved a point of law of exceptional public importance and that it is desirable in the public interest that it should be determined by the Court, the Attorney-General shall within thirty days thereafter lodge with the Registrar in sextuplicate a record containing the information, the judgment of the superior court and such parts of the proceedings before the superior court as are necessary to enable the Court to review the case and shall inform His Court whether or not he desires to be heard thereon.

(2) The Registrar shall cause one copy of the certificate and of the record to be served on the person who was acquitted and require him to inform the Court, within fourteen days, whether or not he desires to be heard in the matter.

(3) Where both the Attorney-General and the person who was acquitted desire to be heard, the provisions of these Rules relating to the hearing of criminal appeals shall thereafter apply so far as they are appropriate, with such modification as may be necessary.

(4) An application for review shall not abate on the death of the person who was acquitted.

**PART IV – CIVIL APPEALS****74. Application of Part**

This Part shall apply only to appeals from superior courts acting in original and appellate jurisdiction in civil cases and the matters relating thereto.

**75. Notice of appeal**

(1) Any person who desires to appeal to the Court shall give notice in writing, which shall be lodged in duplicate with the registrar of the superior court.

(2) Every such notice shall, subject to rules 84 and 97, be so lodged within fourteen days of the date of the decision against which it is desired to appeal.

(3) Every notice of appeal shall state whether it is intended to appeal against the whole or part only of the decision and where it is intended to appeal against a part only of the decision, shall specify the part complained of, shall state the address for service of the appellant and shall state the names and addresses of all persons intended to be served with copies of the notice.

(4) When an appeal lies only with leave or on a certificate that a point of law of general public importance is involved, it shall not be necessary to obtain such leave or certificate before lodging the notice of appeal.

(5) where it is intended to appeal against a decree or order, it shall not be necessary that the decree or order be extracted before lodging notice of appeal.

(6) A notice of appeal shall be substantially in the Form D in the First Schedule and shall be signed by or on behalf of the appellant.

#### **76. Transmission of notice of appeal**

On receipt of a notice of appeal, the registrar of the court shall forthwith send one copy thereof to the appropriate registry.

#### **77. Service of notice of appeal on persons affected**

(1) An intended appellant shall, before or within seven days after lodging notice of appeal, serve copies thereof on all persons directly affected by the appeal:

Provided that the Court may on application, which may be made *ex parte*, within seven days after lodging the notice of appeal, direct that service need not be effected on any person who took no part in the proceedings in the superior court.

(2) Where any person required to be served with a copy of a notice of appeal gave any address for service in or in connection with the proceedings in the superior court, and has not subsequently given any other address for service, the copy of the notice of appeal may be served on him at that address, notwithstanding that it may be that of an advocate who has not been retained for the purpose of an appeal.

#### **78. Death of respondent before service of notice**

A notice of appeal shall not be incompetent by reason only that the person on whom it is required to be served was dead at the time when the notice was lodged but a copy of the notice shall be served as soon as practicable on the legal representative of the deceased.

#### **79. Respondent to give address for service**

(1) Every person on whom a notice of appeal is served shall within—

- (a) fourteen days after service on him of the notice of appeal lodge in the appropriate registry and serve on the intended appellant notice of a full and sufficient address for service; and
- (b) a further fourteen days serve a copy of such notice of address for service on every other person named in the notice of appeal as a person intended to be served.

(2) A notice of address for service shall be substantially in the Form E in the First Schedule and shall be signed by or on behalf of the person lodging it.

(3) The lodging and service of an address for service shall not operate or be construed as an admission that the appeal is competent or as a waiver of any irregularity.

#### **80. Separate notices of appeal from same decision**

(1) Where two or more parties have given notice of appeal from the same decision, the second and all subsequent notices to be lodged shall be deemed to be notices of address for service within the meaning of rule 79 and the party or parties giving those notices shall be respondents in the appeal.

(2) A party whose notice of appeal is deemed to be a notice of address for service shall not be required to comply with rule 79 if he has served copies of his notice of appeal on all persons on whom under that role he would have been required to serve notice of his address for service.

**81. Withdrawal of appeal and notice of cross-appeal**

A party who has lodged a notice of appeal may withdraw the notice of appeal by notice in writing to all the parties who have been served. The costs of the withdrawal shall be borne by the party withdrawing the notice of appeal.

**82. Institution of appeals**

(1) Subject to rule 115, an appeal shall be instituted by lodging in the appropriate registry, within sixty days of the date when the notice of appeal was lodged—

- (a) a memorandum of appeal, in quadruplicate;
- (b) the record of appeal, in quadruplicate;
- (c) the prescribed fee; and
- (d) security for the costs of the appeal:

Provided that where an application for a copy of the proceedings in the superior court has been made in accordance with sub-rule (2) within thirty days of the date of the decision against which it is desired to appeal, there shall, in computing the time within which the appeal is to be instituted, be excluded such time as may be certified by the registrar of the superior court as having been required for the preparation and delivery to the appellant of such copy.

(2) An appellant shall not be entitled to rely on the proviso to sub-rule (1) unless his application for such copy was in writing and a copy of it was served upon the respondent.

(3) The period limited by sub-rule (1) for the institution of appeals shall apply to appeals from superior courts in the exercise of their bankruptcy jurisdiction.

**83. Effect of default in instituting appeal**

If a party who has lodged a notice of appeal fails to institute an appeal within the appointed time he shall be deemed to have withdrawn his notice of appeal and the court may on its own motion or on application by any party make such order. The party in default shall be liable to pay the costs arising therefrom of any persons on whom the notice of appeal was served.

**84. Application to strike out notice of appeal or appeal**

A person affected by an appeal may at any time, either before or after the institution of the appeal, apply to the Court to strike out the notice or the appeal, as the case may be, on the ground that no appeal lies or that some essential step in the proceedings has not been taken or has not been taken within the prescribed time.

Provided that an application to strike out a notice of appeal or an appeal shall not be brought after the expiry of thirty days from the date of service of the notice of appeal or record of appeal as the case may be.

**85. Death of party to intended appeal**

(1) An appeal shall not be instituted in the name of a person who is dead but may be instituted in the name of his legal representative.

(2) An appeal shall not be incompetent by reason only that the respondent was dead at the time when it was instituted but the Court shall, on the application of any interested person, cause the legal representative of the deceased to be made a party in place of the deceased.

**86. Contents of memorandum of appeal**

(1) A memorandum of appeal shall set forth concisely and under distinct heads, without argument or narrative, the grounds of objection to the decision appealed against, specifying the points which are alleged to have been wrongly decided, and the nature of the order which it is proposed to ask the Court to make.

(2) The grounds of objection shall be numbered consecutively.

(3) A memorandum of appeal shall be substantially in the Form F in the First Schedule and shall be signed by or on behalf of the appellant.

**87. Contents of record of appeal**

(1) For the purpose of an appeal from a superior court in its original jurisdiction, the record of appeal shall, subject to sub-rule (3), contain copies of the following documents—

- (a) an index of all the documents in the record with the numbers of the pages at which they appear;
- (b) a statement showing the address for service of the appellant and the address for service furnished by the respondent and as regards any respondent who has not furnished an address or service as required by rule 79, his last known address and proof of service on him of the notice of appeal;
- (c) the pleadings;
- (d) the trial judge's notes of the hearing;
- (e) the transcript of any shorthand notes taken at the trial;
- (f) the affidavits read and all documents put in evidence at the hearing, or, if such documents are not in the English language, certified translations thereof;
- (g) the judgment or order;
- (h) the certified decree or order;
- (i) the order, if any, giving leave to appeal;
- (j) the notice of appeal; and
- (k) such other documents, if any, as may be necessary for the proper determination of the appeal, including any interlocutory proceedings which may be directly relevant:

Provided that the copies referred to in paragraphs (d), (e) and (f) shall exclude copies of any documents or any parts thereof that are not relevant to the matters in controversy on the appeal.

(2) For the purpose of an appeal from a superior court in its appellate jurisdiction, the record of appeal shall contain documents relating to the proceedings in the trial court corresponding as nearly as may be to those set out in sub-rule (1) and shall contain also the following documents relating to the appeal to the first appellate court—

- (i) the order, if any, giving leave to appeal;
- (ii) the memorandum of appeal;
- (iii) the record of proceedings; and
- (iv) the certified decree or order.

(3) A judge or registrar of the superior court may, on the application of any party, direct which documents or parts of documents should be excluded from the record and an application for such direction may be made informally.

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[Subsidiary]

(4) The documents mentioned in sub-rule (1) shall be bound in the order in which they are set out to that sub-rule and documents produced in evidence shall be put in order of the dates they bear or, where they are undated, the dates when they are believed to have been made, without regard to the order in which they were produced in evidence:

Provided that an affidavit filed in support of a chamber summons or notice of motion shall be bound immediately following the summons or notice, as the case may be.

(5) Each copy of the record of appeal shall be certified to be correct by the appellant or by any person entitled under rule 22 to appear on his behalf.

## **88. Where documents are omitted from the record of appeal**

Where a document referred to in rule 87(1) and (2) is omitted from the record of appeal the appellant may within fifteen days of lodging the record of appeal, without leave, include the document in a supplementary record of appeal filed under rule 92(3) and thereafter with leave of the deputy registrar on application.

## **89. Contents of decrees and orders for purposes of appeal**

(1) For the purposes of an appeal to the Court against any decree or order it shall not be necessary for the amount of any costs ordered to be paid to be stated therein, and such decree or order shall be deemed to be duly drawn up and extracted if in addition to other matters required to be embodied therein it sets out the order or orders for costs but not the result of any taxation.

(2) Where leave to appeal or for a certificate that a point of law of general public importance is involved has been given or refused by the superior court immediately following the delivery of the decision against which it is desired to appeal, a statement that leave or a certificate has been given or refused shall be included in the decree or order.

## **90. Service of memorandum and record of appeal**

(1) The appellant shall, before or within seven days after lodging the memorandum of appeal and the record of appeal in the appropriate registry, serve copies thereof on each respondent who has complied with the requirements of rule 79.

(2) The appellant shall also serve copies of the memorandum of appeal and the record of appeal on such other parties to the original proceedings as the Court may at any time on application or of its own motion direct and within such time as the Court may appoint.

## **91. Notification and transmission of papers to Registrar**

(1) When an appeal has been instituted in a sub-registry—

- (a) the deputy registrar shall inform the Registrar of the names of the appellant and the respondent and the names of their respective advocates and the date when the appeal was instituted;
- (b) as soon as practicable thereafter, the deputy registrar shall obtain from the registrar of the superior court the original record of the proceedings of the superior court and the exhibits and shall send them to the Registrar together with the memorandum of appeal, three copies thereof, and four copies of the record of appeal:

Provided that the deputy registrar shall not, unless requested to do so, send to the Registrar any exhibits which, because of their size or nature, cannot conveniently be so sent;

- (c) the deputy registrar shall ensure so far as practicable that all exhibits not so sent to the Registrar are available for inspection by the Court at the hearing of the appeal.

(2) When an appeal has been instituted in the Registry, the Registrar shall obtain from the register of the superior court the original record of the proceedings of the superior court, and so far as is practicable, the exhibits.

**92. Preparation and service of supplementary record**

(1) If a respondent is of the opinion that the record of appeal is defective or insufficient for the purposes of his case, he may lodge in the appropriate registry four copies of a supplementary record of appeal containing copies of any further documents or any additional parts of documents which are, in his opinion, required for the proper determination of the appeal.

(2) The respondent shall as soon as practicable after lodging a supplementary record of appeal, serve copies of it on the appellant and on each other respondent who has complied with the requirements of rule 79.

(3) An appellant may at any time lodge in the appropriate registry four copies of a supplementary record of appeal and shall as soon as practicable thereafter serve copies of it on every respondent who has complied with requirements of rule 79.

(4) A supplementary record of appeal shall be prepared as nearly as may be in the same manner as a record of appeal.

**93. Notice of cross-appeal**

(1) A respondent who desires to contend at the hearing of the appeal that the decision of the superior court or any part thereof should be varied or reversed, either in any event or in the event of the appeal being allowed in whole or in part, shall give notice to that effect, specifying the grounds of his contention and the nature of the order which he proposes to ask the Court to make, or to make in that event, as the case may be.

(2) A notice given by a respondent under this rule shall state the names and addresses of any persons intended to be served with copies of the notice and shall be lodged in quadruplicate in the appropriate registry not more than thirty days after service on the respondent of the memorandum of appeal and the record of appeal or not less than thirty days before the hearing of the appeal, whichever is the later.

(3) A notice of cross-appeal shall be substantially in the Form G in the First Schedule and shall be signed by or on behalf of the respondent.

**94. Notice of grounds for affirming decision**

(1) A respondent who desires to contend on an appeal that the decision of the superior court should be affirmed on grounds other than or additional to those relied upon by that court shall give notice to that effect, specifying the grounds of his contention.

(2) A notice given by the respondent under this rule shall state the names and addresses of any persons intended to be served with copies of the notice and shall be lodged in quadruplicate in the appropriate registry not more than thirty days after service on the respondent of the memorandum of appeal and the record of appeal, or not less than thirty days before the hearing of the appeal, whichever is the later.

(3) A notice of grounds for affirming a decision shall be substantially in the Form H in the First Schedule and shall be signed by or on behalf of the respondent.

(4) A respondent who desires to contend at the hearing of the appeal that part of the decision of the superior court should be varied or reversed and that part of that decision should be affirmed on grounds other than or additional to those relied upon by that court may include both such contentions in a notice of cross-appeal under rule 90 and shall not be required to give notice also under this rule.

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[Subsidiary]

(5) The provisions of sub-rules (1), (2) and (3) of this rule and those of rule 95 shall apply *mutatis mutandis* to an appellant who desires to contend in opposition to a cross-appeal that the decision of the superior court should be affirmed on grounds other than or additional to those relied on by that court.

#### **95. Service of notice of cross-appeal or notice of grounds for affirming decision**

(1) A respondent who intends to cross-appeal or to contend that the decision of the superior court should be affirmed on grounds other than those relied on by that court shall, before or within seven days after lodging his notice of cross-appeal or notice of grounds for affirming the decision, as the case may be, serve a copy thereof on the appellant and copies thereof on all other person directly affected by the cross-appeal or by the appeal, as the case may be.

(2) The respondent shall also serve copies of the notice of cross-appeal or notice of grounds for affirming the decision, as the case may be, on such other parties to the original proceedings as the Court may at any time on application or of its own motion direct and within such time as the Court may appoint.

#### **96. Withdrawal of appeal**

(1) An appellant may at anytime after instituting his appeal and before the appeal is called on for hearing lodge in the appropriate registry notice in writing that he intends to withdraw the appeal.

(2) The appellant shall within seven days after lodging the notice of withdrawal, serve copies thereof on each respondent who has complied with the requirements of rule 79.

(3) If all the parties to the appeal consent to the withdrawal of the appeal the appellant shall file, in the appropriate registry, a consent letter signed by the parties or their advocates and thereupon the appeal shall be struck out of the list of pending appeals.

(4) If all the parties to the appeal do not consent to the withdrawal of the appeal, the appellant may before the conclusion of its hearing apply for leave to withdraw the appeal.

(5) An application for withdrawal of the appeal after the commencement of the hearing may be made informally in court.

#### **97. Rights of respondent when appeal withdrawn**

(1) If an appeal is withdrawn under rule 96 after notice of cross-appeal has been given, the respondent who gave the notice may withdraw it within fourteen days of the service on him of the notice of withdrawal; if it is not so withdrawn, the cross-appeal shall proceed to hearing and the provision of these Rules shall apply as if the cross-appellant were an appellant and the appellant a respondent.

(2) If an appeal is withdrawn under rule 96 within fourteen days of the date when the appeal was instituted, any respondent who has not lodged a notice of cross-appeal shall be entitled to give notice of appeal notwithstanding that the time limited by rule 75 has expired, if he does so within fourteen days of the date when the appellant's notice of withdrawal was served on him.

#### **98. Withdrawal of notice of cross appeal or notice of grounds for affirming decision**

(1) A respondent who has given notice of cross-appeal or notice of grounds for affirming the decision of the superior court may withdraw the same at any time before the appeal is called on or hearing by lodging in the appropriate registry notice in writing to that effect, signed by him or on his behalf.

(2) The respondent shall, before or as soon as practicable after lodging the notice of withdrawal, serve a copy thereof on the appellant and copies thereof on all other respondents who were served with the notice of cross-appeal or notice of grounds for affirming the decision, as the case may be.

### **99. Death of party to appeal**

(1) An appeal shall not abate on the death of the appellant or the respondent but the Court shall, on the application of any interested person, cause the legal representative of the deceased to be made a party in place of the deceased.

(2) If no application is made under sub-rule (1) within twelve months from the date of death of the appellant or respondent, the appeal shall abate.

(3) The person claiming to be the legal representative of a deceased party to an appeal may apply for an order to revive an appeal which has abated; and, if it is proved that the legal representative prevented by sufficient cause from continuing the appeal, the court shall revive the appeal upon such terms as to costs or otherwise as it deems fit.

### **100. Written submissions**

(1) Any party to an appeal who does not intend to appear in person or by advocate at the hearing of the appeal may lodge in the appropriate registry written submissions of the arguments in support of or in opposition to the appeal or the cross-appeal if any, as the case may be and shall before or within seven days after lodging it serve a copy of it on the other party or on each other party appearing in person or separately represented.

(2) The written submissions shall be lodged by—

- (a) an appellant, within fourteen days of lodging his memorandum of appeal;
- (b) a respondent, within thirty days of service on him of the memorandum and record of appeal.

(3) An appellant who has lodged written submissions under sub-rule (1) may, if served with notice of a cross-appeal, lodge supplementary submissions of the arguments in opposition to it within fourteen days of service.

(4) A party who has lodged written submissions under this rule may, with leave of the Court, address the Court at the hearing of the appeal.

### **101. Notice of hearing**

The Registrar shall give all parties to an appeal not less than fourteen days notice of the date fixed for the hearing of an appeal:

Provided that it shall not be necessary to give such notice to any party with whose consent the date for the hearing was fixed.

### **102. Appearances at hearing and procedure on non-appearance**

(1) If on any day fixed for the hearing of an appeal the appellant does not appear, the appeal may be dismissed and any cross-appeal may proceed, unless the Court sees fit to adjourn the hearing:

Provided that where an appeal has been so dismissed or any cross-appeal so heard has been allowed, the appellant may apply to the Court to restore the appeal for hearing or to re-hear the cross-appeal, if he can show that he was prevented by any sufficient cause from appearing when the appeal was called on for hearing.

(2) If the appellant appears and the respondent fails to appear the appeal shall proceed in the absence of the respondent and any cross-appeal may be dismissed, unless the Court sees fit to adjourn the hearing:

Provided that where an appeal has been allowed or cross-appeal dismissed in the absence of the respondent, he may apply to the Court to re-hear the appeal or to restore

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[Subsidiary]

the cross-appeal for hearing, if he can show that he was prevented by any sufficient cause from appearing when the appeal was called on for hearing.

(3) An application for restoration under the proviso to sub-rule (1) or the proviso to sub-rule (2) shall be made within thirty days of the decision of the Court, or in the case of a party who should have been served with notice of the hearing but was not so served, within thirty days of his first hearing of that decision.

(4) For the purposes of this rule, a party who has lodged a statement under rule 100 shall be deemed to have appeared.

### **103. Consolidation of appeals**

The Court may for sufficient reason order any two or more appeals to be consolidated on such terms as it thinks just or may order them to be heard at the same time or one immediately after the other or may order any of them to be stayed until after the determination of any other of them.

### **104. Arguments at hearing**

At the hearing of an appeal—

- (a) No party shall, without the leave of the Court, argue that the decision of the superior court should be reversed or varied except on a ground specified in the memorandum of appeal or in a notice of cross-appeal, or support the decision of the superior court on any ground not relied on by that court or specified in a notice given under rule 93 or rule 94.
- (b) A respondent shall not, without the leave of the Court, raise any objection to the competence of the appeal which might have been raised by application under rule 84.
- (c) The Court shall not allow an appeal or cross-appeal on any ground not set forth or implicit in the memorandum of appeal or notice of cross-appeal, without affording the respondent, or any person who in relation to that ground should have been made a respondent, or the appellant, as the case may be, an opportunity of being heard on that ground.
- (d) The arguments contained in any statement lodged under rule 100 shall receive the same consideration as if they had been advanced orally at the hearing.

## PART V – FEES AND COSTS

### **105. Fees payable**

Subject to rules 113 and 115 the fees set out in the Second Schedule shall be payable in respect of the matters and services therein set out:

Provided that—

- (a) no fees shall be payable upon any appeal from the superior court acting in its original jurisdiction in a criminal case, or on any application in connection with any such appeal or for the supply of the copy of the record of appeal to any party to any such appeal;
- (b) no fee shall be payable by the Government in respect of any criminal application or appeal;
- (c) copies of any document's may be issued without fee to such persons as the Chief Justice may nominate or at such reduced fees as the Chief Justice may direct.

**106. Time of payment of fees**

(1) The fee payable on lodging any document shall be payable at the time when the document is lodged.

(2) The Registrar or registrar of a superior court may require the payment in advance of the fee for any other service or, where the amount of the fee cannot conveniently be ascertained when the service is requested, may require a deposit towards it and any fee so paid in advance or deposit made shall be refunded if the request for the service is cancelled before, the service has been undertaken.

**107. Security for costs in civil appeals**

(1) Subject to rule 115, there shall be lodged in Court on the institution of a civil appeal as security for the costs of the appeal the sum of two thousand shillings.

(2) Where an appeal has been withdrawn under rule 96 after notice of cross-appeal has been given, the Court may, on the application of any person who is a respondent to the cross-appeal, direct the cross-appellant to lodge in Court as a security for costs the sum of two thousand shillings or any specified sum less than two thousand shillings, or may direct that the cross-appeal be heard without security for costs being lodged.

(3) The Court may at any time if it thinks fit, direct that further security for costs be given and may direct that security be given for the payment of past costs relating to the matters in question in the appeal.

(4) Where security for costs has been lodged, the Registrar may pay out the same either by consent of the parties or in conformity with the decision of the Court and having regard to the rights of the parties thereunder.

**108. Assessment or taxation of costs**

(1) When making any decision as to the payment of costs, the Court may assess the same or direct them to be taxed and any decision as to the payment of costs, not being a decision whereby the amount of the costs is assessed, shall operate as a direction that the costs be taxed.

(2) For the purpose of execution in respect of costs, the decision of the court directing taxation and the certificate of the taxing officer as to the result of such taxation shall together be deemed to be a decree.

**109. Costs improperly incurred**

If it shall appear to the Court that costs have been incurred improperly or without reasonable cause, or that by reason of any undue delay in proceeding under any judgment or order, or of any misconduct or default of the advocate, any costs properly incurred have nevertheless proved fruitless to the person incurring the same, the Court may call on the advocate by whom such costs have been so incurred to show cause why such costs should not be borne by the advocate personally, and thereupon may make such order as the justice of the case may require.

**110. Improper agreements for remuneration**

Any agreement whereby the remuneration of an advocate or the amount thereof is dependant upon the result of any proceedings in the Court shall be void.

**111. Taxation**

(1) The Registrar shall be a taxing officer with power to tax the costs arising out any application or appeal to the Court as between party and party.

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[Subsidiary]

(2) Such costs shall be taxed in accordance with the rules and scale set out in the Third Schedule.

(3) The remuneration of an advocate by his clients in respect of application or appeal shall be governed by the rules and scales to proceedings in the High Court.

### **112. Reference on taxation**

(1) Any person who is dissatisfied with a decision of the Registrar in his capacity as taxing officer may require any matter of law or principle to be referred to a judge for his decision and the judge shall determine the matter as the justice of the case may require; and for the purpose of this sub rule, any decision extending or refusing to extend time for the lodging of a bill of costs or any exercise by the Registrar of the over-riding discretion given him by paragraph 12 of the Third Schedule shall be deemed to involve a matter of principle.

(2) Any person who contends that a bill of costs as taxed is, in all the circumstances, manifestly excessive or manifestly inadequate, may require the bill to be referred to a judge and the judge shall have power to make such deduction or addition as will render the bill reasonable and except as in this sub-rule provided, there shall be no reference on a question of quantum only.

(3) An application for a reference may be made to the Registrar informally at the time of taxation or by writing within seven days thereafter.

(4) A reference to a judge may be adjourned by him for the consideration of the Court.

(5) Any person dissatisfied by the decision of a judge given under sub-rule (1) or sub-rule (2) may apply to the Court to vary, discharge or reverse the same and such application, may be made either informally to the judge at the time of the decision or by writing to the Registrar within seven days of the time.

### **113. Waiver of fees in criminal appeals**

(1) If in any appeal from a superior court acting in appellate jurisdiction in any criminal matter a judge of the superior court is satisfied on the application of the appellant—

- (a) that the appeal raises one or more questions of law proper for determination by the Court; and
- (b) that the appellant ought not, by reason of poverty, to be required to pay the whole of the fees ordinarily payable, including the fees for preparing the record of appeal,

he may by order direct that the whole or any part of such fees be waived.

(2) An application for an order under sub-rule (1) may be made informally at any time but not later than seven days after the appellant has been informed of the amount which, in the absence of an order, he would be required to pay as fees or to deposit in respect thereof:

Provided that a judge of a superior court may entertain any such application out of time if it shall appear to him that there was sufficient cause for the delay in making the same.

(3) No fee shall be payable on the lodging of any such application.

(4) A judge of a superior court considering the means of an applicant may rely on a report made to him by the Registrar.

(5) A judge of a superior court, making an order under sub-rule (1) may, at the same time and without formal application, order the extension of the time for giving notice of appeal or for lodging the memorandum of appeal.

(6) An order allowing or dismissing an application under sub-rule (1) shall be final:

Provided that the decision by the judge of the superior court that an appeal raises or does not raise a question of law proper for determination by the Court shall be conclusive of that question only in relation to the application.

#### **114. Refund of fees paid in criminal appeals**

Where an appeal is allowed from a superior court in its appellate criminal jurisdiction, the Court may for sufficient reason order the refund to the appellant of the fees paid by him under these Rules or any part thereof.

#### **115. Relief from fees and security in civil appeals**

(1) If in any appeal from a superior court, in its original or appellate jurisdiction in any civil case the Court is satisfied on the application of an appellant that he lacks the means to pay the required fees or to deposit the security for costs and that the appeal is not without reasonable possibility of success, the Court may by order direct that the appeal may be lodged—

- (a) without prior payment of fees of Court, or on payment of any specified amount less than the required fees;
- (b) without security for costs being lodged, or on lodging of any specified sum less than the amount fixed by rule 107,

and may order that the record of appeal be prepared by the registrar of the superior court without payment therefor or on payment of any specified sum less than the fee set out in the Second Schedule, conditionally on the intended appellant undertaking to pay the fees or the balance of the fees out of any money or property he may recover in or consequence of the appeal.

(2) The Registrar shall be entitled to be heard on any such application.

(3) No fee shall be payable on the lodging of any such application.

(4) The Registrar shall have power to take such action as he may think necessary to enforce any undertaking given in accordance with sub-rule (1).

### PART VI – REVOCATION AND TRANSITIONAL PROVISIONS

#### **116. Revocation**

The Court of Appeal Rules (Sub. Leg.) are revoked.

#### **117. Transitional provisions**

In all proceedings pending, whether in the Court or in a superior court preparatory or incidental to, or consequential upon any proceeding in the Court at the time of the coming into force of these Rules, the provisions of these Rules shall thereafter apply, but without prejudice to the validity of anything previously done:

Provided that—

- (a) if and so far as it is impracticable in any such proceedings to apply the provisions of these Rules, the practice and procedure heretofore obtaining shall be followed;
- (b) in any case of difficulty or doubt the judge or the Registrar may informally give directions as to the procedure to be adopted.

[Subsidiary]

## FIRST SCHEDULE

## FORMS

## FORM A

(r. 42)

(1) Delete inappropriate words

(2) Insert conviction, sentence, judgment, decree, order, or as the case may be.

In the Court of Appeal at .....

Criminal (1) Application No. .... of ..... , 20 .....  
Civil

an intended appeal (1)

In the matter of .....

In the matter of .....

Criminal/Civil Appeal No. .... of ..... , 20 .....

between ..... Applicant  
and ..... Respondent

(Appeal from the ..... (2) of the High Court  
of ..... at ..... (Hon. Justice) .....

dated ..... , 20 ..... , in .....

Criminal(1)      Application(1)  
Civil                  Appeal                  No. .... of 20 ..... )

## NOTICE OF MOTION

TAKE NOTICE that on ..... , the ..... day of .....,  
20 ..... , at ..... o'clock in the ..... morning(1)  
as soon thereafter as he can be heard, Mr. ..... Advocate for  
the above-named applicant, will move ..... afternoon  
a judge of the ..... Court

for an order that ..... on the grounds that .....  
And for an order that the cost of and incidental to this application abide .....  
the result of the said appeal (2).

The application will be supported by the affidavit of .....  
sworn on the ..... day of ..... , 20 .....  
The address for service of the applicant is .....

Dated this ..... day of ..... , 20 .....

Signed ..... *Applicant*  
Advocate for the applicant

Lodged in the Registry ..... sub-registry at ..... on the ..... day of ..... , 20 .....

.....  
*Registrar*

[Subsidiary]

FIRST SCHEDULE—*continued*

FORM B

(r. 59)

*(Heading as in the proceeding appealed from)*

## NOTICE OF APPEAL

(1) Delete inappropriate words  
or amend as necessary

TAKE NOTICE that ..... appeals to the Court of Appeal against the decision of the Honourable Mr. Justice ..... given at ..... on the ..... day of ..... , 20..... whereby the appellant was convicted of ..... and sentenced to ..... The appeal is against conviction only/conviction and sentence/ sentence only <sup>(1)</sup>.

The appellant intends/does not intend <sup>(1)</sup> to be present at the hearing of the appeal.

The address for service of the appellant is .....

Dated this ..... day of ..... , 20 .....

*Signed* ..... *Appellant*  
*Advocate for the Appellant*

(Retained only to prepare this notice /Retained to appear at the hearing of the appeal/Assigned to appear at the hearing of the appeal <sup>(1)</sup>.)

To; -

The Registrar of the High Court at .....

Lodged in the High Court of ..... at ..... on the ..... day of ..... , 20 .....

*Registrar*

FORM C

(r. 64)

(1) Insert conviction, sentence,  
order, or as the case may be

In the Court of Appeal at .....

Criminal appeal No. ..... of 20 .....

Between

Appellant

and

Respondent

(Appeal from a ..... <sup>(1)</sup> of the High Court of ..... at ..... (Mr. Justice ..... ) dated the ..... day of ..... , 20 ..... in ..... ).

Criminal Case  
Appeal

No. ..... of 20 ..... ).

## MEMORANDUM OF APPEAL

....., the above named appellant, appeals to the Court of Appeal against the above-mentioned decision, whereby the appellant was convicted of ..... and sentenced to ..... on the following grounds namely—

1. .....
2. .....

*Signed* ..... *Appellant*  
*Advocate for the appellant*

[Subsidiary]

## FIRST SCHEDULE, Form C—continued

To:-

The Honorable the judges of the Court of Appeal lodged in the Registry /Sub-registry at .....  
on the ..... day of ....., 20.....

.....  
*Registrar*

## FORM D

(r. 75)

*(Heading as in proceeding appealed from)***NOTICE OF APPEAL**

(1) Delete as appropriate.

(2) Specify part complained of.

(3) Copies of the notice should be served on all persons directly affected by the appeal.

TAKE NOTICE that ..... being dissatisfied with the decision of the Honourable Justice ..... given at ..... on the ..... day of ....., 20..... intends to appeal to the Court of Appeal against the whole of the said decision/such part of the said decision as decides that(1), (2).

The address for service of the appellant is .....  
It is intended to serve copies of this notice on (3) .....

Dated this ..... day of ....., 20 .....

*Signed* ..... *Appellant*  
Advocate for the appellant

To: -

The Registrar of the High Court of ..... at ..... lodged in the High Court of ..... at ..... this ..... day of ....., 20 .....

.....  
*Registrar*

## FORM E

(r. 79)

*(Heading as in proceeding appealed from)***NOTICE OF ADDRESS FOR SERVICE**

TAKE NOTICE that the address for service of a respondent served with notice of appeal, is .....

.....

.....

Dated this ..... day of ....., 20 .....

*Signed* ..... *Respondent*  
Advocate for the respondent

[Subsidiary]

## FIRST SCHEDULE, FORM E—continued

To:-

The Registrar/Deputy registrar of the Court of Appeal at .....  
 Copies to be served on ..... lodged in the registry/sub-registry at .....  
 of ..... , 20.....

.....  
*Registrar*

## FORM F

(r. 86)

(<sup>1</sup>) Insert conviction, sentence,  
 order, or as the case may be.

(<sup>2</sup>) Delete and amend as necessary.

(<sup>3</sup>) Set out order which it is intended  
 to as court to make.

In the Court of Appeal at .....  
 Civil Appeal No. ..... of 20 .....

Between

Appellant

and

Respondent

(Appeal from a ..... (<sup>1</sup>) of the High Court of .....  
 at ..... (Hon. Justice.....) dated the  
 ..... day of ..... , 20..... , in Civil Case (<sup>2</sup>) Civil  
 Appeal/Bankruptcy Cause/Matrimonial Cause/Miscellaneous Cause No. ....  
 of ..... , 20..... )

**MEMORANDUM OF APPEAL**

....., the above-named appellant appeals to the Court  
 of Appeal against the whole/part (<sup>3</sup>) of the above-named decision on the following grounds,  
 namely—

1. .....
2. .....
3. .....
4. .....
5. .....

It is proposed to ask the Court for an order that (<sup>4</sup>) .....

*Signed* ..... *Appellant*  
*Advocate for the appellant*

To: -

The Honorable the Judges of the Court of Appeal Copies to be served on .....  
 lodged in the Registry/Sub-registry at ..... on the .....  
 day of ..... , 20.....

.....  
*Registrar*

[Subsidiary]

FIRST SCHEDULE—*continued*

## FORM G

(r. 93)

(<sup>1</sup>) Set out order which it is intended to ask the Court to make.

(Headings as in Form F)

**NOTICE OF CROSS-APPEAL**

TAKE NOTICE that on the hearing of this appeal the above-named respondent will contend that the, above-mentioned decision ought to be varied or reversed to the extent and in the manner and on the grounds hereinafter set out, namely—

1. ....
2. ....

It is proposed to ask the Court for an order that (<sup>1</sup>) .....

It is intended to serve copies of this notice on .....

Dated this ..... day of ....., 20 .....

*Signed* ..... Respondent  
Advocate for the respondent

To: -

The Honourable the Judges of the Court of Appeal lodged in the Registry /Sub-registry at .....

..... on the ..... day of ....., 20 .....

.....  
*Registrar*

## FORM H

(r. 94)

(Heading as in Form F)

**NOTICE OF GROUNDS FOR AFFIRMING THE DECISION**

TAKE NOTICE that on the hearing of this appeal, ..... the above-named respondent, will contend that the above-mentioned decision ought to be affirmed upon grounds other than those relied upon by the High Court, namely—

1. ....
2. ....

It is intended to serve copies of this notice on .....

Dated this ..... day of ....., 20 .....

*Signed* ..... Respondent  
Advocate for the respondent

To:-

The Honorable the Judges of the Court of Appeal lodged in the Registry /Sub-registry at .....

..... on the ..... day of ....., 20 .....

.....  
*Registrar*

FIRST SCHEDULE—*continued*

## FORM I

(r. 33)

<sup>(1)</sup> Delete inappropriate words

(Heading as in Form A)

**ORDER**

Before ..... in Chambers/in Court <sup>(1)</sup>  
 Upon hearing .....  
 and upon reading the affidavit of .....  
 Filed herein on the .....  
 IT IS ORDERED that .....  
 and that the costs of this application be .....  
 Dated this ..... day of .....  
 Extracted on .....

.....  
*Registrar*

## FORM J

(r. 33)

(Heading as in Form F)

<sup>(1)</sup> Delete when not appropriate.**ORDER**

IN COURT: .....  
 Before .....  
 This appeal coming on for hearing this ..... day of .....  
 in the presence of ..... when the appeal was stood over  
 for judgment and this appeal coming for judgement this day <sup>(1)</sup>  
 IT IS ORDERED that—

1. ....
2. ....
3. ....
4. ....
5. ....
6. ....

etc.

AND IT IS ORDERED <sup>(1)</sup> .....

Dated this ..... day of .....  
 Extracted on .....

.....  
*Registrar*

[Subsidiary]

## SECOND SCHEDULE

[Rule 105.]

## FEES

## PART 1.

Fees in connection with application's, other than applications relating to criminal appeals from a superior court in it's original jurisdiction and other than applications under rule 112.

	KSh.	
1. Upon lodging a notice of motion	500	500
2. Upon lodging a notice of motion under certificate of urgency	750	750
For each subsequent day of hearing or part thereof excluding the first day	800	
3. Upon lodging an affidavit, other than an affidavit annexed to a notice of motion	150	800
4. Upon giving notice under rule 54 (1)	3,000	150

## PART 2 – FEES IN CONNECTION WITH CRIMINAL APPEALS

5. Upon lodging a notice of appeal from a superior court in it's appellate jurisdiction.	200
6. For preparing the record of appeal, for each folio or part thereof—	
(a) for the first copy	10
(b) for each additional copy	5

## PART 3 – FEES IN CONNECTION WITH CIVIL APPEALS

7. Upon lodging a notice of appeal	450
8. Upon lodging a notice of address for service or a notice of change of address	100
9. Upon lodging a memorandum of appeal against an interlocutory decision or against a final decision	1,500
Where the appeal is against an award or the refusal to make an award, of money, or against a decision as to the ownership of or entitlement to the possession of property, if the amount of money (exclusive of any interest awarded thereon) or the value of property—	
(a) Exceed Ksh. 10,000 but does not exceed Ksh. 210,000	2000 2000 and Ksh. 100 for each Ksh.
(b) Exceeds Ksh. 210,000 but does not exceed Ksh. 210,000	2000 or part thereof, of the value over Ksh.10,000.
(c) Exceeds Ksh. 210,000	Ksh. 3,000 and Ksh. 100 for each Ksh. 2,000 or part thereof, of the value over Ksh. 10,000, subject to a maximum of Ksh.100,000
(2) In any other case	Ksh. 1,000 and Ksh. 800 for day, or part thereof, of the hearing, excluding the first day.

[Subsidiary]

SECOND SCHEDULE—*continued*

	KSh.
10. Upon lodging a notice of cross-appeal	300
11. Upon lodging a notice of grounds for affirming a decision	150
12. Upon lodging a notice withdrawing an appeal, or a notice of cross-appeal or a notice of grounds for affirming a decision	200
13. Security for costs	6,000

## PART 4 – MISCELLANEOUS

14. For serving a document in connexion with a civil application/or appeal, in addition to all necessary expenses of travel—	
(a) where the person to be served resides or has his place of business within the city town where the registry or sub-registry of the court is situated	400
(b) in any other case	1,000
15. For sealing an order in a civil application or appeal	250
16. For preparing certified copies of a document—	
(a) for each folio or part thereof	20
(b) for each subsequent copy	10
17. For the grant of a licence under rule 25(3)	KSh. 10, 000 and KSh. 5,000 for each day or part thereof of the hearing, excluding the first day.
18. Upon applying to inspect the proceedings or an application or appeal that has been determined	300

## PART 5 – FEES IN CONNECTION WITH THE TAXATION OF COSTS

19. Upon lodging a bill of costs for taxation	750
20. For applying for the certificate of the result of taxation	KSh. 500 and KSh. 5 for each KSh. 100 or part of the amount allowed excluding the fee.
21. Upon applying for a reference under rule 112	1,000

## THIRD SCHEDULE

[Rule 111.]

## TAXATION OF COSTS

**1. Interpretation**

In this Schedule, **a folio** means one hundred words, and a **single figure or a group of figures up to seven** shall count as one word.

**2. Lodging and service of bill of costs**

(1) Where costs are to be taxed, the advocate for the party to whom the costs were awarded shall lodge his bill with the taxing officer and shall before or within seven days after lodging it, serve a copy of it on the advocate for the party liable to pay it.

(2) A bill of costs shall be lodged as soon as practicable after the making of the order for costs and not later than twenty-one days after a request in writing therefor by the party liable, or such further time as the Registrar may allow.

(3) A bill of costs may not be lodged by an advocate who is not on the record.

[Subsidiary]

**3. Form of bill**

(1) A bill of costs shall be instituted and filed in the proceedings and shall be prepared in five columns as follows—

- (a) the first or left hand column for the dates of the items;
- (b) the second column for the serial numbers of the items;
- (c) the third column for the particulars of the services charged for;
- (d) the fourth column for the professional or scale charges;
- (e) the fifth column for the taxing officer's deductions.

(2) Every bill of costs shall be endorsed with—

- (a) the name and address of the advocate lodging the same;
- (b) the name and address of every party to be served or his advocate;
- (c) a certificate signed by the advocate lodging the bill that the number of folios; in respect of any item in the bill charged for by the folio, is correct. If such certificate is found to be incorrect the item may be disallowed.

(3) Every bill of costs shall be endorsed at the end thereof with a form of certificate for signature by the taxing officer certifying the result of the taxation.

**4. Disbursements**

(1) Disbursements shall be shown separately at the foot of the bill of costs.

(2) Receipts for all disbursements shall be produced to the taxing officer at the time of taxation.

(3) No disbursement shall be allowed which has not been paid at the time of taxation.

**5. Bills not to be altered after lodging**

No alteration or addition to a bill of costs once lodged shall be made except by consent of the parties or by permission of the taxing officer or a judge.

**6. Notice of taxation**

When a bill of costs has been lodged as aforesaid, the taxing officer shall issue a notice to all parties concerned or their advocates giving the date, time and place at which the bill will be taxed.

**7. Time and adjournment**

The taxing officer shall have power to limit or extend the time for proceedings before him, and to adjourn the same from time to time and from place to place.

**8. Failure to attend taxation**

If any party or advocate who has been duly served with a notice of taxation fails to appear at the date and time specified in such notice, the taxing officer may proceed to tax the bill notwithstanding such absence.

**9. Quantum of costs**

(1) The fee to be allowed for instruction to make, support or oppose any application shall be such sum as the taxing officer shall consider reasonable but shall not be less than one thousand shillings.

(2) The fees to be allowed for instructions to appeal or to oppose an appeal shall be such sum as the taxing officer shall consider reasonable, having regard to the amount involved in the appeal, its nature, importance and difficulty, the interest of the parties, the other costs to be allowed, the general conduct of the proceedings, the fund or person to bear the costs and all other relevant circumstances.

(3) The sum allowed under sub-paragraph (2) shall include all works necessary and properly done in connection with the appeal and not otherwise chargeable, including attendances, correspondence, perusals, and consulting authorities.

(4) Other costs shall, subject to the provisions of paragraphs 10, 11 and 12, be awarded in accordance with the scale set out below or, in respect of any matter for which no provision is made in those scales, in accordance with the scales applicable in the High Court.

## **10. Fees for drawing Documents**

The fee for drawing a document shall include the preparation of all copies for the use of the party drawing it and for filing and service when only one other party or one advocate for other parties has to be served; where there are additional parties, fees may be charged for making the necessary additional copies.

## **11. Taxation of bills**

(1) On taxation the taxing officer shall allow such costs, charges and disbursements as shall appear to him to have been reasonably incurred for the attainment of justice but no costs shall be allowed which appear to the taxing officer to have been incurred through overpayment, extravagance, over caution, negligence or mistake or payment of special charges or expenses to witnesses or other persons or by other unusual expenses.

(2) In taxing the costs of any civil appeal, the taxing officer shall disallow the costs of any matter improperly included in the record of appeal or in any supplementary record of appeal.

## **12. Over-riding discretion**

If, after a bill of costs has been taxed, the taxing officer considers that, having regard to all the circumstances, the total of the bill before signing the certificate of taxation is excessive, he may make such a deduction from the total as will in his opinion render the sum reasonable.

## **13. Excessive claims**

If more than one quarter of the profit costs claimed is disallowed on taxation the costs of drawing, filing and serving the bill and of attending taxation shall be disallowed.

## **14. Set-off of costs**

Where a party entitled to receive costs is also liable to pay costs, the taxing officer may tax the costs which that party is liable to pay and adjust them by way of deduction or set-off and direct payment of any balance.

## **15. Costs of more than one advocate**

(1) Costs of more than one advocate shall not be allowed unless the Court has so directed:

Provided that if an advocate has instructed another advocate to appear at the hearing of an appeal, the fee paid to the latter, or so much thereof as the taxing officer considers reasonable, may be allowed but so that the total of such fee and the instructions fee allowed to the instructing advocate shall not be greater than it would have been if one advocate only had acted in the matter.

**[Subsidiary]**

- (2) Where the Court has directed that the costs of two advocates be allowed—
- where the senior advocate is not a member of the same firm as the advocate on the record, he shall be allowed the fee paid to him, including fees for attending in court, or so much thereof as the taxing officer shall consider reasonable;
  - where the senior advocate is a member of the same firm as the advocate on the record, he shall be allowed such fee as would have been allowed in the case of an advocate not a member of that firm; and
  - the advocate on record shall be allowed the usual instruction, hearing and other fees.
- (3) The fee paid to another advocate by the advocate on the record shall be shown as a disbursement.

**16. Costs where advocate changed during proceedings**

If there has been a change of advocates the bill of costs of the first advocate may be annexed to that of the current advocate and its total shown as a disbursement and the bill will be taxed in the ordinary way, the current advocate being heard on it, but the taxing officer may require the first advocate to attend.

**17. Two or more parties**

Where the same advocate is employed for two or more parties and separate proceedings are taken by or on behalf of any two such parties, the taxing officer shall consider in the taxation of such advocate's bill of costs whether such separate proceedings were necessary and proper, and if he is of opinion that any part of the costs occasioned thereby has been unnecessarily or improperly incurred, the same shall be disallowed.

**18. Costs where trustees defend separately**

In taxing the costs as between party and party or for payment out of a trust fund of joint executors or trustees who are separately represented, the taxing officer shall, unless otherwise ordered by the Court or a Judge, allow only one set of costs for such parties, such costs to be apportioned among them as the taxing officer shall deem fit.

**19. Expenses of persons attending hearing**

The taxing officer shall allow the reasonable expenses of a party who appeared in person at the hearing of an application or appeal and those of a witness who gave evidence at any such hearing but shall not allow the expenses of any other person who may have attended the hearing, unless the Court has so ordered.

**SCALE OF COSTS**

	Ksh
1. For instructions to file a notice of appeal	1,500
2. For instructions to act for a respondent—	
(a) where an appeal is subsequently instituted	1,500
(b) where no appeal is subsequently instituted, to cover all costs arising out of the notice of appeal, other than disbursements and those of any application to the superior court or the Court	750
3. For drawing a notice of motion	1,000
4. For drawing an affidavit, for each folio or part thereof, exclusive of exhibits	100
5. For drawing a notice of appeal	500
6. For drawing a notice of address for service	500
7. For drawing memorandum of appeal	2,000

	[Subsidiary]
	Ksh
8. For drawing a notice of cross-appeal	1,000
9. For drawing a notice of grounds for affirming a decision	1,000
10. For drawing an order, for each folio or part thereof	100
11. For drawing a bill of costs, for each folio or part thereof	100
12. For drawing any other necessary documents to be filed or used in the court, for each folio or part thereof	100
13. For making any necessary copies, for each folio or part thereof—	
(a) For the first copy	20
(b) For each subsequent copy	20
14. For attendance at the Registry	200
15. For attendance on the Registrar—	
(a) For the first 15 minutes	300
(b) For each subsequent 15 minutes	100
16. For attending on a judge in chambers—	
(a) For the first 30 minutes	1,000
(b) For each subsequent 30 minutes	500
17. For attending in court, where the matter was listed but not reached, for each day	750
18. For attending in court on the hearing of any application or appeal—	
(a) For the first 30 minutes	1,000
(b) For each subsequent 30 minutes	500
19. For attending in court to take judgement	1,000



**COURT OF APPEAL (ELECTION PETITION) RULES, 2017****ARRANGEMENT OF RULES****PART I – PRELIMINARY***Rule*

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2. Interpretation.
3. Object.
4. Application.
5. Non-compliance with Rules.

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7. Service of notice of appeal.
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9. Filing and service of record of appeal.
10. Notice of cross-appeal or notice of grounds for affirming decision.
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**PART III – ADMINISTRATION**

13. Sittings of the Court.
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21. Entering an appeal for hearing.
22. Hearing to be on day to day basis.
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**COURT OF APPEAL (ELECTION PETITION) RULES, 2017**

[L.N. 114/2017.]

**PART I — PRELIMINARY****1. Citation**

These Rules may be cited as the Court of Appeal (Election Petition) Rules, 2017.

**2. Interpretation**

In these Rules, unless the context otherwise requires—

“**advocate**” means a person who has the right of audience before the Court under rule 25 of the Court of Appeal Rules, 2010 (L.N. 152/2010);

“**appeal**” means an appeal from the decision of the High Court;

“**Commission**” means the Independent Electoral and Boundaries Commission established under Article 88 of the Constitution;

“**Court**” means the Court of Appeal;

“**judge**” means a judge of the Court;

“**notice of appeal**” means notice lodged in accordance with rule 6;

“**notice of cross-appeal**” means a notice lodged in accordance with rule 10 (4);

“**Registrar**” means the Registrar of the Court and includes a deputy registrar;

“**registry**” means the registry of the Court and includes a sub-registry; and

“**respondent**” includes any person on whom a notice of appeal has been served and any person other than the appellant on whom a notice of cross-appeal has been served.

**3. Object**

The object of these Rules is to facilitate the just, expeditious and impartial determination of election petition appeals in exercise of the Court's appellate jurisdiction under Article 164 (3) of the Constitution.

**4. Application**

(1) These Rules apply to the conduct of appeals from decisions of the High Court in election petitions and matters relating thereto.

(2) Where there is no applicable provision in these Rules, the provisions of the Court of Appeal Rules, 2010 relating to civil appeals shall apply to an election petition appeal in so far as they are not inconsistent with these Rules.

(3) Where there is a conflict between these Rules and the Court of Appeal Rules, 2010 on matters relating to election petition appeals, the provisions of these Rules shall prevail.

(4) A decision of the Court that a provision of one set of Rules prevails over another provision does not invalidate the latter provision, but the latter provision shall be inoperative to the extent of the inconsistency.

**5. Non-compliance with Rules**

The effect of any failure to comply with these Rules shall be a matter for determination at the Court's discretion subject to the provisions of Article 159 (2)(d) of the Constitution and the need to observe the timelines set by the Constitution or any other electoral law.

**PART II — INITIATION, FILING AND SERVICE OF APPEALS****6. Filing of notice of appeal**

(1) A person who desires to appeal to the Court shall file a notice of appeal, which shall be lodged in quadruplicate in the registry.

(2) A notice of appeal shall be filed within seven days of the date of the decision appealed against.

(3) A notice of appeal shall be in separate numbered paragraphs and shall—

- (a) specify whether all or part of the judgment is being appealed and, if part, which part;
- (b) provide the address for service of the appellant and state the names and addresses of all persons intended to be served with copies of the notice; and
- (c) contain a request that the appeal be set down for hearing in the appropriate registry.

(4) It shall not be necessary that the decree or order be extracted before lodging a notice of appeal.

(5) A notice of appeal shall be substantially in the Form EPA 1 set out in the Schedule and shall be signed by or on behalf of the appellant.

**7. Service of notice of appeal**

(1) The appellant shall serve the notice of appeal upon all affected parties within five days from the date of filling the notice.

(2) A person served with a notice of appeal shall file and serve upon all the other parties a notice of address for service within five days from the date of service of the notice of appeal.

(3) A notice of appeal shall be served by the appellant on the respondent by—

- (a) direct service; or
- (b) publication in a newspaper of national circulation.

(4) Service on the Commission shall be by—

- (a) delivery at the constituency, county or head office of the Commission;
- (b) delivery at such other office as the Commission may notify; or
- (c) publication in a newspaper of national circulation.

(5) Where a notice of appeal is served by publication in a newspaper as provided under sub-rules (3) (b) and (4) (c), the advertisement shall be sufficient if it is—

- (a) in Form EPA 3 set out in the Schedule;
- (b) of at least font size twelve; and
- (c) captured in dimensions of not less than ten by ten centimetres.

(6) The Court may direct that the notice of appeal be served on any person who is not a party and may make such interim orders as the Court considers just.

**8. Contents of record of appeal**

(1) The record of appeal shall contain copies of the following documents—

- (a) an index of all the documents in the record with the numbers of the pages at which they appear;
- (b) a statement showing the address for service of the appellant and the address for service of the respondent being his last known address and proof of service on the respondent of the notice of appeal;
- (c) the pleadings;
- (d) the trial judge's notes of the hearing;

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[Subsidiary]

- (e) the transcript of any shorthand notes taken at the trial;
- (f) the affidavits read and all documents put in evidence at the hearing, or, if such documents are not in the English language, certified translations thereof;
- (g) the judgment;
- (h) certified copy of the decree or order;
- (i) the notice of appeal; and
- (j) such other documents, if any, as may be necessary for the proper determination of the appeal, including any interlocutory proceedings which may be directly relevant:

Provided that the copies referred to in paragraphs (d), (e) and (f) shall exclude copies of any documents or any parts thereof that are not relevant to the matters in controversy on the appeal.

(2) A judge or Registrar may, on the application of any party, direct which documents or parts of documents should be excluded from the record and an application for such direction may be made informally.

(3) The documents mentioned in sub-rule (1) shall be bound in the order in which they are set out in that sub-rule and documents produced in evidence shall be put in order of the dates they bear or, where they are undated, the dates when they are believed to have been made, without regard to the order in which they were produced in evidence:

Provided that an affidavit filed in support of an application shall be bound immediately following the application.

(4) Each copy of the record of appeal shall be certified to be correct by the appellant or by any person entitled to appear on his behalf.

(5) Where the High Court does not avail any of the documents required under sub rule (1), the appellant may proceed to file the record of appeal and a supplementary record of appeal within seven days thereafter.

## **9. Filing and service of record of appeal**

(1) The record of appeal shall be filed within thirty days from the date of the judgment of the High Court.

(2) The appellant shall serve a copy of the record of appeal on all the parties named in the notice of appeal within five days of filing of the record of appeal.

## **10. Notice of cross-appeal or notice of grounds for affirming decision**

(1) A respondent who desires to contend at the hearing of an appeal that the decision of the High Court or any part thereof should be varied or reversed, either in any event or in the event of the appeal being allowed in whole or in part, shall give notice to that effect, specifying the grounds of his contention and the nature of the order which he proposes to ask the Court to make, as the case may be.

(2) A respondent who desires to contend on an appeal that the decision of the High Court should be affirmed on grounds other than or additional to those relied upon by that court shall give notice to that effect, specifying the grounds of his contention.

(3) A notice given by a respondent under this rule shall state the names and addresses of any persons intended to be served with copies of the notice and shall be lodged in quadruplicate with the Registrar within seven days after service on the respondent of the record of appeal.

(4) A notice of cross-appeal shall be substantially in the Form EPA 2 set out in the Schedule and shall—

- (a) be signed by or on behalf of the respondent;
- (b) identify the part of the judgment sought to be varied;

- (c) specify the grounds for variation; and
- (d) state precisely the relief sought.

(5) A notice of grounds for affirming a decision shall be substantially in the Form EPA 2A in the Schedule and shall be signed by or on behalf of the respondent.

## **11. Service of notice of cross-appeal or notice of grounds for affirming decision**

A notice of cross-appeal or notice of grounds for affirming a decision on grounds other than those relied on by the High Court shall be served within five days after being lodged in the registry.

## **12. Style of cause in appeal**

The style of the cause in an appeal shall set out without abbreviation—

- (a) the name of the appellant together with the designation "Appellant"; and
- (b) the name of each party against whose interest the appeal is taken, together with the designation "Respondent".

## PART III — ADMINISTRATION

### **13. Sittings of the Court**

The sittings of the Court and the matters to be disposed of at such sittings shall be determined by the President of the Court in consultation with the Chief Justice and shall be notified to the public in such manner as the Chief Justice may direct but nothing in this Rule shall preclude the Court from disposing of any business that has not been so notified.

### **14. Hours of lodging documents**

The President of the Court may adjust and direct the hours during which the registry shall be open for the receipt of documents concerning election appeals to cater for increased or anticipated increase in the number of cases.

### **15. Acceptance of documents lodged out of time**

The Registrar shall not refuse to accept any document on the ground that it is lodged out of time but shall stamp on the document, the date on which it is presented, mark on it "LODGED OUT OF TIME" and inform the person lodging it.

### **16. Maintenance of election appeals register**

(1) The Registrar shall maintain an Election Appeals Register, in which shall be entered particulars of every election petition appeal to the Court.

(2) The register under sub rule (1) shall show the number of the election petition appeal, the number of the petition in the High Court, the names of the parties and the dates when the essential steps in the proceedings were taken.

(3) The register shall also contain, against the entry relating to each appeal, a reference to every application made in relation to that appeal, whether made before or after the institution of the appeal.

### **17. Extension or reduction of time**

(1) The Court may, for sufficient reason, extend or reduce the timelines prescribed by these Rules upon such terms and conditions it may deem just and expedient, and a reference in these Rules to any time shall be construed as a reference to that time as extended or reduced.

(2) Sub-rule (1) does not apply to timelines set by the Constitution and the Elections Act, 2011.

**18. Stay of execution**

(1) The filing and service of a notice of appeal stays the execution of any judgment, decree, order or direction from the High Court pending the determination of the appeal.

(2) Sub rule (1) shall cease to apply if no record of appeal is filed within thirty days from the date of the judgment of the High Court.

**PART IV — HEARING OF APPEALS****19. Application to strike out notice of appeal or appeal**

(1) A person affected by an election petition appeal may, within seven days from the date of service of the notice of appeal or record of appeal, as the case may be, apply to the Court to strike out the notice or the record of appeal on the ground that no appeal lies or that some essential step in the proceedings has not been taken within the time prescribed by these Rules.

(2) Where no application is filed within the period stipulated under sub-rule (1), a person may not raise the issue later.

**20. Pre-hearing conference**

(1) Within twenty-one days of the filing of the record of appeal, the Court shall schedule a pre-hearing conference.

(2) The purpose of the pre-hearing conference is to give directions to ensure that appeals are heard and determined without undue delay including—

- (a) framing contested and uncontested issues in the appeal;
- (b) considering consolidation of appeals in cases where more than one appeal is filed;
- (c) giving directions specifying the place and time of the hearing of the appeal;
- (d) giving directions on the hearing and determination of interlocutory applications, if any;
- (e) directing the Commission on the handling of all relevant election materials and documents relating to the appeal before commencement of the hearing;
- (f) giving directions on whether the appeal shall be heard by oral or written submissions;
- (g) determining the form and period within which written submissions are to be filed and exchanged;
- (h) determining whether or not the written submissions shall be highlighted orally; and
- (i) making such other orders as may be necessary to ensure a fair determination of the appeal.

**21. Entering an appeal for hearing**

After the conclusion of the pre-hearing conference and any other preliminary matters, including disposing of interlocutory applications, the Court shall commence the hearing of the appeal.

**22. Hearing to be on day-to-day basis**

(1) Save in exceptional circumstances as may be determined by the Court, the hearing of a petition once commenced shall proceed uninterrupted on a day-to-day basis until its conclusion

(2) Despite sub-rule (1), the Court may, where circumstances demand, adjourn for not more than five consecutive days.

**23. Duration for hearing and determination of election petition appeals**

An appeal filed under these Rules shall be heard and determined within six months of the date of judgment of the High Court.

**24. Recess and leave**

The President of the Court shall, in consultation with the Chief Justice, schedule the recess and terms of leave for the judges of the Court in a manner that ensures that no Court recess or leave coincides with the period within which appeals from petitions relating to a general election are expected to be filed.

**25. Prohibition of delayed interlocutory applications**

The Court shall not allow any interlocutory application made after the hearing of the appeal has commenced if the interlocutory application could have, by its nature, been brought before the commencement of the hearing.

**PART V — GENERAL PROVISIONS****26. Orders of the Court**

- (1) After the hearing of an election appeal, the Court may make an order—
  - (a) dismissing the appeal;
  - (b) affirming the decision of the High Court; or
  - (c) granting any other appropriate relief as contemplated under section 75 (3) of the Elections Act, 2011.

**27. Security for costs**

- (1) The appellant shall, upon filing an appeal, deposit a sum of five hundred thousand shillings as security for costs of the appeal.
- (2) If no security is given, the Court may, on its own motion or on an application by the respondent, issue an order directing the dismissal of the appeal and for payment of the respondent's costs.
- (3) The Court may, at any time if it thinks fit, direct that security be given for the payment of past costs relating to the matters in question in the appeal.
- (4) The Registrar may pay costs from the sum deposited as security for costs either by consent of the parties or in conformity with the decision of the Court and having regard to the rights of the parties thereunder.

**28. Review of Rules**

The Rules Committee may review these Rules from time to time.

[Subsidiary]

**SCHEDULE****FORMS****FORM EPA 1**

[Rule 6(5).]

IN THE COURT OF APPEAL AT .....  
ELECTION PETITION APPEAL NO ..... OF 20 .....

IN THE MATTER OF .....

IN THE MATTER OF ..... ELECTION PETITION NO. ..... OF 20 .....

BETWEEN

..... APPLICANT

AND

..... RESPONDENT

(APPEAL FROM THE ..... OF THE HIGH COURT OF ..... AT .....

(HON. JUSTICE) ..... DATED ..... , 20 .....,

IN ..... ELECTION PETITION NO ..... OF 20 .....

**NOTICE OF APPEAL**TAKE NOTICE that ..... being dissatisfied with the decision of  
the Honourable Justice ..... given at ..... on the .....  
day of ..... 20 .....intends to appeal to the Court of Appeal against the whole  
of the said decision/such part of the said decision as decides  
that ..........  
.....  
The address for service of the appellant is .....

It is intended to serve copies of this notice on .....

The applicant requests that the appeal be set down for hearing in the appropriate registry.

Dated this ..... day of ..... 20 .....

Respondent ..... Signed ..... Advocate for the respondent

**FORM EPA 2**

[Rule 10(4).]

IN THE COURT OF APPEAL AT .....  
ELECTION PETITION APPEAL NO ..... OF 20 .....

IN THE MATTER OF .....

IN THE MATTER OF ..... ELECTION PETITION NO. ..... OF 20 .....

BETWEEN

..... APPLICANT

AND

..... RESPONDENT

(APPEAL FROM THE ..... OF THE HIGH COURT OF ..... AT .....

(HON. JUSTICE) ..... DATED ..... , 20 .....

IN ..... ELECTION PETITION NO ..... OF 20 .....

**NOTICE OF CROSS-APPEAL**

TAKE NOTICE that on the hearing of this appeal the above-named respondent will contend that the, above-mentioned decision ought to be varied or reversed to the extent and in the manner and on the grounds hereinafter set out, namely—

1. ....
2. ....

It is proposed to ask the Court for an order that .....

It is intended to serve copies of this notice on .....

Dated this ..... day of ..... 20 .....

Respondent ..... Signed ..... Advocate for the respondent

[Subsidiary]

**FORM EPA 2A**

[Rule 10(5).]

IN THE COURT OF APPEAL AT .....  
ELECTION PETITION APPEAL NO ..... OF 20 .....

IN THE MATTER OF .....

IN THE MATTER OF ..... ELECTION PETITION NO. ..... OF 20 .....

BETWEEN

..... APPLICANT

AND

..... RESPONDENT

(APPEAL FROM THE ..... OF THE HIGH COURT OF ..... AT .....

(HON. JUSTICE) ..... DATED ..... , 20 .....,

IN ..... ELECTION PETITION NO ..... OF 20 .....

**NOTICE OF GROUNDS FOR AFFIRMING THE DECISION**

TAKE NOTICE that on the hearing of this appeal ..... the above-named respondent will contend that the above-mentioned decision ought to be affirmed upon grounds other than those relied upon by the High Court, namely–

1. ....

2. ....

It is intended to serve copies of this notice on .....

Dated this ..... day of ..... 20 .....

Respondent ..... Signed ..... Advocate for the respondent

To:

The Honorable judges of the Court of Appeal

Lodged in the Registry/sub registry at ..... on the .....day of ..... 20 .....

*Registrar*

**FORM EPA 3**

[Rule 7 (5)(a).]

IN THE COURT OF APPEAL AT .....  
ELECTION PETITION APPEAL NO ..... OF 20 .....

IN THE MATTER OF .....

IN THE MATTER OF ..... ELECTION PETITION NO. ..... OF 20 .....

BETWEEN

..... APPLICANT

AND

..... RESPONDENT

(APPEAL FROM THE ..... OF THE HIGH COURT OF ..... AT .....

(HON. JUSTICE) ..... DATED ..... , 20 .....,

IN ..... ELECTION PETITION NO ..... OF 20 .....

**SERVICE OF NOTICE OF APPEAL BY ADVERTISEMENT**

To: ..... of .....

TAKE NOTICE that an appeal in regard to ..... the decision of the Honourable Justice ..... in the High Court of ..... has been filed in the ..... Court of Appeal at ..... in EPA No. .... of 20 ....., in which you are named as Respondent/s.

Service of the summons on you will be by means of this advertisement.

A copy of the summons and the petition may be obtained from the court at ..... (*insert postal address of registry*)

And further take notice that, unless you enter an appearance within ..... days, the petition will be heard in your absence.

Dated this ..... day of ..... 20 .....

Respondent ..... Signed ..... Advocate for the respondent

County Governments  
Act (No. 17 of 2012)



**THE REPUBLIC OF KENYA**

**LAWS OF KENYA**



**COUNTY GOVERNMENTS ACT**

**NO. 17 OF 2012**

Revised Edition 2016 [2012]

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**NO. 17 OF 2012****COUNTY GOVERNMENTS ACT**

[*Date of assent: 24th July, 2012.*]

[*Date of commencement: See Section 1.*]

**An Act of Parliament to give effect to Chapter Eleven of the Constitution; to provide for county governments' powers, functions and responsibilities to deliver services and for connected purposes**

[Act No. 17 of 2012, Act No. 13 of 2014, Act No. 1 of 2016, Act No. 7 of 2016, Act No. 43 of 2016, Act No. 4 of 2017, Act No. 24 of 2017.]

**PART I – PRELIMINARY****1. Short title and commencement**

This Act may be cited as the County Governments Act, 2012 and shall come into operation upon the final announcement of the results of the first elections under the Constitution.

**2. Interpretation**

In this Act, unless the context otherwise requires—

**“analysis of functions”** means processes of and mechanisms for, reviewing and reassigning powers and competencies between the national government and county governments in accordance with the provisions of the Constitution generally and in particular, the provisions of the Fourth Schedule thereto;

**“apex body”** means the body established under the law governing inter-governmental relations;

**“appointment”** includes an acting appointment, reappointment, promotion and re-designation;

**“authorized officer”** includes—

- (a) the holder of the office of county chief officer in a county department; or
- (b) in case of a department that is not assigned or under direct administration of a county chief officer, the head of that department; and
- (c) any other public officer appointed by the County Public Service Board to be an authorized officer with respect to a specified public body including a city or urban area;

**“Cabinet Secretary”** means the Cabinet Secretary responsible for matters relating to inter-governmental relations;

**“city”** has the meaning assigned to it under the Urban Areas and Cities Act, 2011 (No. 13 of 2011);

**“code of conduct”** means any written standard issued by a lawful authority to guide the conduct of any county public officer or category of county public officers;

**“competencies”** means powers given to a public authority in respect of a specific activity which is key to ensuring the provision of a public service and includes powers of planning, regulating, setting standards, constructing, financing, managing, monitoring and evaluating, sanctioning or intervening in any way to ensure that a function is discharged;

**“conditions of service”** includes any criterion or circumstance or factor for a person’s—

- (a) appointment, secondment, deployment, promotion or discipline with respect to a public office;
- (b) retention in employment as a public officer; or
- (c) remunerative, retirement and other benefits;

**“Constitution”** means the Constitution of Kenya, 2010;

**“county assembly”** means a county assembly established under Article 176 of the Constitution;

**“county assembly member”** means a member elected or nominated in accordance with Article 177(1) of the Constitution;

**“county chief officer”** means a county chief officer appointed under section 45;

**“county executive committee”** means a county executive committee established in accordance with Article 176 of the Constitution;

**“county Gazette”** means a *Gazette* published by the authority of the county government or a supplement of such *Gazette*;

**“county government”** means the county government provided for under Article 176 of the Constitution;

**“county government election”** means an election of governor and county assembly members;

**“county public office”** means an office in the county public service or an office in a public body but does not include any office specifically exempted by the Constitution from the powers of the county government;

**“county public officer”** means any person appointed by the county government and holding or acting in any county public office whether paid, unpaid, or on contractual or permanent terms but does not include a person engaged on a part-time basis in a county public body paid at an hourly or daily rate;

**“county public service”** means the collectivity of all individuals performing functions within any department of the county government or its agency, but does not include the governor, deputy governor, members of the county executive committee and the members of the county assembly;

**“deputy governor”** means a person nominated by the governor in accordance with Article 180 of the Constitution;

**“disciplinary control”** means the imposition of any punishment against a public officer on account of breach of a code of conduct;

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**“GIS based database system”** means a geographical information management system that integrates hardware, software and data for capturing, managing, analyzing and displaying forms of geographically referenced information;

**“governor”** means a county governor elected in accordance with Article 180 of the Constitution;

**“input indicator”** means an indicator that measures the costs, resources or time used to produce an output;

**“marginalised group”** has the meaning assigned to it by Article 260 of the Constitution;

**“merit”** when used with reference to a person who is a candidate for appointment, promotion or re-designation to a county public office, means—

- (a) the abilities, qualifications and personal qualities required to satisfy any prescribed criteria for appointments in the county public service, or to carry out the duties of the county public office; and
- (b) the person’s potential for development;

**“outcome indicator”** means an indicator that measures the quality or impact of an output in achieving a particular objective;

**“output indicator”** means an indicator that measures the results of activities, processes and strategies of programmes or projects of a county government;

**“promotion”** means the conferment upon a person in the county public service of an office to which is attached a higher salary or salary scale than that attached to the previous office substantively held by that person;

**“public officer”** has the meaning assigned to it in Article 260 of the Constitution;

**“qualification”** means any prescribed factor of eligibility or ineligibility attached to holding or acting in a county public office;

**“re-designation”** means the conferment upon a person, of a county public office at a grade equal to or substantially equal to the one previously held by that person and whose major consequence is to change from one cadre to the other to facilitate that person’s horizontal mobility characterized with change in career path;

**“retirement”** means the removal of an officer from the public service with full separation benefits including pension benefits, gratuity or such other terminal benefits as may be provided for in the applicable law or the contract of service or a special retirement scheme agreed upon between the public officer and the relevant lawful authority;

**“Salaries and Remuneration Commission”** means the Salaries and Remuneration Commission established under Article 230(1) of the Constitution;

**“secondment”** means a temporary leave from discharging the duties of a county public office with a view of the concerned county public officer being employed outside the county public service or in another public body;

**“shared services”** means—

- (a) the centralisation at a county or other level of those administrative functions of a county that could be performed by different units including matters such as supply chain management, human resource management, information technology, purchasing, inventory, payroll, hiring, and information technology; or
- (b) partnerships between counties, a county or counties and national government and public private partnerships to deliver a specified set of public services;

**“speaker”** means the speaker of a county assembly elected under Article 178 of the Constitution;

**“the public”**, when used in relation to public participation in this Act, means—

- (a) the residents of a particular county;
- (b) the rate payers of a particular city or municipality;
- (c) any resident civic organisation or non-governmental, private sector or labour organization with an interest in the governance of a particular county, city or municipality;
- (d) non-resident persons who because of their temporary presence in a particular county, city or municipality make use of services or facilities provided by the county, city or municipality;

**“urban area”** has the meaning assigned to it under the Urban Areas and Cities Act, 2011 (No. 13 of 2011);

**“Ward”** means an electoral unit within a constituency delimited in accordance with Article 89 of the Constitution and any other relevant law; and

**“Ward representative”** means a county assembly member representing a particular Ward.

[Act No. 1 of 2016, s. 2.]

### 3. Object and purpose of the Act

The object and purpose of this Act is to—

- (a) provide for matters necessary or convenient to give effect to Chapter Eleven of the Constitution pursuant to Article 200 of the Constitution;
- (b) give effect to the objects and principles of devolution as set out in Articles 174 and 175 of the Constitution;
- (c) give effect to Article 176(2) of the Constitution in respect of further decentralization;
- (d) provide for the removal from office of the speaker of the county assembly in accordance with Article 178 of the Constitution;
- (e) provide for the powers, privileges and immunities of county assemblies, their committees and members under Article 196 of the Constitution;

- (f) provide for public participation in the conduct of the activities of the county assembly as required under Article 196 of the Constitution;
- (g) seek to ensure that the community and cultural diversity of a county is reflected in its county assembly and county executive committee as contemplated in Article 197 of the Constitution;
- (h) prescribe mechanisms to protect minorities within counties pursuant to Article 197 of the Constitution;
- (i) prescribe additional requirements in respect of the publication of county legislation as contemplated in Article 199 of the Constitution;
- (j) provide, pursuant to Article 200 of the Constitution, for—
  - (i) the manner of nomination or appointment of persons to, and their removal from, offices in county governments, including the qualifications of voters and candidates;
  - (ii) the procedure of assemblies and executive committees including the chairing and frequency of meetings, quorums and voting; and
  - (iii) the suspension of assemblies and executive committees;
- (k) prescribe, pursuant to Article 235 of the Constitution, uniform norms and standards, for—
  - (i) establishing and abolishing offices in the county public service;
  - (ii) appointing persons to hold or act in those offices, and confirming appointments; and
  - (iii) exercising disciplinary control over and removing persons holding or acting in those offices; and
- (l) provide for the promotion, evaluation and reporting on the compliance by county public officers with the values and principles in Articles 10 and 232 of the Constitution.

#### **4. County symbols**

(1) Every county shall enact legislation prescribing the following county symbols—

- (a) the county flag;
- (b) county coat of arms; and
- (c) the county public seal.

(2) The County Executive Committee shall develop the symbols of the county through a consultative process for approval by the county assembly by legislation.

(3) The county legislation enacted under subsection (1) shall provide for the use of the county symbols in the same manner as provided for in the National Flag, Emblems and Names Act (Cap. 99).

(4) A county symbol shall not be the same as, or bear a likeness or similarity to a national symbol.

[Act No. 7 of 2016, Sch.]

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## PART II – COUNTY GOVERNMENTS

### 5. Functions of county governments

(1) A county government shall be responsible for any function assigned to it under the Constitution or by an Act of Parliament.

(2) Without prejudice to the generality of subsection (1), a county government shall be responsible for—

- (a) county legislation in accordance with Article 185 of the Constitution;
- (b) exercising executive functions in accordance with Article 183 of the Constitution;
- (c) functions provided for in Article 186 and assigned in the Fourth Schedule of the Constitution;
- (d) any other function that may be transferred to county governments from the national government under Article 187 of the Constitution;
- (e) any functions agreed upon with other county governments under Article 189(2) of the Constitution; and
- (f) establishing and staffing its public service as contemplated under Article 235 of the Constitution.

(3) A county government may seek assistance from the Kenya Law Reform Commission in the development or reform of county legislation under subsection (2)(a).

[Act No. 7 of 2016, Sch.]

### 6. Powers of county governments

(1) As an entity exercising constitutional authority, a county government shall be a body corporate with perpetual succession and shall have all the powers necessary for the discharge of its functions.

(2) Without prejudice to the generality of subsection (1), a county government may—

- (a) enter into a contract;
- (b) acquire, purchase or lease any land; or
- (c) delegate any of its functions to its officers, decentralised units or other entities within the county.

(3) A county government may enter into partnerships with any public or private organization in accordance with the provisions of any law relating to public or private partnerships for any work, service or function for which it is responsible within its area of jurisdiction.

(4) All contracts lawfully entered into under this section shall be valid and binding on the county government, its successors and assigns.

(5) To ensure efficiency in the delivery of service or carrying out of a function for which the county government is responsible, the county government may—

- (a) establish a company, firm or other body for the delivery of a particular service or carrying on of a particular function; or
- (b) contract any person, company, firm or other body for the delivery of a particular service or carrying on a particular function.

(6) In exercising its powers or performing any of its functions a county government shall ensure efficiency, effectiveness, inclusivity and participation of the people.

#### **6A. Location of county governments**

(1) Each of the county governments shall be located in the respective physical location set out in the Third Schedule.

(2) A County Assembly may, by a resolution supported by at least two-thirds of the members of the County Assembly and with the approval of Parliament, transfer the headquarters of the county government from the physical location specified in the Third Schedule to such other physical location as it may consider appropriate.

(3) A County Assembly shall, before passing a resolution under subsection (2), facilitate public participation.

(4) The county governor shall confer the status of an urban area to the seat of the physical location of the county government in accordance with the provisions set out in the Urban Areas and Cities Act (No. 13 of 2011).

[Act No. 1 of 2016, s. 3.]

### **PART III – COUNTY ASSEMBLY**

#### **7. Membership of the county assembly**

(1) In addition to the members who are elected under Article 177(a), or nominated under Article 177(b) of the Constitution, a county assembly shall comprise—

- (a) six nominated members as contemplated in Article 177(c) of the Constitution; and
- (b) the speaker, who is an *ex officio* member elected in accordance with Article 178 of the Constitution.

(2) The political party nominating persons under subsection (1) shall ensure that—

- (a) community and cultural diversity of the county is reflected in the county assembly; and
- (b) there is adequate representation to protect minorities within the county in accordance with Article 197 of the Constitution.

(3) The number of members nominated under subsection (1)(a) shall be reviewed to accord with the number of Wards determined by the Independent Electoral and Boundaries Commission under section 27(3)(a).

#### **8. Role of the county assembly**

(1) The county assembly shall—

- (a) vet and approve nominees for appointment to county public offices as may be provided for in this Act or any other law;
- (b) perform the roles set out under Article 185 of the Constitution;
- (c) approve the budget and expenditure of the county government in accordance with Article 207 of the Constitution, and the legislation contemplated in Article 220(2) of the Constitution, guided by Articles 201 and 203 of the Constitution;
- (d) approve the borrowing by the county government in accordance with Article 212 of the Constitution;

- 
- (e) approve county development planning; and
  - (f) perform any other role as may be set out under the Constitution or legislation.

(2) If a county assembly fails to enact any particular legislation required to give further effect to any provision of this Act, a corresponding national legislation, if any, shall with necessary modifications apply to the matter in question until the county assembly enacts the required legislation.

## **9. Role of members of the county assembly**

- (1) A member of a county assembly shall—
  - (a) maintain close contact with the electorate and consult them on issues before or under discussion in the county assembly;
  - (b) present views, opinions and proposals of the electorate to the county assembly;
  - (c) attend sessions of the county assembly and its committees;
  - (d) provide a linkage between the county assembly and the electorate on public service delivery; and
  - (e) extend professional knowledge, experience or specialised knowledge to any issue for discussion in the county assembly.
- (2) A member of the county assembly shall not be directly or indirectly involved in the—
  - (a) executive functions of the county government and its administration; or
  - (b) delivery of services as if the member were an officer or employee of the county government.
- (3) Members of a county assembly shall be sworn in by the county assembly clerk within fourteen days, after the announcement of the final results of an election, in the manner set out in the Schedule to this Act.
- (4) At any time in the absence of the speaker of the county assembly or in matters that directly affect the speaker, the county assembly shall elect a member to act as speaker as contemplated under Article 178(2)(b) of the Constitution.
- (5) Unless otherwise removed, the first member elected under subsection (4), shall, in the absence of the Speaker, preside over the sittings of the assembly for the term of the county assembly.

## **10. County assembly party leaders**

- (1) There shall be in each county assembly a leader of the majority party and a leader of the minority party.
- (2) The leader of the majority party shall be the person who is the leader of the largest party or coalition of parties in the county assembly.
- (3) The leader of the minority party shall be the person who is the leader of the second largest party or coalition of parties in the county assembly.
- (4) A county assembly shall observe the following order of precedence—
  - (a) the speaker of the county assembly;
  - (b) the leader of the majority party; and
  - (c) the leader of the minority party.

**11. Removal of speaker from office**

(1) A speaker of a county assembly may be removed from office by the county assembly through a resolution supported by not less than seventy five percent of all the members of the county assembly.

(2) A notice of the intention to move a motion for a resolution to remove the speaker shall be given in writing to the clerk of the county assembly, signed by at least one third of all the members of the county assembly stating the grounds for removal.

(3) A motion for a resolution to remove the speaker shall be presided over by a member of the county assembly elected under section 9(4).

(4) Before the debate and voting on a motion under subsection (3), the speaker shall be accorded an opportunity to respond to the allegations on the floor of the county assembly.

**12. The county assembly service board**

(1) There shall be a county assembly service board for each county assembly.

(2) The county assembly service board shall be a body corporate with perpetual succession and a common seal.

(3) The Board consists of—

- (a) the Speaker of the county assembly, as the chairperson;
- (b) a vice-chairperson elected by the Board from the members appointed under paragraph (c);
- (c) two members of the county assembly nominated by the political parties represented in the county assembly according to their proportion of members in the county assembly; and
- (d) one man and one woman appointed by the county assembly from amongst persons who are experienced in public affairs, but are not members of the county assembly.

(3A) The members of the Board appointed under section 12(3)(d) shall serve on a part-time basis.

(4) The county assembly clerk shall be the secretary to the county assembly service board.

(5) A member of the county assembly service board shall vacate office—

- (a) if the person is a member of the county assembly—
  - (i) at the end of the term of the county assembly; or
  - (ii) if the person ceases to be a member of the county assembly; or
- (b) if the person is an appointed member, on revocation of the person's appointment by the county assembly; or
- (c) if the person is the Speaker, when the person ceases to be such Speaker.

(6) Despite subsection (5), when the term of the county assembly ends, a member of the county assembly service board under subsection (3)(d) shall continue in office until a new member has assumed office in the member's place in the next assembly.

- (7) The county assembly service board is responsible for—
- (a) providing services and facilities to ensure the efficient and effective functioning of the county assembly;
  - (b) constituting offices in the county assembly service, and appointing and supervising office holders;
  - (c) preparing annual estimates of expenditure of the county assembly service and submitting them to the county assembly for approval, and exercising budgetary control over the service;
  - (d) undertaking, singly or jointly with other relevant organizations, programmes to promote the ideals of parliamentary democracy; and
  - (e) performing other functions—
    - (i) necessary for the well-being of the members and staff of the county assembly; or
    - (ii) prescribed by national legislation.

[Act No. 24 of 2017, s. 46.]

### **13. Clerk and staff of the county assembly**

- (1) There shall be a clerk of the county assembly, appointed by the county assembly service board with the approval of the county assembly.
- (2) A person shall not be qualified for appointment as a clerk of the county assembly unless such person—
  - (a) is a citizen of Kenya;
  - (b) holds a degree from a university recognised in Kenya or its equivalent;
  - (c) has had at least five years relevant professional experience;
  - (d) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution.
- (3) The functions and powers of the clerk of a county assembly shall be as set out under section 19 of the County Assembly Services Act.
- (4) For the purposes of this Act, the clerk of a county assembly is an authorized officer.
- (5) The office of the clerk of the county assembly and the offices of members of the staff of the clerk of the county assembly shall be offices in the county assembly service board.
- (6) The remuneration of the clerk and staff of the county assembly shall be determined by the county assembly service board upon the advice of the Salaries and Remuneration Commission.

[Act No. 24 of 2017, s. 47.]

### **14. Procedure and committees of the county assembly**

- (1) A county assembly—
  - (a) may make standing orders consistent with the Constitution and this Act regulating the procedure of the county assembly including, in particular, orders for the proper conduct of proceedings; and
  - (b) subject to standing orders made under paragraph (a), may establish committees in such manner and for such general or special purposes as it considers fit, and regulate the procedure of any committee so established.

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- (2) The county assembly proceedings are valid despite—
    - (a) there being a vacancy in its membership at the particular time; or
    - (b) the presence or participation at the particular time of a person not entitled to be present at, or to participate in, the proceedings of the county assembly.
  - (3) In considering any appointment for which approval of the county assembly is required under the Constitution, an Act of Parliament or county legislation—
    - (a) the appointment shall be considered first by a committee of the county assembly;
    - (b) the committee's recommendation shall be tabled before the county assembly for approval; and
    - (c) the proceedings of the committee and the county assembly shall be open to the public.
  - (4) The county assembly shall in establishing committees under this section ensure that each member of the county assembly is appointed to at least one committee.
  - (5) A county assembly may jointly with another county assembly, establish committees consisting of members of both county assemblies.
  - (6) If a county assembly establishes a joint committee with another county assembly, the election of members and regulation of the conduct of the business of the joint committee shall be as agreed between the two county assemblies.
  - (7) Until a county assembly makes its standing orders under subsection (1), the standing orders of the National Assembly shall, with the necessary modifications, apply to that county assembly.
  - (8) Without limiting the generality of subsection (1), the Standing Orders made under this section shall provide for the matters specified in the Second Schedule.

#### **15. Right to petition county assembly**

- (1) A person has a right to petition a county assembly to consider any matter within its authority, including enacting, amending or repealing any of its legislation.
- (2) Each county assembly shall prescribe a procedure for exercising the right under subsection (1).

#### **16. Freedom of speech and debate**

No civil or criminal proceedings may be instituted in any court or tribunal against a member of a county assembly by reason of any matter said in any debate, petition, motion or other proceedings of the county assembly.

#### **17. Powers, privileges and immunities of a county assembly**

The national law regulating the powers and privileges of Parliament shall, with the necessary modifications, apply to a county assembly.

**18. Official languages of a county assembly**

- (1) The official languages of a county assembly shall be Kiswahili, English and Kenyan sign language and the business of the county assembly may be conducted in English, Kiswahili and Kenyan sign language.
- (2) No business of the county assembly or any of its committees or other organs may be conducted or transacted in a language other than the official languages.
- (3) In case of a conflict between different language versions of a county legislation, the version in which the legislation was originally enacted prevails.
- (4) The verbatim report of the proceedings of a county assembly shall be recorded in the official language in which it was presented.

**19. Quorum**

The quorum of a county assembly is one third of all the members of the county assembly.

**20. Voting in a county assembly**

- (1) Except as otherwise provided in the Constitution, in this Act or in other legislation, any question proposed for decision by the county assembly shall be determined by a majority of the members of the county assembly present and voting.
- (2) On a question proposed for decision by a county assembly—
- the speaker of the county assembly has no vote; and
  - in the case of a tie, the question is lost.
- (3) A member of a county assembly shall—
- at all times observe the principles of integrity including those set out in Chapter Six of the Constitution; and
  - promptly declare to the speaker any interest that the member has in any matter being discussed in the county assembly.
- (4) A member of a county assembly shall not vote on any question in which the member has a pecuniary interest.

**21. Procedure for the exercise of legislative powers**

- (1) A county assembly shall exercise its legislative power through Bills passed by the county assembly and assented to by the governor.
- (2) A Bill may be introduced by any member or committee of the county assembly, but a money Bill may be introduced only in accordance with subsection (4).
- (3) In the case of a money Bill, the county assembly may proceed only in accordance with the recommendation of the relevant committee of the county assembly after taking into account the views of the county executive committee member responsible for finance.

(4) For the purposes of this Act, “**money Bill**” means a Bill that contains provisions dealing with—

- (a) taxes;
- (b) the imposition of charges on a public fund or the variation or repeal of any of those charges;
- (c) the appropriation, receipt, custody, investment or issue of public money;
- (d) the raising or guaranteeing of any loan or its repayment; or
- (e) matters incidental to any of those matters.

## **22. Bill to have a title**

A Bill introduced in the county assembly shall be identified by a title placed at the beginning of the Bill and the title shall include the subject matter of the statute to be enacted.

## **23. Publication of a Bill**

A Bill shall be published by including the Bill as a supplement in the county *Gazette* and the Kenya *Gazette*.

## **24. Assenting to a Bill**

(1) The Speaker shall, within fourteen days, forward a Bill passed by the county assembly to the governor.

(2) The governor shall within fourteen days after receipt of a Bill—

- (a) assent to the Bill; or
- (b) refer the bill back to the county assembly with a memorandum outlining reasons for the referral.

(3) If the governor refers a Bill back to the county assembly, the county assembly may, following the appropriate procedures under this section—

- (a) amend the Bill taking into account the issues raised by the governor; or
- (b) pass the Bill without amendment.

(4) If a county assembly amends the Bill taking into consideration the issues raised by the governor, the speaker shall within fourteen days submit the Bill to the governor for assent.

(5) If a county assembly passes the Bill a second time, without amendment, or with amendments which do not accommodate the governor’s concerns by a vote supported by two-thirds of members of the county assembly, the speaker shall within seven days re-submit the Bill to the governor and the governor shall within seven days assent to the Bill.

(6) If the governor does not assent to a Bill or refer it back within the period referred to under this section, the Bill shall be taken to have been assented to on the expiry of that period.

**25. Coming into force of a law**

(1) A legislation passed by the county assembly and assented to by the governor shall be published in the county *Gazette* and Kenya *Gazette* within seven days after assent.

(2) Subject to subsection (3), the county assembly legislation shall come into force on the fourteenth day after its publication in the county *Gazette* and Kenya *Gazette*, whichever comes earlier, unless the legislation stipulates a different date on or time at which it shall come into force.

(3) A county assembly legislation that confers a direct benefit whether financial or in kind on members of the county assembly shall come into force after the next general election of members of the county assembly.

(4) Subsection (3) does not apply to an interest that members of county assembly have as members of the public.

**PART IV – ELECTORAL WARDS****26. Number and delimitation of electoral Wards, etc.**

(1) There shall be not more than one thousand four hundred and fifty electoral Wards for purposes of the election of county assembly members.

(2) For purposes of the first general elections under the Constitution, the Independent Electoral and Boundaries Commission (in this Part referred to as the “Commission”) shall ensure that each county comprises at least ten Wards.

(3) The Commission shall review the names and boundaries of Wards at intervals of not less than eight years, and not more than twelve years, but any review shall—

- (a) ensure that no county shall comprise less than twenty-five Wards; and
- (b) be completed at least twelve months before a general election of county assembly members.

(4) The requirements under subsection (3) above shall not apply to the review of Ward boundaries preceding the first election under this Act.

(5) If a general election is to be held within twelve months after the completion of a review by the Commission, the new boundaries shall take effect in the subsequent election.

(6) The boundaries of each Ward shall be such that the number of inhabitants in the Ward is, as nearly as possible, equal to the population quota, but the number of inhabitants of a Ward may be more or less than the population quota in the manner mentioned in subsection (7) to take account of—

- (a) geographical features and urban centres;
- (b) community of interest, historical, economic and cultural ties; and
- (c) means of communication.

- (7) The number of inhabitants of a Ward may be more or less than the population quota by a margin of not more than—
- (a) forty per cent for cities and sparsely populated areas; or
  - (b) thirty per cent for the other areas.
- (8) In reviewing Ward boundaries, the Commission shall—
- (a) consult all interested parties; and
  - (b) progressively work towards ensuring that the number of inhabitants in each constituency and Ward is, as nearly as possible, equal to the population quota.

[Act No. 7 of 2016, Sch.]

## **27. Recall of a county assembly member**

- (1) The electorate in a county ward may recall their member of the county assembly before the end of the term of the member on any of the grounds specified in subsection (2).
- (2) A member of a county assembly may be recalled where the member—
- (a) is found, after due process of the law, to have violated the provisions of Chapter Six of the Constitution;
  - (b) is found, after due process of the law, to have mismanaged public resources;
  - (c) is convicted of an offence under the Elections Act (No. 24 of 2011).
- (3) A recall of a member of the county assembly under subsection (1) shall only be initiated upon a judgment or finding by the High Court confirming the grounds specified in subsection (2).
- (4) A recall under subsection (1) shall only be initiated twenty-four months after the election of the member of the county assembly and not later than twelve months immediately preceding the next general election.
- (5) A recall petition shall not be filed against a member of the county assembly more than once during the term of that member in the county assembly.
- (6) A person who unsuccessfully contested an election under the Elections Act (No. 24 of 2011) shall not be eligible, directly or indirectly, to initiate a petition under this section.

## **28. Petition for recall**

- (1) A recall under section 27 shall be initiated by a petition which shall be filed with the Independent Electoral and Boundaries Commission and which shall be—
- (a) in writing;
  - (b) signed by a petitioner who—
    - (i) is a voter in the Ward in respect of which the recall is sought; and

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- (ii) was registered to vote in the election in respect of which the recall is sought;
  - (c) accompanied by an order of the High Court issued in terms of section 27(3).
- (2) The petition referred to in subsection (1) shall—
- (a) specify the grounds for the recall as specified under section 27(2);
  - (b) contain a list of such number of names of voters in the Ward which shall represent at least thirty percent of the registered voters in that Ward; and
  - (c) be accompanied by the fee prescribed for an election petition.
- (3) The list of names referred to in subsection (2)(b) shall contain the names, address, voter card number, national identity card or passport number and signature of the voters supporting the petition.
- (4) The voters supporting a petition under subsection (3) shall represent the diversity of the people in the Ward.
- (5) The petitioner shall collect and submit to the Commission the list of names under subsection (2)(b) within a period of thirty days after filing the petition.
- (6) The Commission shall verify the list of names within a period of thirty days of receipt of that list.
- (7) The Commission, if satisfied that the requirements of this section are met, shall within fifteen days after the verification, issue a notice of the recall to the speaker of the county assembly.
- (8) The Commission shall conduct a recall election within the Ward within ninety days of the publication of the question.

## **29. Recall elections**

- (1) Where a member of the county assembly is to be recalled under section 27, the Independent Electoral and Boundaries Commission shall frame the question to be determined at the recall election.
- (2) A question referred to in subsection (1) shall be framed in such a manner as to require the answer “yes” or the answer “no”.
- (3) The Commission shall assign a symbol for each answer to the recall question.
- (4) The voting at a recall election shall be by secret ballot.
- (5) A recall election shall be decided by a simple majority of the voters voting in the recall election.
- (6) Where a recall election results in the removal of a member of the county assembly, the Commission shall conduct a by-election in the affected Ward.
- (7) A member of the county assembly who has been recalled may run in the by-election conducted under subsection (6).

**PART V – COUNTY EXECUTIVE****30. Functions and responsibilities of a county governor**

(1) The governor shall take and subscribe to the oath or affirmation as set out in the Schedule to this Act before assuming office.

(2) Subject to the Constitution, the governor shall—

- (a) diligently execute the functions and exercise the authority provided for in the Constitution and legislation;
- (b) perform such State functions within the county as the President may from time to time assign on the basis of mutual consultations;
- (c) represent the county in national and international fora and events;
- (d) appoint, with the approval of the county assembly, the county executive committee in accordance with Article 179(2)(b) of the Constitution;
- (e) constitute the county executive committee portfolio structure to respond to the functions and competencies assigned to and transferred to each county;
- (f) submit the county plans and policies to the county assembly for approval;
- (g) consider, approve and assent to bills passed by the county assembly;
- (h) chair meetings of the county executive committee;
- (i) by a decision notified in the county *Gazette*, assign to every member of the county executive committee, responsibility to ensure the discharge of any function within the county and the provision of related services to the people;
- (j) submit to the county assembly an annual report on the implementation status of the county policies and plans;
- (k) deliver annual state of the county address containing such matters as may be specified in county legislation; and
- (l) sign and cause to be published in the county *Gazette*, notice of all important formal decisions made by the governor or by the county executive committee.

(3) In performing the functions under subsection (2), the governor shall—

- (a) provide leadership in the county's governance and development;
- (b) provide leadership to the county executive committee and administration based on the county policies and plans;
- (c) promote democracy, good governance, unity and cohesion within the county;
- (d) promote peace and order within the county;
- (e) promote the competitiveness of the county;
- (f) be accountable for the management and use of the county resources; and

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- (g) promote and facilitate citizen participation in the development of policies and plans, and delivery of services in the county.

### **31. Powers of the governor**

The governor—

- (a) may, despite section 40, dismiss a county executive committee member at any time, if the governor considers that it is appropriate or necessary to do so;
- (b) shall dismiss a county executive committee member, if required to do so by a resolution of the county assembly as provided under section 40;
- (c) may appoint an accounting officer for each department, entity or decentralized unit of the county government; and
- (d) shall have such powers as may be necessary for the execution of the duties of the office of governor.

### **32. Functions of the deputy governor**

- (1) The deputy governor shall take and subscribe to the oath or affirmation as set out in the First Schedule to this Act before assuming office.
- (2) The deputy governor shall deputize for the governor in the execution of the governor's functions.
- (3) The governor may assign the deputy governor any other responsibility or portfolio as a member of the county executive committee.
- (4) When acting in office as contemplated in Article 179(5) of the Constitution, the deputy governor shall not exercise any powers of the governor, to nominate, appoint or dismiss, that are assigned to the governor under the Constitution or other written law.
- (5) The governor shall not delegate to the deputy governor any of the functions referred to in subsection (4).

[Act No. 7 of 2016, Sch.]

### **33. Removal of a governor**

- (1) A member of the county assembly may by notice to the speaker, supported by at least a third of all the members, move a motion for the removal of the governor under Article 181 of the Constitution.
- (2) If a motion under subsection (1) is supported by at least two-thirds of all the members of the county assembly—
  - (a) the speaker of the county assembly shall inform the Speaker of the Senate of that resolution within two days; and
  - (b) the governor shall continue to perform the functions of the office pending the outcome of the proceedings required by this section.
- (3) Within seven days after receiving notice of a resolution from the speaker of the county assembly—
  - (a) the Speaker of the Senate shall convene a meeting of the Senate to hear charges against the governor; and

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- (b) the Senate, by resolution, may appoint a special committee comprising eleven of its members to investigate the matter.
  - (4) A special committee appointed under subsection (3)(b) shall—
    - (a) investigate the matter; and
    - (b) report to the Senate within ten days on whether it finds the particulars of the allegations against the governor to have been substantiated.
  - (5) The governor shall have the right to appear and be represented before the special committee during its investigations.
  - (6) If the special committee reports that the particulars of any allegation against the governor—
    - (a) have not been substantiated, further proceedings shall not be taken under this section in respect of that allegation; or
    - (b) have been substantiated, the Senate shall, after according the governor an opportunity to be heard, vote on the impeachment charges.
  - (7) If a majority of all the members of the Senate vote to uphold any impeachment charge, the governor shall cease to hold office.
  - (8) If a vote in the Senate fails to result in the removal of the governor, the Speaker of the Senate shall notify the speaker of the concerned county assembly accordingly and the motion by the assembly for the removal of the governor on the same charges may only be re-introduced to the Senate on the expiry of three months from the date of such vote.
  - (9) The procedure for the removal of the President on grounds of incapacity under Article 144 of the Constitution shall apply, with necessary modifications, to the removal of a governor.
  - (10) A vacancy in the office of the governor or deputy governor arising under this section shall be filled in the manner provided for by Article 182 of the Constitution.

#### **34. Exercise of executive authority**

The county executive committee shall exercise the executive authority—

- (a) in accordance with the Constitution and relevant national and county legislation;
- (b) for the well-being and benefit of the people;
- (c) taking into account the objects and principles of devolution of government set out under Articles 174 and 175 of the Constitution;
- (d) while enhancing self-governance for communities in the management of development programs;
- (e) while ensuring the protection and promotion of the interests and rights of minorities and marginalized communities;
- (f) while promoting gender equity;
- (g) while promoting social and economic development within the county; and

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- (h) while ensuring equitable sharing of available resources throughout the county.

**35. Appointment of county executive members**

(1) The governor shall, when nominating members of the executive committee—

- (a) ensure that to the fullest extent possible, the composition of the executive committee reflects the community and cultural diversity of the county; and
- (b) take into account the principles of affirmative action as provided for in the Constitution.

(2) The county assembly shall not approve nominations for appointment to the executive committee that do not take into account—

- (a) not more than two thirds of either gender;
- (b) representation of the minorities, marginalized groups and communities; and
- (c) community and cultural diversity within the county.

(3) A person may be appointed as a member of the county executive committee if that person—

- (a) is a Kenyan citizen;
- (b) is a holder of at least a first degree from a university recognised in Kenya;
- (c) satisfies the requirements of Chapter Six of the Constitution; and
- (d) has knowledge, experience and a distinguished career of not less than five years in the field relevant to the portfolio of the department to which the person is being appointed.

(4) A member of the county executive committee shall not hold any other State or public office.

**36. Functions of the executive committee**

(1) In addition to the functions provided under Article 183 of the Constitution, a county executive committee shall—

- (a) supervise the administration and delivery of services in the county and all decentralized units and agencies in the county;
- (b) perform any other functions conferred on it by the Constitution or national legislation; and
- (c) carry out any function incidental to any of the assigned functions.

(2) In the performance of its functions, a county executive committee shall have power to determine its own programme of activities and every member of the committee shall observe integrity and disclosure of interest in any matter before the committee.

**37. Role of the executive committee in urban area or city planning**

A county executive committee shall—

- (a) monitor the process of planning, formulation and adoption of the integrated development plan by a city or municipality within the county;
- (b) assist a city or municipality with the planning, formulation, adoption and review of its integrated development plan;
- (c) facilitate the coordination and alignment of integrated development plans of different cities or municipalities within the county and with the plans, strategies and programmes of national and county governments; and
- (d) take appropriate steps to resolve any disputes or differences in connection with the planning, formulation, adoption or review of an integrated development plan.

**38. Oath of office for the executive committee**

A person appointed as a member of the county executive committee under Article 179 of the Constitution shall take the prescribed oath or affirmation of office provided in the First Schedule to this Act before assuming office.

[Act No. 7 of 2016, Sch.]

**39. Accountability of members of the executive committee**

(1) The members of the county executive committee are individually and collectively accountable to the governor in the exercise of their powers and performance of their duties and responsibilities.

(2) A committee of the county assembly may require a member of the executive committee to—

- (a) attend or appear before the committee; and
- (b) answer any question relating to the member's responsibilities.

**40. Removal of member of executive committee**

(1) Subject to subsection (2), the Governor may remove a member of the county executive committee from office on any of the following grounds—

- (a) incompetence;
- (b) abuse of office;
- (c) gross misconduct;
- (d) failure, without reasonable excuse, or written authority of the governor, to attend three consecutive meetings of the county executive committee;
- (e) physical or mental incapacity rendering the executive committee member incapable of performing the duties of that office; or
- (f) gross violation of the Constitution or any other law.

(2) A member of the county assembly, supported by at least one-third of all the members of the county assembly, may propose a motion requiring the governor to dismiss a county executive committee member on any of the grounds set out in subsection (1).

(3) If a motion under subsection (2) is supported by at least one-third of the members of the county assembly—

- (a) the county assembly shall appoint a select committee comprising five of its members to investigate the matter; and
- (b) the select committee shall report, within ten days, to the county assembly whether it finds the allegations against the county executive committee member to be substantiated.

(4) The county executive committee member has the right to appear and be represented before the select committee during its investigations.

(5) If the select committee reports that it finds the allegations—

- (a) unsubstantiated, no further proceedings shall be taken; or
- (b) substantiated, the county assembly shall vote whether to approve the resolution requiring the county executive committee member to be dismissed.

(6) If a resolution under subsection (5)(b) is supported by a majority of the members of the county assembly—

- (a) the speaker of the county assembly shall promptly deliver the resolution to the governor; and
- (b) the governor shall dismiss the county executive committee member.

#### **41. Meetings of the county executive committee**

(1) The deliberations of all meetings of the county executive committee shall be recorded in writing.

(2) The quorum of a meeting of a county executive committee shall be more than one half of its membership.

(3) A resolution of the county executive committee shall be by a majority of the members present and voting.

(4) A resolution arrived at pursuant to subsection (2) shall be accessible to the public.

#### **42. County executive to remain in office after elections**

(1) When a general election is held for a county government, the outgoing county executive committee shall remain in office until a new county executive committee is constituted after the election.

(2) The constitution of a new executive committee after an election under subsection (1) shall be finalized within twenty-one days of the swearing in of the members of the county assembly.

#### **43. Representation of county government by Attorney-General in court**

A county government may, pursuant to Article 156(4) of the Constitution request the Attorney-General to represent the county government in court or in any other legal proceedings to which the county government is a party other than in criminal proceedings.

**44. Appointment of county secretary**

- (1) There is established for each county the office of the county secretary who shall be secretary to the county executive committee.
- (2) The county secretary—
- (a) shall be competitively sourced from amongst persons who are university graduates with at least ten years experience in administration and management;
  - (b) shall be nominated from persons competitively sourced under paragraph (a) by the governor and, with the approval of the county assembly, appointed by the governor; and
  - (c) may, subject to the conditions and terms of appointment, be dismissed by the governor.
- (3) The county secretary shall—
- (a) be the head of the county public service;
  - (b) be responsible for arranging the business, and keeping the minutes, of the county executive committee subject to the directions of the executive committee;
  - (c) convey the decisions of the county executive committee to the appropriate persons or authorities; and
  - (d) perform any other functions as directed by the county executive committee.
- (4) The county secretary may resign from office by giving thirty days written notice to the governor.

**45. Appointment of county chief officers**

- (1) The governor shall—
- (a) nominate qualified and experienced county chief officers from among persons competitively sourced and recommended by the County Public Service Board; and
  - (b) with the approval of the county assembly, appoint county chief officers.
- (2) The office of a county chief officer shall be an office in the county public service.
- (3) A county chief officer shall be responsible to the respective county executive committee member for the administration of a county department as provided under section 46.
- (4) The county chief officer shall be the authorized officer in respect of the exercise of delegated power.
- (5) The governor may re-assign a county chief officer.
- (6) A county chief officer may resign from office by giving notice, in writing, to the governor.

[Act No. 7 of 2016, Sch.]

**46. County executive committee to determine organisation of county**

- (1) The county executive committee shall determine the organization of the county and its various departments, and for that purpose may—
- (a) establish, continue or vary any department, and determine the objects and purposes of the department;
  - (b) determine the number and nature of departments at the decentralized units;
  - (c) abolish any department; and
  - (d) determine or change the name of any department.
- (2) When establishing departments and organizing the county, the county executive committee shall take into account, and be guided by, the need to—
- (a) be responsive to the needs of the local community and the functions and competencies assigned to and transferred to the county;
  - (b) facilitate a culture of public service and accountability in the county public service;
  - (c) be performance oriented and focused on the objects of devolved government set out in Article 174 of the Constitution;
  - (d) ensure that the county departments align their roles and responsibilities with the priorities and objectives set out in the county's policies and plans;
  - (e) organise its departments and other structures in a flexible way in order to respond to changing priorities and circumstances;
  - (f) assign clear responsibilities for the management and coordination of departments and functions;
  - (g) allow participatory decision making as far as is practicable; and
  - (h) provide an equitable, fair, open and non-discriminatory working environment.

[Act No. 7 of 2016, Sch.]

**47. Performance management plan**

- (1) The county executive committee shall design a performance management plan to evaluate performance of the county public service and the implementation of county policies.
- (2) The plan shall provide for among others—
- (a) objective, measurable and time bound performance indicators;
  - (b) linkage to mandates;
  - (c) annual performance reports;
  - (d) citizen participation in the evaluation of the performance of county government; and
  - (e) public sharing of performance progress reports.
- (3) The governor shall submit the annual performance reports of the county executive committee and public service to the county assembly for consideration.
- (4) The performance management plan and reports under this section shall be public documents.

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## PART VI – DECENTRALIZED UNITS

### **48. Decentralized units**

(1) Subject to subsection (3), the functions and provision of services of each county government shall be decentralized to—

- (a) the urban areas and cities within the county established in accordance with the Urban Areas and Cities Act (No. 13 of 2011);
- (b) the sub-counties equivalent to the constituencies within the county established under Article 89 of the Constitution;
- (c) the Wards within the county established under Article 89 of the Constitution and section 26;
- (d) such number of village units in each county as may be determined by the county assembly of the respective county; and
- (e) such other or further units as a county government may determine.

(2) If the constituency or part of a constituency falls under urban areas or cities, that constituency or part of the constituency, as the case may be, shall be considered as falling under subsection (1)(a).

(3) In establishing a village unit under subsection (1)(d), a county assembly shall take into account the—

- (a) population size;
- (b) geographical features;
- (c) community of interest, historical, economic and cultural ties; and
- (d) means of communication.

(4) A county assembly shall enact legislation to provide for the delineation and establishment of the village units in the county.

(5) Nothing in this Part may be construed as precluding the county government, through county legislation, from adjusting the units created under subsection (1) for purposes of further decentralizing its functions and provision of its services in accordance with Article 176(2) of the Constitution.

### **49. Urban areas and cities structures**

The structures and functions of urban areas and cities shall be as is provided for in the Urban Areas and Cities Act (No. 13 of 2011).

### **50. Office of the sub-county administrator**

(1) There shall be established at the level of each sub-county the office of the sub-county administrator.

(2) The sub-county administrator shall have qualifications and knowledge in administration or management and shall be competitively appointed by the County Public Service Board in accordance with the provisions of this Act.

(3) The sub-county administrator shall be responsible for the coordination, management and supervision of the general administrative functions in the sub-county unit, including—

- (a) the development of policies and plans;
- (b) service delivery;
- (c) developmental activities to empower the community;
- (d) the provision and maintenance of infrastructure and facilities of public services;
- (e) the county public service;
- (f) exercise any functions and powers delegated by the County Public Service Board under section 86; and
- (g) facilitation and coordination of citizen participation in the development of policies and plans and delivery of services.

(4) In carrying out the functions and obligations in subsection (3), the sub-county administrator shall be responsible to the relevant county chief officer.

## **51. Establishment of the office of Ward administrator**

(1) There is established for each Ward in a county the office of the Ward administrator.

(2) The Ward administrator shall have professional qualifications and technical knowledge in administration and shall be competitively appointed by the County Public Service Board in accordance with the provisions of this Act.

(3) The Ward administrator shall coordinate, manage and supervise the general administrative functions in the Ward unit, including—

- (a) the development of policies and plans;
- (b) service delivery;
- (c) developmental activities to empower the community;
- (d) the provision and maintenance of infrastructure and facilities of public services;
- (e) the county public service;
- (f) exercise any functions and powers delegated by the County Public Service Board under section 86; and
- (g) coordination and facilitation of citizen participation in the development of policies and plans and delivery of services.

(4) In carrying out the functions and obligations in subsection (3), the Ward administrator shall be responsible to the sub-county administrator.

## **52. Establishment of the office of village administrator**

(1) There is established the office of village administrator for each village unit established in a county.

(2) A village administrator shall have professional qualifications and technical knowledge in administration and shall be appointed by the County Public Service Board in accordance with the provisions of this Act.

(3) A village administrator shall coordinate, manage and supervise the general administrative functions in the village including—

- (a) pursuant to paragraph 14 of Part II of the Fourth Schedule to the Constitution—
  - (i) ensuring and coordinating the participation of the village unit in governance; and
  - (ii) assisting the village unit to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level; and
- (b) the exercise of any functions and powers delegated by the County Public Service Board under section 86.

(4) In carrying out the functions and obligations in subsection (3), a village administrator shall be responsible to the relevant Ward administrator.

### **53. Village council**

- (1) There is established, for each village unit, a village council comprising—
  - (a) the village administrator who shall be the chairperson of the village council; and
  - (b) not less than three and not more than five village elders competitively appointed by the village administrator with the approval of the county assembly, taking into account gender balance.
- (2) A village council shall be responsible for—
  - (a) ensuring and coordinating the participation of the village unit in governance;
  - (b) assisting the village unit to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level;
  - (c) monitoring the implementation of policies at the village unit;
  - (d) advising the ward administrator and sub-county administrator on matters pertaining to the village; and
  - (e) any other function necessary for the better administration of the village unit.
- (3) A person shall be eligible for appointment as a village elder if the person—
  - (a) is a citizen of Kenya;
  - (b) has been a resident of or has been the owner of property in the respective village unit for a continuous period of not less than five years prior to the appointment date;
  - (c) meets the requirements of Chapter Six of the Constitution; and
  - (d) is not disqualified for appointment to office by this Act or any other law.
- (4) A village elder shall be paid such allowance as shall be determined by the respective county assembly.

**54. Structures of decentralization**

(1) There shall be such further structures of decentralization as may be provided for in county legislation.

(2) There shall be, for every county, a consultative forum for the co-ordination of development activities consisting of the heads of departments in the county and heads of recognised professional bodies in the county.

(3) The consultative forum shall be chaired by the Governor or in his or her absence, the deputy Governor, and in the absence of both, a member of the county executive committee designated by the governor.

(4) The consultative forum may carry out such other function as may be provided in any county legislation.

(5) The governor shall chair such other committee or other forum as may be established at the county level pursuant to Articles 6(2), 189(2) and 239(5) of the Constitution.

(6) The governor shall receive regular briefings from county security committee referred to under section 41(1)(d) of the National Police Service Act, 2011.

[Act No. 7 of 2016, Sch.]

**PART VII – COUNTY PUBLIC SERVICE****55. Objectives**

The objectives of this Part are to—

- (a) provide for evaluation and reporting on the extent to which the values and principles referred to in Articles 10 and 232 of the Constitution are complied with in the county public service;
- (b) provide for the organization, staffing and functioning of the county public service in ways that ensure efficient, quality and productive services for the people of the county;
- (c) provide for institutions, systems and mechanisms for human resource utilization and development in a manner that best enhances service delivery by county public service institutions;
- (d) provide a framework of uniform norms and standards to be applied in all counties in respect of—
  - (i) establishment and abolition of offices in the county public service;
  - (ii) appointment of persons to hold or act in those offices;
  - (iii) confirming appointments; or

- (iv) exercising disciplinary control over and removal of persons holding or acting in those offices;
- (e) provide for the promotion of the values and principles set out in Articles 10 and 232 of the Constitution in the county public service;
- (f) provide for human resource management and career development practices;
- (g) address staff shortages and barriers to staff mobility between counties;
- (h) provide for standards to promote ethical conduct and professionalism in county public service;
- (i) provide for the establishment of County Public Service Boards; and
- (j) make further provisions relating to appeals in respect of county governments' public service.

## **56. County to have county public service**

- (1) Each county shall, in accordance with Article 235 of the Constitution, have its own public service to be known as county public service.
- (2) The county public service shall be headed by a county secretary appointed under section 44.
- (3) For purposes of subsection (1), the designation county public officer shall be restricted to an officer appointed by the county government.

## **57. Establishment of the County Public Service Board**

There is established a County Public Service Board in each County, which shall be—

- (a) a body corporate with perpetual succession and a seal; and
- (b) capable of suing and being sued in its corporate name.

## **58. Composition of the County Public Service Board**

- (1) The County Public Service Board shall comprise—
  - (a) a chairperson nominated and appointed by the county governor with the approval of the county assembly;
  - (b) not less than three but not more than five other members nominated and appointed by the county governor, with the approval of the county assembly; and
  - (c) a certified public secretary of good professional standing nominated and appointed by the governor, with the approval of the county assembly, who shall be the secretary to the board.
- (2) The appointment of the members of the Board shall be through a competitive process.
- (3) A person shall be qualified to be appointed as a member under subsection (1) if that person—
  - (a) satisfies the provisions of Chapter Six of the Constitution;
  - (b) is not a state or public officer;

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- (c) in the case of chairperson or vice-chairperson, possesses a minimum qualification of a bachelor's degree from a recognised university and working experience of not less than ten years; and
  - (d) in the case of any other members—
    - (i) possesses a minimum of a bachelor's degree from a recognised university and working experience of not less than five years; and
    - (ii) is a professional, demonstrates absence of breach of the relevant professional code of conduct.
- (4) A member of the Board shall—
- (a) hold office for a non-renewable term of six years; and
  - (b) may serve on a part-time basis.
- (5) The members of the Board may only be removed from office—
- (a) on grounds set out for the removal of members of a constitutional commission under Article 251(1) of the Constitution; and
  - (b) by a vote of not less than seventy five percent of all the members of the county assembly.
- (6) The board shall elect a vice-chairperson from amongst its members.
- (7) The chairperson and vice-chairperson shall be of opposite gender.

## **59. Functions and powers of a County Public Service Board**

- (1) The functions of the County Public Service Board shall be, on behalf of the county government, to—
- (a) establish and abolish offices in the county public service;
  - (b) appoint persons to hold or act in offices of the county public service including in the Boards of cities and urban areas within the county and to confirm appointments;
  - (c) exercise disciplinary control over, and remove, persons holding or acting in those offices as provided for under this Part;
  - (d) prepare regular reports for submission to the county assembly on the execution of the functions of the Board;
  - (e) promote in the county public service the values and principles referred to in Articles 10 and 232;
  - (f) evaluate and report to the county assembly on the extent to which the values and principles referred to in Articles 10 and 232 are complied with in the county public service;
  - (g) facilitate the development of coherent, integrated human resource planning and budgeting for personnel emoluments in counties;
  - (h) advise the county government on human resource management and development;
  - (i) advise county government on implementation and monitoring of the national performance management system in counties;

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- (j) make recommendations to the Salaries and Remuneration Commission, on behalf of the county government, on the remuneration, pensions and gratuities for county public service employees.
  - (2) In appointing a person as a secretary to a board of a city or an urban area under subsection (1)(b), the County Public Service Board shall ensure that such person is a certified public secretary of good professional standing.
  - (3) The reports under subsection (1)(d) shall contain the details of persons appointed including gender, persons with disabilities, persons from the minority and marginalized communities.
  - (4) In the performance of its functions under subsection (1)(e), the County Public Service Board shall have powers to—
    - (a) inform and educate county public officers and the public about the values and principles;
    - (b) recommend to the county government effective measures to promote the values and principles;
    - (c) assist county government in the formulation and implementation of programmes intended to inculcate in public officers the duty to uphold the values and principles;
    - (d) advise the county governments on their obligations under international treaties and conventions on good governance in the county public service;
    - (e) visit any county public office or body with a view to assessing and inspecting the status of compliance with the values and principles;
    - (f) investigate, on its own initiative or upon a complaint made by any person or group of persons, the violation of any values and principles;
    - (g) recommend to the relevant lawful authority, any necessary action in view of the violation of the values and principles by any person or public body;
    - (h) cooperate with other institutions working in the field of good governance in the public service; and
    - (i) perform any other functions as the Board considers necessary for the promotion of the values and principles.
  - (5) The report by the County Public Service Board under subsection (1)(f) shall—
    - (a) be delivered each December to the county assembly;
    - (b) include all the steps taken and decisions made by the board;
    - (c) include specific recommendations that require to be implemented in the promotion and protection of the values and principles;
    - (d) include specific decisions on particulars of persons or public body who have violated the values and principles, including action taken or recommended against them;
    - (e) include any impediment in the promotion of the values and principles; and

- (f) include the programmes the board is undertaking or has planned to undertake in the medium term towards the promotion of the values and principles.
- (6) The Board shall publish a report required under this section in the county *Gazette* not later than seven days after the report has been delivered to the county assembly.

[Act No. 7 of 2016, Sch.]

#### **60. Criteria for establishment of public offices, etc.**

- (1) The County Public Service Board shall establish a public office within the county public service if it is satisfied that—
- (a) the establishment of the public office shall serve public interest in line with the core functions of the county government;
  - (b) there exists no other public office in the county public service discharging or capable of discharging the duties for which the county is requested to establish another office;
  - (c) upon the establishment of the office, the office shall be vacant to be filled competitively and transparently in accordance with the prescribed appointment or promotion procedures;
  - (d) the establishment of the office including its level of grading, qualification and remuneration shall not disadvantage similar offices in the county public service or occasion unfair competition for staff among county public bodies;
  - (e) the establishment of the office shall not confer unfair advantage to a group of or individual serving public officers;
  - (f) the county government entity has prudently utilized offices previously provided in its establishment; and
  - (g) funding for the office to be established is duly provided for.

(2) In determining the provision of funding under subsection (1)(g), the County Public Service Board shall take due regard to the need to limit the component of personnel emoluments to a level that does not adversely affect other budgetary provisions in the recurrent vote.

(3) A written request for establishment of an office complying with the conditions in this section shall be submitted to the Board by the concerned head of department.

(4) In deciding whether or not to establish a public office, the County Public Service Board shall take into account—

- (a) the overall workload in the county public service concerned; and
- (b) the suitability of that department but not any other to be the domicile of the public office to be established.

#### **61. Criteria for abolition of public offices**

(1) The County Public Service Board shall abolish a public office when it is satisfied that—

- (a) the abolition of the public office shall serve the public interest in view of the core functions of the county government;

- (b) there exists another public office in the county public service discharging or capable of discharging the duties of the office which the county government is requested to abolish;
- (c) the abolition of the office in view of its level is necessary so as to—
  - (i) eliminate unfair competition for staff among county public service departments; and
  - (ii) to promote parity of treatment among officers of similar qualifications holding public offices with the same responsibilities;
- (d) the abolition of the office shall not confer unfair advantage to a group of, or individual public officer; or
- (e) the county government or office has been reorganized or abolished.

(2) Any decision by the County Public Service Board to abolish an office in the county public service shall be subject to the due process of removing or retiring the affected public officer including adherence to the principles of natural justice, unless the affected public officer has been re-deployed to another office.

## **62. Powers of the County Public Service Board to establish or abolish office**

(1) Taking into account the provisions of this Part, the County Public Service Board on its own motion, may establish or abolish any office in the county public service.

(2) If the Board intends to establish or abolish an office it shall submit its proposal to the county assembly for approval through the county executive committee member responsible for the county public service.

(3) The County Public Service Board shall give the county chief officer of the concerned department an opportunity to make representation in respect of any action to be taken under this section before making the decision in that regard.

(4) If the County Public Service Board establishes an office and the concerned department fails to fill the vacancy for a period of twelve months after its establishment, the office shall stand abolished and the County Public Service Board shall not be required to make a decision to abolish that office.

## **63. Powers of the County Public Service Board to make appointments**

(1) Except as provided for in the Constitution or legislation, the County Public Service Board has the power to make appointments including promotions in respect of offices in the county public service.

(2) The power of the County Public Service Board under subsection (1) shall be exercised—

- (a) at the request of the relevant county chief officer of the department to which the appointment is to be made;
- (b) at the request of the clerk of the county assembly; or
- (c) on the County Public Service Board's own motion on account of best interest of the county public service and parity of treatment of public officers taking into account the circumstances of each case.

**64. No unqualified person may be appointed in acting capacity**

(1) A person shall not be appointed to hold a public office in an acting capacity unless the person satisfies all the prescribed qualifications for holding that public office.

(2) Acting appointments shall be made only by the lawful appointing authority and for a specified period.

(3) Nothing in this section shall prevent a public officer from—

- (a) delegating a duty for which the law does not prohibit delegation; or
- (b) deploying another officer to perform duties vested in another office during a temporary absence.

(4) Any delegation or deployment under subsection (3) shall—

- (a) be made by an officer who is qualified and competent to perform the duty; and
- (b) not undermine the expeditious appointment or deployment of a competent person to the public office concerned.

(5) If it comes to the attention of the County Public Service Board that a public officer has purportedly made an acting appointment, delegation or deployment as the case may be, contrary to the provisions of this section, the County Public Service Board shall take the necessary corrective action.

**65. Matters to take into account during appointments, etc.**

(1) In selecting candidates for appointment, the County Public Service Board shall consider—

- (a) the standards, values and principles set out in Articles 10, 27(4), 56(c) and 232(1) of the Constitution;
- (b) the prescribed qualifications for holding or acting in the office;
- (c) the experience and achievements attained by the candidate;
- (d) the conduct of the candidate in view of any relevant code of conduct, ethics and integrity;
- (e) the need to ensure that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the county;
- (f) the need for open and transparent recruitment of public servants; and
- (g) individual performance.

(2) In determining whether an appointment, promotion or re-designation has been undertaken in a fair and transparent manner, the overriding factors shall be merit, fair competition and representation of the diversity of the county.

**66. Advertisements of positions to be widely publicised**

If a public office is to be filled, the County Public Service Board shall invite applications through advertisement and other modes of communication so as to reach as wide a population of potential applicants as possible and especially persons who for any reason have been or may be disadvantaged.

**67. Appointments to be in writing**

No appointment or assignment of a duty in a county public service shall be valid unless it is evidenced in writing.

**68. Board to maintain records of applicants**

Subject to the relevant legislation, the County Public Service Board shall, for a specified period, maintain a record of all applications received in response to advertisements inviting applications and such record may be inspected by any person.

**69. Re-designation of officers**

(1) In selecting public officers for re-designation, the criteria for appointment as prescribed under this Part shall apply.

- (2) A public officer shall not be re-designated to hold or act in a public office if—
- (a) the office is not vacant;
  - (b) the public officer does not meet all the qualifications, except for experience at a lower grade in the relevant cadre, attached to the public office;
  - (c) the decision to re-designate the officer may disadvantage any public officer already serving in the relevant cadre; or
  - (d) the officer subject to re-designation has not consented to the re-designation.

(3) If a public officer is re-designated, the officer shall not in any way suffer reduction in remuneration.

**70. Provisions on appointments to apply to promotions**

(1) The provisions of this Act and regulations or procedures made under this Act that apply to appointments shall also apply to promotions.

(2) If a public officer has been promoted, the head of department shall within sixty days after the date of the promotion release the public officer to take up the promotion and if the officer is not so released, he or she stands released upon the lapse of sixty days.

(3) If a public officer has been promoted and has failed to take up the promotion, the promotional decision shall lapse upon the expiry of sixty days after the date of the decision and the officer shall revert back to the office held prior to the decision, subject to confirmation that the person received the official communication on the promotion and was released.

**71. Confirmation of appointment on lapse of period**

(1) If the relevant authority fails to confirm an appointment of a public officer initially appointed on probationary terms, and the term has lapsed with or without an extension, the officer shall stand confirmed in the appointment on the due date.

(2) The period served on probationary terms shall be taken into account when computing the period of service for the purpose of payment of pension benefits, gratuity or any other terminal benefit.

(3) A probationary period of service shall not be extended except on account of—

- (a) affording the public officer further opportunity to pass an examination the passing of which is a condition for the confirmation, the officer's service otherwise being satisfactory;
- (b) affording the public officer an opportunity for improvement in any respect, in which the officer's work or conduct have been adversely reported on.

## **72. Power to deploy public officers**

(1) The power to deploy a county public officer within a department shall vest in the relevant county chief officer.

(2) The power to deploy a county public officer from one department to another shall vest in the head of the county public service.

## **73. Secondments**

(1) The national government shall put in place measures to protect its public officers on secondment to the counties from loss or disadvantage with respect to pension benefits, gratuity or other terminal benefits.

(2) Unless there is an agreement to the contrary, it shall be the responsibility of the national government to pay the salaries, remuneration, allowances and other benefits due to the staff seconded to a county government during the transition period.

(3) If for any reason it is not necessary for an officer on secondment to remain seconded and the secondment period has not lapsed, the officer shall be entitled to revert back to the public office held before secondment.

(4) The County Public Service Board shall not allow a public officer to proceed on secondment if it is not in the interest of the public officer or the concerned county public service.

(5) The County Public Service Board making a decision on secondment shall not allow the secondment unless it has considered the representation by the concerned authorized officer or head of department.

## **74. County Public Service Board to regulate appointment of persons on contract**

The County Public Service Board shall regulate the engagement of persons on contract, volunteer and casual workers, staff of joint ventures and attachment of interns in its public bodies and offices.

## **75. Action on irregularity of process**

If it comes to the attention of the County Public Service Board that there is reason to believe that any process or decision under this Part may have occurred

in an irregular or fraudulent manner, the County Public Service Board shall investigate the matter and, if satisfied that the irregularity or fraud has occurred, the County Public Service Board may—

- (a) revoke the decision;
- (b) direct the concerned head of department or lawful authority to commence the process afresh; or
- (c) take any corrective action including disciplinary action.

## **76. Prohibition of punishment contrary to the Constitution**

(1) In exercising its disciplinary powers, the County Public Service Board shall observe the principles of natural justice.

(2) No public officer may be punished in a manner contrary to any provision of the Constitution or any Act of Parliament.

(3) Nothing in this section shall limit the powers conferred on the county government or any other lawful authority discharging a disciplinary function from retiring an officer from the county public service on the ground of public interest.

(4) In this section, retirement on the ground of public interest may be imposed instead of any other punishment if the decision maker considers that although the misconduct has been proven—

- (a) the officer has nevertheless raised a mitigation factor that renders imposition of a punishment too harsh in view of the circumstances of the case; or
- (b) the length of service benefits accrued and previous good record of the officer justifies the retirement; or
- (c) imposing a punishment against the officer is likely to adversely affect the reputation of the public body concerned or the county public service generally.

(5) If criminal proceedings are instituted against a county public officer, disciplinary proceedings against the officer for dismissal or imposition of any other punishment on any grounds involved in the criminal charge shall not be taken until the conclusion of the criminal proceedings and the determination of any appeal therefrom has been made.

(6) Nothing in subsection (5) shall be interpreted as prohibiting or restricting the power of the county government or the concerned county chief officer or other lawful authority to interdict or suspend or take any interlocutory decision against the public officer.

## **77. Appeals to the Public Service Commission**

(1) Any person dissatisfied or affected by a decision made by the County Public Service Board or a person in exercise or purported exercise of disciplinary control against any county public officer may appeal to the Public Service Commission (in this Part referred to as the "Commission") against the decision.

(2) The Commission shall entertain appeals on any decision relating to employment of a person in a county government including a decision in respect of—

- (a) recruitment, selection, appointment and qualifications attached to any office;

- 
- (b) remuneration and terms and conditions of service;
  - (c) disciplinary control;
  - (d) national values and principles of governance, under Article 10, and values and principles of public service under Article 232 of the Constitution;
  - (e) retirement and other removal from service;
  - (f) pension benefits, gratuity and any other terminal benefits; or
  - (g) any other decision the Commission considers to fall within its constitutional competence to hear and determine on appeal in that regard.

(3) An appeal under subsection (1) shall be in writing and made within ninety days after the date of the decision, but the Commission may entertain an appeal later if, in the opinion of the Commission, the circumstances warrant it.

(4) The Commission shall not entertain an appeal more than once in respect to the same decision.

(5) Any person dissatisfied or affected by a decision made by the Commission on appeal in a decision made in a disciplinary case may apply for review and the Commission may admit the application if—

- (a) the Commission is satisfied that there appear in the application new and material facts which might have affected its earlier decision, and if adequate reasons for the non-disclosure of such facts at an earlier date are given; or
- (b) there is an error apparent on record of either decision.

(6) An application for review under subsection (5) shall be in writing and made within the time prescribed by the Commission in regulations governing disciplinary proceedings, but the commission may entertain an application for review later if, in the opinion of the Commission, the circumstances warrant it.

## **78. Resignation, retirement, etc.**

(1) A county public officer desirous of resigning from office may do so in writing addressed to the lawful appointing authority for the public office.

(2) The resignation letter shall be delivered to the lawful appointing authority by hand or by registered mail.

(3) Resignation under this section shall take effect thirty days after the date of the resignation letter.

(4) A person who has resigned from the county public service may rejoin the service in accordance with the provision governing the relevant appointment.

## **79. Grounds for retirement**

A person may retire from the county public service—

- (a) on attainment of the mandatory retirement age prescribed under the relevant legislation or policy or as agreed upon between the county public officer and relevant appointing authority;
- (b) on grounds of ill health subject to section 81;

- (c) on abolition of the county public office;
- (d) in the public interest; or
- (e) under a special retirement scheme agreed between a public officer or the representative of the public officer and the relevant appointing authority.

#### **80. Prescription of retirement on age**

The mandatory retirement age for a county public officer generally or for any category of public officers, shall be prescribed by policy of the national government.

#### **81. Retirement on the ground of ill health**

(1) A county public officer may retire from the county public office on the ground of ill health if—

- (a) the concerned county chief officer considers that the public officer is incapable, by reason of any infirmity of body or mind, of discharging the functions of the public office and it is in the best interest for the officer to retire; or
- (b) the public officer requests to be retired on the ground of ill health, in which case, the county chief officer shall initiate the process for the retirement in accordance with this section.

(2) If a public officer is considered for retirement or has requested to be retired in accordance with subsection (1), the concerned county chief officer shall require the officer to be examined by a medical board constituted by the director of medical services in the national government with the view to ascertain whether or not the public officer should be retired on the ground of ill health.

(3) After the public officer has been examined in accordance with subsection (2) and the finding is that he or she should be retired, the director of medical services shall forward the medical board's records of proceedings and findings to the county head of public service who shall—

- (a) request the officer to make any representation in view of the medical board's record of proceeding and findings;
- (b) make recommendations in view of the medical board's findings and the officer's representation, if any; and
- (c) forward all the documents referred to in this subsection to the County Public Service Board.

(4) Unless the County Public Service Board considers that further inquiry is necessary, in which case it shall issue directions to the authorized officer accordingly, the Board shall decide forthwith whether the public officer should be called upon to retire on the ground of ill health.

(5) If the circumstances of ill health are such that a public officer cannot attend medical board or make a presentation on the findings of the medical board as provided for under this section, the public officer may nevertheless be retired by the County Public Service Board, if the authorized officer submits the case to it, on the ground of ill health in accordance with the law or service regulation or prescribed terms of service dealing with the period an officer may be retained in the service in case of prolonged ill health.

[Act No. 7 of 2016, Sch.]

**82. Retirement on grounds of abolition of office**

(1) If more than one county public officers, holding similar public offices are to be retired on the ground of abolition of office but one or more public officers is to remain in office, the concerned county chief officer shall inform the public officers that their retirement is under consideration and shall invite each of them to make representation within reasonable time.

(2) Upon receipt of the representations in subsection (1) or upon failure to receive any representation within the prescribed time, the county chief officer shall forward the case to the County Public Service Board including a recommendation justifying the retirement of the officer together with the officer's representation if any.

(3) Unless the County Public Service Board considers that further justification is necessary, in which case it shall issue directions to the county chief officer accordingly, it shall decide whether the public officer should be retired on the ground of abolition of office.

(4) The County Public Service Board shall not retire any public officer on the ground of abolition of office unless there is written evidence that the public office concerned has been abolished.

**83. Retirement on grounds of public interest**

(1) If a county chief officer, after having considered the report of the complaint against a public officer and it is apparent that it is desirable to retire the officer on the ground of public interest, the county chief officer shall—

- (a) serve the public officer a notice setting out the particulars of the complaint as reported and asking the officer to make representation within a reasonable time; and
- (b) upon receipt of the representation or if none is received within the prescribed time, forward to the County Public Service Board all the details of the case.

(2) Unless the County Public Service Board considers that further inquiry into the complaint is necessary, in which case it shall issue direction to the county chief officer accordingly, it shall decide forthwith whether the public officer should be retired on the ground of public interest.

(3) For a complaint or report to justify retirement on the ground of public interest, it shall be established that the public officer, offended public policy protected in prescribed government policy, Act of Parliament or binding decision made by a competent court of law.

**84. Retirement pursuant to agreement or special retirement scheme**

(1) The County Public Service Board may retire a public officer if—

- (a) the officer's contractual terms and conditions of service provide for a special retirement clause and has fallen due; or
- (b) the officer is required or is willing to voluntarily retire in accordance with the terms and conditions prescribed in a special retirement scheme.

(2) Except in cases of voluntary retirement or retirement in accordance with contractual terms and conditions, a public officer shall not be retired under this section unless the County Public Service Board or other lawful authority has accorded the officer a reasonable opportunity to make representations on the intended retirement.

### **85. Entitlement to apply for review**

A public officer retired under this Act shall be entitled to apply for a review against the decision on account of—

- (a) fresh material facts which, with due diligence, could not be presented when the decision was initially made;
- (b) an error apparent on the record of the initial decision; or
- (c) manifest absence of parity of treatment in view of the circumstances and facts of the case.

### **86. Delegation by County Public Service Board**

(1) The County Public Service Board may delegate, in writing, any of its functions to any one or more of its members and the county secretary, county chief officer, sub-county or Ward administrator, village administrator, city or municipal manager and town administrators.

(2) The provisions of this Part shall apply to the person to whom the powers are delegated under this section.

## PART VIII – CITIZEN PARTICIPATION

### **87. Principles of citizen participation in counties**

Citizen participation in county governments shall be based upon the following principles—

- (a) timely access to information, data, documents, and other information relevant or related to policy formulation and implementation;
- (b) reasonable access to the process of formulating and implementing policies, laws, and regulations, including the approval of development proposals, projects and budgets, the granting of permits and the establishment of specific performance standards;
- (c) protection and promotion of the interest and rights of minorities, marginalized groups and communities and their access to relevant information;
- (d) legal standing to interested or affected persons, organizations, and where pertinent, communities, to appeal from or, review decisions, or redress grievances, with particular emphasis on persons and traditionally marginalized communities, including women, the youth, and disadvantaged communities;
- (e) reasonable balance in the roles and obligations of county governments and non-state actors in decision-making processes to promote shared responsibility and partnership, and to provide complementary authority and oversight;

- (f) promotion of public-private partnerships, such as joint committees, technical teams, and citizen commissions, to encourage direct dialogue and concerted action on sustainable development; and
- (g) recognition and promotion of the reciprocal roles of non-state actors' participation and governmental facilitation and oversight.

**88. Citizens right to petition and challenge**

- (1) Citizens have a right to petition the county government on any matter under the responsibility of the county government.
- (2) Citizen petitions shall be made in writing to the county government.
- (3) County legislation shall give further effect to this section.

[Act No. 7 of 2016, Sch.]

**89. Duty to respond to citizens' petitions or challenges**

County government authorities, agencies and agents have a duty to respond expeditiously to petitions and challenges from citizens.

**90. Matters subject to local referenda**

- (1) A county government may conduct a local referendum on among other local issues—
  - (a) county laws and petitions; or
  - (b) planning and investment decisions affecting the county for which a petition has been raised and duly signed by at least twenty five percent of the registered voters where the referendum is to take place.
- (2) The Elections Act (No. 24 of 2011) shall apply, with necessary modifications, with regard to a referendum referred to under subsection (1).

**91. Establishment of modalities and platforms for citizen participation**

The county government shall facilitate the establishment of structures for citizen participation including—

- (a) information communication technology based platforms;
- (b) town hall meetings;
- (c) budget preparation and validation fora;
- (d) notice boards: announcing jobs, appointments, procurement, awards and other important announcements of public interest;
- (e) development project sites;
- (f) *deleted by Act No. 13 of 2014, s. 3;*
- (g) establishment of citizen fora at county and decentralized units.

[Act No. 13 of 2014, s. 3.]

**91A. Establishment of County Development Boards**

(1) There is established, for each county, a board to be known as the County Development Board, consisting of the following persons—

- (a) the member of the Senate for the county elected under Article 98(1) (a) of the Constitution, who shall be the chairperson of the Board and convener of the Board's meetings;
- (b) the members of the National Assembly elected under Article 97(1) (a) of the Constitution representing the constituencies located in the county;
- (c) the woman member of the National Assembly for the county elected under Article 97 (1) (b) of the Constitution;
- (d) the governor, as the chief executive officer of the county government, who shall be the vice-chairperson of the Board, and in his absence, the deputy governor of the county shall be the vice-chairperson;
- (e) the deputy governor of the county;
- (f) the leader of the majority party in the county assembly;
- (g) the leader of the minority party in the county assembly;
- (h) the chairperson of the county assembly committee responsible for finance and planning;
- (i) the chairperson of the county assembly committee responsible for budget;
- (j) the chairperson of the County Public Service Board, who shall be an *ex-officio* member;
- (k) the County Secretary, who shall be the secretary of the Board and shall also provide Secretariat services to the Board, as an *ex-officio* member;
- (l) the County Commissioner, as an *ex-officio* member; and
- (m) the head of a department of the national government or the county government or any other person invited by the Board to attend a specific meeting of the Board.

(2) The County Development Board, for each county, shall—

- (a) provide a forum, at the county level, for consultation and coordination between the national government and the county governments on matters of development and projects in accordance with the Constitution and, more specifically, Article 6(2), Article 10 and Article 174 of the Constitution;
- (b) consider and give input on any county development plans before they are tabled in the county assembly for consideration;
- (c) consider and give input on county annual budgets before they are tabled in the county assembly for consideration;
- (d) consider and advise on any issues of concern that may arise within the county.

(3) The quorum for any meeting of the County Development Board shall be one-third of all the members of the Board and for the purposes of this section, an immediate former member shall remain a member of the Board until a new member is elected or appointed, as the case may be.

(4) Meetings of the County Development Board shall be held at the County headquarters at least once in each quarter.

(5) In the absence of the chairperson, the vice-chairperson shall preside over the meetings of the Board, and in the absence of the chairperson and the vice-chairperson, the Board shall elect a member to chair the meeting.

(6) County Development Boards shall be constituted within sixty days after the date of a general election.

(7) Despite sub-section (6), a County Development Board shall be established in each county within thirty days of the commencement of this Act.

[Act No. 13 of 2014, s. 2.]

### **91B. Operational expenses**

The operational expenses in respect of the County Development Board shall be provided for in the annual estimates of the revenue and expenditure of the respective county government.

[Act No. 13 of 2014, s. 4.]

### **91C. Offence of obstructing or hindering the County Development Board**

Any person who knowingly and unlawfully obstructs, hinders, undermines or prevents the County Development Board from discharging its functions under this Act commits an offence and is liable, on conviction, to punishment by a fine not exceeding one million shillings or imprisonment for a term not exceeding one year, or both.

[Act No. 13 of 2014, s. 4.]

### **92. Part to apply to decentralized units**

(1) The provisions of this Part shall apply with necessary modifications to all decentralized units of the county.

(2) The governor shall submit an annual report to the county assembly on citizen participation in the affairs of the county government.

(3) Regulations made under section 135 of this Act and County legislation may give full effect to this Part.

**PART IX – PUBLIC COMMUNICATION AND ACCESS TO INFORMATION****93. Principles of public communication**

Public communication and access to information shall be based on the following principles—

- (a) integration of communication in all development activities;
- (b) observation of access to information by county media in accordance with Article 35 of the Constitution; and
- (c) observation of media ethics, standards and professionalism.

**94. Objectives of county communication**

A County government shall use the media to—

- (a) create awareness on devolution and governance;
- (b) promote citizens understanding for purposes of peace and national cohesion;
- (c) undertake advocacy on core development issues such as agriculture, education, health, security, economics, sustainable environment among others; and
- (d) promotion of the freedom of the media.

**95. County communication framework**

(1) A County government shall establish mechanisms to facilitate public communication and access to information in the form of media with the widest public outreach in the county, which may include—

- (a) television stations;
- (b) information communication technology centres;
- (c) websites;
- (d) community radio stations;
- (e) public meetings; and
- (f) traditional media.

(2) The county government shall encourage and facilitate other means of mass communication including traditional media.

**96. Access to information**

(1) Every Kenyan citizen shall on request have access to information held by any county government or any unit or department thereof or any other State organ in accordance with Article 35 of the Constitution.

(2) Every county government and its agencies shall designate an office for purposes of ensuring access to information as required by subsection (1).

(3) Subject to national legislation governing access to information, a county government shall enact legislation to ensure access to information.

(4) A county legislation enacted pursuant to subsection (3), may impose reasonable fees or charges for accessing information held by the county government, its departments or agencies.

### **97. Inclusion and integration of minorities and marginalized groups**

A county government, public and private organisation and private individual, shall observe the following principles—

- (a) protection of marginalized and minority groups from discrimination and from treatment of distinction of any kind, including language, religion, culture, national or social origin, sex, caste, birth, descent or other status;
- (b) non-discrimination and equality of treatment in all areas of economic, educational, social, religious, political and cultural life of the marginalized and minority groups;
- (c) special protection to vulnerable persons who may be subject to threats or acts of discrimination, hostility, violence and abuse as a result of their ethnic, cultural, linguistic, religious or other identity;
- (d) special measures of affirmative action for marginalized and minority groups to ensure their enjoyment of equal rights with the rest of the population;
- (e) respect and promotion of the identity and characteristics of minorities;
- (f) promotion of diversity and intercultural education; and
- (g) promotion of effective participation of marginalised and minority groups in public and political life.

## PART X – CIVIC EDUCATION

### **98. Principles of civic education**

- (1) The principles of civic education are intended to promote—
  - (a) empowerment and enlightenment of citizens and government;
  - (b) continual and systemic engagement of citizens and government; and
  - (c) values and principles of devolution in the Constitution.
- (2) No other content may be disseminated under civic education other than as provided for under section 100.

### **99. Purpose and objectives of civic education**

- (1) The purpose of civic education under this Act is to have an informed citizenry that actively participates in governance affairs of the society on the basis of enhanced knowledge, understanding and ownership of the Constitution.
- (2) The objectives of civic education are—
  - (a) sustained citizens' engagement in the implementation of the Constitution;
  - (b) improved understanding, appreciation and engagement in the operationalization of the county system of government;

- (c) institutionalizing a culture of constitutionalism;
- (d) knowledge of Kenya's transformed political system, context and implications;
- (e) enhanced knowledge and understanding of electoral system and procedures;
- (f) enhanced awareness and mainstreaming of the Bill of Rights and National values;
- (g) heightened demand by citizens for service delivery by institutions of governance at the county level;
- (h) ownership and knowledge on the principal economic, social and political issues facing county administrations and their form, structures and procedures; and
- (i) appreciation for the diversity of Kenya's communities as building blocks for national cohesion and integration.

#### **100. Design and implementation of civic education**

(1) Subject to subsection (2), each county shall implement an appropriate civic education programme and establish a civic education unit in this regard.

(2) For purposes of subsection (1), there shall be established a national design and framework of civic education, to determine the contents of the curriculum for civic education taking into account the provisions of Article 33 of the Constitution.

(3) The national and county governments shall facilitate the implementation of civic education programme under subsection (2).

(4) The design and implementation of county civic education programmes under this section shall involve the participation of registered non-state actors as may by regulations be prescribed.

#### **101. Institutional framework for civic education**

Subject to section 100, County legislation shall provide the requisite institutional framework for purposes of facilitating and implementing civic education programmes under this Part.

### PART XI – COUNTY PLANNING

#### **102. Principles of planning and development facilitation**

The principles of planning and development facilitation in a county shall—

- (a) integrate national values in all processes and concepts;
- (b) protect the right to self-fulfilment within the county communities and with responsibility to future generations;
- (c) protect and integrate rights and interest of minorities and marginalized groups and communities;
- (d) protect and develop natural resources in a manner that aligns national and county governments policies;

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- (e) align county financial and institutional resources to agreed policy objectives and programmes;
  - (f) engender effective resource mobilization for sustainable development;
  - (g) promote the pursuit of equity in resource allocation within the county;
  - (h) provide a platform for unifying planning, budgeting, financing, programme implementation and performance review; and
  - (i) serve as a basis for engagement between county government and the citizenry, other stakeholders and interest groups.

**103. Objectives of county planning**

The objectives of county planning shall be to—

- (a) ensure harmony between national, county and sub-county spatial planning requirements;
- (b) facilitate the development of a well-balanced system of settlements and ensure productive use of scarce land, water and other resources for economic, social, ecological and other functions across a county;
- (c) maintain a viable system of green and open spaces for a functioning eco-system;
- (d) harmonize the development of county communication system, infrastructure and related services;
- (e) develop urban and rural areas as integrated areas of economic and social activity;
- (f) provide the preconditions for integrating under-developed and marginalized areas to bring them to the level generally enjoyed by the rest of the county;
- (g) protect the historical and cultural heritage, artefacts and sites within the county;
- (h) make reservations for public security and other critical national infrastructure and other utilities and services;
- (i) work towards the achievement and maintenance of a tree cover of at least ten per cent of the land area of Kenya as provided in Article 69 of the Constitution; and
- (j) develop the human resource capacity of the county.

**104. Obligation to plan by the county**

- (1) A county government shall plan for the county and no public funds shall be appropriated outside a planning framework developed by the county executive committee and approved by the county assembly.
- (2) The county planning framework shall integrate economic, physical, social, environmental and spatial planning.
- (3) The county government shall designate county departments, cities and urban areas, sub-counties and Wards as planning authorities of the county.

(4) To promote public participation, non-state actors shall be incorporated in the planning processes by all authorities.

(5) County plans shall be binding on all sub-county units for developmental activities within a County.

#### **105. Planning in the county**

- (1) A county planning unit shall be responsible for—
- (a) coordinating integrated development planning within the county;
  - (b) ensuring integrated planning within the county;
  - (c) ensuring linkages between county plans and the national planning framework;
  - (d) ensuring meaningful engagement of citizens in the planning process;
  - (e) ensuring the collection, collation, storage and updating of data and information suitable for the planning process; and
  - (f) ensuring the establishment of a GIS based database system.

(2) The designated planning authority in the county shall appropriately organise for the effective implementation of the planning function within the county.

#### **106. Integrating national and county planning**

(1) Cooperation in planning shall be undertaken in the context of the law governing inter-governmental relations.

(2) County plans shall be based on the functions of the county governments as specified in the Fourth Schedule to the Constitution and on relevant national policies.

(3) County plans shall take due cognisance of the financial viability of development programmes.

(4) County planning shall provide for citizen participation.

#### **107. Types and purposes of county plans**

(1) To guide, harmonize and facilitate development within each county there shall be the following plans—

- (a) county integrated development plan;
- (b) county sectoral plans;
- (c) county spatial plan; and
- (d) cities and urban areas plans as provided for under the Urban Areas and Cities Act (No. 13 of 2011).

(2) The County plans shall be the basis for all budgeting and spending in a county.

**108. County integrated development plan**

- (1) There shall be a five year county integrated development plan for each county which shall have—
- (a) clear goals and objectives;
  - (b) an implementation plan with clear outcomes;
  - (c) provisions for monitoring and evaluation; and
  - (d) clear reporting mechanisms.
- (2) Each county integrated development plan shall at least identify—
- (a) the institutional framework, which shall include an organization chart, required for—
    - (i) the implementation of the integrated development plan; and
    - (ii) addressing the county's internal transformation needs;
  - (b) as informed by the strategies and programmes set out in the plan—
    - (i) any investment initiatives in the county;
    - (ii) any development initiatives in the county, including infrastructure, physical, social, economic and institutional development;
    - (iii) all known projects, plans and programs to be implemented within the county by any organ of state; and
    - (iv) the key performance indicators set by the county.
- (3) An integrated development plan shall—
- (a) have attached to it maps, statistics and other appropriate documents; or
  - (b) refer to maps, statistics and other appropriate documents that are not attached but held in a GIS based database system:

Provided that the plans under paragraphs (a) and (b) are open for public inspection at the offices of the county in question.

- (4) A resource mobilization and management framework shall be reflected in a county's integrated development plan and shall at least—
- (a) include the budget projection required under the law governing county government financial management;
  - (b) indicate the financial resources that are available for capital project developments and operational expenditure; and
  - (c) include a financial strategy that defines sound financial management and expenditure control: as well as ways and means of increasing revenues and external funding for the county and its development priorities and objectives, which strategy may address the following—
    - (i) revenue raising strategies;
    - (ii) asset management strategies;
    - (iii) financial management strategies;
    - (iv) capital financing strategies;

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- (v) operational financing strategies; and
  - (vi) strategies that would enhance cost-effectiveness.

**109. County sectoral plans**

- (1) A County department shall develop a ten year county sectoral plan as component parts of the county integrated development plan.
- (2) The County sectoral plans shall be—
  - (a) programme based;
  - (b) the basis for budgeting and performance management; and
  - (c) reviewed every five years by the county executive and approved by the county assembly, but updated annually.

**110. County spatial plans**

- (1) There shall be a ten year county GIS based database system spatial plan for each county, which shall be a component part of the county integrated development plan providing—
  - (a) a spatial depiction of the social and economic development programme of the county as articulated in the integrated county development plan;
  - (b) clear statements of how the spatial plan is linked to the regional, national and other county plans; and
  - (c) clear clarifications on the anticipated sustainable development outcomes of the spatial plan.
- (2) The spatial plan, which shall be spatial development framework for the county, shall—
  - (a) give effect to the principles and objects contained in sections 102 and 103;
  - (b) set out objectives that reflect the desired spatial form of the county taking into account the development programme of the county as articulated in its county integrated development plan;
  - (c) contain strategies and policies regarding the manner in which the objectives referred to in paragraph (b), which strategies and policies shall—
    - (i) indicate desired patterns of land use within the county;
    - (ii) address the spatial construction or reconstruction of the county;
    - (iii) provide strategic guidance in respect of the location and nature of development within the county;
    - (iv) set out basic guidelines for a land use management system in the county taking into account any guidelines, regulations or laws as provided for under Article 67(2)(h) of the Constitution;
    - (v) set out a capital investment framework for the county's development programs;
    - (vi) contain a strategic assessment of the environmental impact of the spatial development framework;

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- (vii) identify programs and projects for the development of land within the county; and
  - (viii) be aligned with the spatial frameworks reflected in development the integrated development plans of neighbouring counties;
  - (d) shall indicate where public and private land development and infrastructure investment should take place;
  - (e) shall indicate desired or undesired utilization of space in a particular area;
  - (f) may delineate the urban edges of the municipalities within its jurisdiction and mechanisms of dealing with the rural urban interfaces;
  - (g) shall identify areas where strategic intervention is required;
  - (h) shall indicate areas where priority spending is required;
  - (i) clear clarifications on the anticipated sustainable development outcomes of the spatial plan; and
  - (j) shall indicate the areas designated to conservation and recreation.
- (3) Each county spatial plan shall be developed by the county executive committee and approved by the respective county assemblies in accordance with procedures approved by the respective county assembly.
- (4) Each county spatial plan shall be reviewed every five years and the revisions approved by the respective county assemblies.

### **111. City or municipal plans**

- (1) For each city and municipality there shall be the following plans—
  - (a) city or municipal land use plans;
  - (b) city or municipal building and zoning plans;
  - (c) city or urban area building and zoning plans;
  - (d) location of recreational areas and public facilities.
- (2) A city or municipal plans shall be the instrument for development facilitation and development control within the respective city or municipality.
- (3) A city or municipal plan shall, within a particular city or municipality, provide for—
  - (a) functions and principles of land use and building plans;
  - (b) location of various types of infrastructure within the city or municipality;
  - (c) development control in the city or municipality within the national housing and building code framework.
- (4) City or municipal land use and building plans shall be binding on all public entities and private citizens operating within the particular city or municipality.
- (5) City or municipal land use and building plans shall be the regulatory instruments for guiding and facilitating development within the particular city or municipality.

(6) Each city or municipal land use and building plan shall be reviewed every five years and the revisions approved by the respective county assemblies.

### **112. Amending county integrated development plans**

(1) A county executive committee may by a resolution, introduce a proposal to amend the county's integrated development plan.

(2) A proposed amendment under subsection (1) to a county's integrated development plan shall be considered and approved or rejected by the county assembly in accordance with its standing orders.

(3) A proposal for amending a county's integrated development plan shall be—

(a) accompanied by a memorandum setting out the reasons for the proposal; and

(b) aligned with the framework adopted in terms of section 106.

(4) If the amendment impacts on neighbouring counties, the county making the amendment to its integrated development plan shall—

(a) consult all the county governments affected by the proposed amendment; and

(b) take all comments submitted to it under paragraph (a) into account before it reaches a final decision on the proposed amendment.

(5) A county that considers an amendment to its integrated development plan shall—

(a) consult the cities and urban areas within the county on the proposed amendment; and

(b) take all comments submitted to it by the cities and municipalities into account before it takes a final decision on the proposed amendment.

(6) No amendment to a county's integrated development plan may be considered by the county assembly unless—

(a) all the members of the county assembly have been given reasonable notice; and

(b) the proposed amendment has been published for public comment for a period of at least twenty one days in a manner that allows the public an opportunity to make representations with regard to the proposed amendment.

(7) Subject to this section, nothing may be construed as precluding a person ordinarily resident in a county from proposing an amendment to the county integrated development plan.

### **113. Giving effect to the county integrated development plan**

(1) A county's integrated development plan shall—

(a) inform the county's budget which shall be based on the annual development priorities and objectives referred to in section 103 of this Act and the performance targets set by the county; and

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- (b) be used to prepare action plans for the implementation of strategies identified by the county.
- (2) Each county integrated development plan shall provide clear input, output and outcome performance indicators, including—
- (a) the percentage of households with access to basic services contemplated under Article 43 of the Bill of Rights of the Constitution;
  - (b) the percentage of a county's capital budget actually spent on capital projects identified for a particular financial year in terms of the county's integrated development plan;
  - (c) the number of jobs created through any local economic development initiatives including capital projects; and
  - (d) financial viability of the integrated development plan in accordance with nationally applicable ratios.
- (3) Notwithstanding the provisions of subsection (2), the performance management system shall conform to nationally applicable guidelines on the matter.

#### **114. Planning for nationally significant projects in a county**

- (1) Development of nationally significant development projects within counties shall be preceded by mandatory public hearings in each of the affected counties.
- (2) Projects under subsection (1) shall, subsequent to the mandatory public hearings, be considered and approved or rejected by the county assembly.

#### **115. Public participation in county planning**

- (1) Public participation in the county planning processes shall be mandatory and be facilitated through—
  - (a) mechanisms provided for in Part VIII of this Act; and
  - (b) provision to the public of clear and unambiguous information on any matter under consideration in the planning process, including—
    - (i) clear strategic environmental assessments;
    - (ii) clear environmental impact assessment reports;
    - (iii) expected development outcomes; and
    - (iv) development options and their cost implications.

- (2) Each county assembly shall develop laws and regulations giving effect to the requirement for effective citizen participation in development planning and performance management within the county and such laws and guidelines shall adhere to minimum national requirements.

### **PART XII – DELIVERY OF COUNTY PUBLIC SERVICES**

#### **116. Principles of public services delivery in the county**

- (1) A county government and its agencies shall have an obligation to deliver services within its designated area of jurisdiction.

(2) A county shall deliver services while observing the principles of equity, efficiency, accessibility, non-discrimination, transparency, accountability, sharing of data and information, and subsidiarity.

### **117. Standards and norms for public service delivery**

- (1) A county government and its agencies shall in delivering public services—
- (a) give priority to the basic needs of the public;
  - (aa) Notwithstanding subsection (1), a county government or any agency delivering services in the county shall adopt and implement tariffs and pricing policy subject to the existing National Government laws and policies.
  - (b) promote the development of the public service delivery institutions and,

ensure that all members of the public have access to basic services.

- (2) Public services shall be equitably delivered in a manner that accords to—
- (a) prudent, economic, efficient, effective and sustainable use of available resources;
  - (b) continual improvement of standards and quality;
  - (c) appropriate incorporation of the use of information technology; and
  - (d) financial and environmental sustainability.

(3) A county government shall carry out regular review of the delivery of services with a view to improvement.

[Act No. 43 of 2016, s. 159.]

### **118. Shared services**

(1) A county government may enter into an agreement with the national government, another county or an agency of the national government, to provide or receive any service that each county participating in the agreement is empowered to provide or receive within its own jurisdiction, including services incidental to the primary purpose of any of the participating counties.

(2) Each county shall have a county shared services platform aligned to national policies, standards and norms.

### **119. Citizen's Service Centre**

- (1) A county executive committee shall establish a Citizens' Service Centre at—
- (a) the county;
  - (b) the sub-county;
  - (c) the Ward; and
  - (d) any other decentralized level.
- (2) A Citizens' Service Centre shall serve as the central office for the provision by the county executive committee in conjunction with the national government of public services to the county citizens.
- (3) The governor shall ensure the use of appropriate information and communication technologies at a Citizens' Service Centre to aid in the provision of timely and efficient services to the county citizens.

**120. Tariffs and pricing of public services**

(1) A county government or any agency delivering services in the county shall adopt and implement a tariffs and pricing policy for the provision of public services.

(1A) Notwithstanding subsection (1), a county government or any agency delivering services in the county shall adopt and implement tariffs and pricing policy subject to the existing National Government laws and policies.

(2) A county government or agency delivering services through service delivery agreements, shall comply with the provisions of this section.

(3) A tariff policy adopted under subsection (1) shall reflect the following guidelines—

- (a) users of county services should be treated equitably in the application of tariffs, fees, levies or charges;
- (b) the amount individual users pay for services should generally be in proportion to their use of that service;
- (c) poor households shall have access to at least basic services through—
  - (i) tariffs that cover only operating and maintenance costs;
  - (ii) special tariffs or life line tariffs for low levels of use or consumption of services or for basic levels of service; or
  - (iii) any other direct or indirect method of subsidies of tariffs for poor households;
- (d) tariffs shall reflect the costs reasonably associated with rendering the service, including capital, operating, maintenance, administration and replacement costs, and interest charges;
- (e) tariffs shall be set at levels that facilitate the financial sustainability of the service, taking into account subsidy from sources other than the service concerned;
- (f) provision may be made in appropriate circumstances for a surcharge on the tariff for a service;
- (g) provision may be made for the promotion of local economic development through special tariffs for categories of commercial and industrial users;
- (h) promotion of the economic, efficient, effective and sustainable use of resources, the recycling of waste and other appropriate environmental objectives; and
- (i) full disclosure of the subsidies on tariffs for poor households and other categories of users.

(4) A tariff policy may differentiate between different categories of users, debtors, service providers, services, service standards, geographical areas and other matters as long as the differentiation does not amount to unfair discrimination.

(5) A county government may make laws and regulations to give effect to the implementation and enforcement of tariff policies.

[Act No. 43 of 2016, s. 159.]

**121. Support to county governments**

(1) The ministry or government department responsible for matters relating to intergovernmental relations shall provide support to county governments to enable them to perform their functions.

(2) Without prejudice to the generality of subsection (1), the ministry or government department shall—

- (a) on its own initiative or on request by a county government or group of persons, assess the performance of a county government with a view to determine its support requirements;
- (b) make a report on the assessment made under paragraph (a) and the capacity needs of the county governments;
- (c) in consultation with the relevant county government, conduct research or inquiries to determine the extent of its support requirements;
- (d) where necessary assess and value the requirements of the county for the cabinet secretary to take the relevant measures towards providing support;
- (e) collect information on county performance and on best practices in resolving performance problems;
- (f) assist county governments to identify the causes of their performance problems, and potential solutions to the problems;
- (g) where circumstances indicate that the county is unable or has difficulty in performing its functions, prepare clear and practical measures and recovery plan to build the capacity of the county to enable it to effectively perform its functions;
- (h) in collaboration with the relevant county secretary consult with the cabinet secretary for finance on any matter of support relating to finance;
- (i) consult with the relevant county assembly on the findings of the report made under paragraph (b) and the recommendations under paragraph (f) and jointly adopt an implementation plan; and
- (j) with the approval of the secretary, obtain the services of any financial expert to perform any specific work for the service.

(3) The report made under subsection (2) shall give full and clear details of inability of the county to function and cover all aspects that hinder the county from undertaking its functions.

(4) Where after receiving the report under subsection (1) the cabinet secretary is of the view that it is necessary for the national government to intervene and perform the relevant functions, the Cabinet Secretary shall seek the approval of Parliament before assuming responsibility for the functions.

(5) The Cabinet Secretary shall give notice to the county government of the nature of intervention, the measures to be taken and the period required to rectify the problem.

[Act No. 7 of 2016, Sch.]

**PART XIII – PROCEDURE FOR  
SUSPENSION OF COUNTY GOVERNMENT**

**122. Grounds for suspension arising from conflict or war**

The President may suspend a county government—

- (a) in an emergency arising out of internal conflict or war; or
- (b) in any other exceptional circumstances.

**123. Suspension of county government in exceptional circumstances**

(1) Subject to subsection (2), a person may petition the President to suspend a county government in accordance with Article 192(1)(b) of the Constitution if the county government engages in actions that are deemed to be against the common needs and interests of the citizens of a county.

(2) A petition under subsection (1) shall be supported by the signatures of not less than ten percent of the registered voters in the county.

(3) The President shall, within fourteen days after receiving a petition against a county government under subsection (1), submit a report on the averments made and grounds giving rise to suspension of a county government before the apex intergovernmental body (hereinafter referred to as the apex body) established under the law governing intergovernmental relations for approval.

(4) Upon approval by the apex body, the President shall nominate members of a Commission to inquire into and investigate the situation in the county and make recommendations on the suspension of the county government and shall, after approval by Senate, appoint the members of the Commission by notice in the *Gazette*.

(5) The Commission shall comprise—

- (a) a chairperson, who shall be an advocate of the High Court of Kenya with at least fifteen years' experience;
- (b) the chairperson of the National Police Service;
- (c) two persons resident in the affected county and who have not for the last ten years stood for an elective office in the affected county government, or have been an officer or employee of the affected county government; and
- (d) two other persons not resident in the affected county with experience in conflict management.

(6) The Commission shall have all or any of the powers vested in a Commission under the Commissions of Inquiry Act (Cap. 102), and at any inquiry directed under this section, the county government in question and any member thereof shall be entitled to be heard.

(7) The Commission shall inquire into the matters before it expeditiously and report on the facts and make recommendations to the President.

(8) Upon receipt of the report of the Commission and upon being satisfied that justifiable grounds exist for suspension of a county government, the President shall within seven days forward the report and the recommendations of the Commission, together with the petition for suspension of the county government to the speaker of the Senate.

(9) The speaker shall cause a motion for the suspension of the county government to be laid before the Senate within seven days and approval by Senate shall be by a resolution adopted in accordance with the provisions of Articles 122 and 123 of the Constitution.

(10) Upon approval by the Senate, the President shall, by notice in the *Gazette*, suspend the county government for a period not exceeding ninety days, or until the suspension is terminated earlier by the Senate in accordance with Article 192(4) of the Constitution.

#### **124. Prorogation of the county assembly**

(1) During the period of suspension of a county government, the county assembly shall stand prorogued.

(2) During a period of suspension, the speaker and members of the county assembly shall remain in office and shall retain half their benefits.

(3) All Bills introduced before the county assembly and that have not received assent prior to suspension shall expire and shall be re-introduced as new bills upon the cessation of the suspension.

(4) County assembly committees shall be dissolved during the period of suspension and shall be reconstituted upon the cessation of suspension.

(5) The prorogation of the county assembly shall come to an end—

- (a) if the suspension is terminated by the Senate as provided in this Act;
- (b) upon the expiry of ninety days; or
- (c) upon the publication of a notice on the holding of the election of the county assembly in the Kenya *Gazette* by the Independent Electoral and Boundaries Commission according to the provisions of the Elections Act (No. 24 of 2011).

#### **125. Suspension of the county executive committee**

(1) During the period of suspension of a county government, the functions of the county executive committee shall be suspended and its functions shall be undertaken by an interim county management board.

(2) During a period of suspension, the governor, deputy governor and members of the executive committee shall receive half of their benefits.

#### **126. Establishment of the Interim County Management Board**

(1) An Interim County Management Board for a suspended county government shall be appointed by the President by notice in the *Gazette*.

(2) The Interim County Management Board shall comprise—

- (a) a chairperson appointed by the President with the approval of the Senate;
- (b) not less than three, or more than five other members appointed by the Cabinet Secretary responsible for intergovernmental relations with the approval of the Senate; and
- (c) a certified public secretary of good professional standing appointed by the Cabinet Secretary responsible for intergovernmental relations who shall be the secretary to the board.

(3) A person shall qualify for appointment as a chairperson or a member of the Board if the person—

- (a) is a resident of the county in question;
- (b) has knowledge, expertise and reasonable experience in management of the security sector or management of the private or public sector, and in addition a degree from a university recognised in Kenya;
- (c) has not for the last five years stood for elective office in the suspended county government, or been an officer or employee of the suspended county government; and
- (d) has not, for the last five years, been a member of a governing body of a political party.

(4) The Board may co-opt not more than three members with specialized knowledge or expertise to assist in the discharge of specific functions of the Board and on such terms as the Board may specify.

## **127. Functions of the Interim County Management Board**

(1) The Interim County Management Board shall have all powers and functions vested in the county executive committee under the Constitution and under this Act for the performance of its functions and, in particular the power to—

- (a) assist the county government in setting up a programme for complete restoration of protection of human rights, peace, security and public order;
- (b) work closely with the county administration in improving the general governance and service delivery;
- (c) summon any member, officer or employee of county government or any other person to appear before the Board concerning matters relevant to its functions;
- (d) summon any member, officer or employee of county government or any other person to produce any books or documents relating to the functions of the Board;
- (e) require the county government to provide additional information or to explain any inconsistency, where the Board determines, based on information it may have obtained;
- (f) hear and receive evidence and examine witnesses; and
- (g) issue instructions in writing to members, officers and employees of the county government for the better implementation of its functions.

(2) Any person who without reasonable excuse—

- (a) neglects or refuses to comply with the summons issued by the Board;
- (b) having appeared, refuses to be examined on oath or affirmation or to take such oath or affirmation;

- (c) having taken such oath or affirmation, refuses to answer fully and satisfactorily, to the best of his knowledge and belief, all questions put to him; or
- (d) knowingly and wilfully gives any evidence which is untrue in any particular matter,

commits an offence and shall be liable on conviction, for every such neglect or refusal, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one year.

(3) The members of the Board shall be paid allowances to cater for their expenses as such reimbursement for reasonable and necessary expenses as shall be advised by the Salaries and Remuneration Commission.

(4) The Cabinet Secretary responsible for intergovernmental relations shall provide such staff as may be necessary for purposes of the performance of the functions of the Board.

(5) No member of the suspended county government shall exercise any supervisory or oversight control over the functions of the Board or its activities.

(6) No matter or thing done by a member of the Board, or by any officer, or agent of the Board shall, if the matter or thing is done in good faith for the due execution of the functions, powers or duties of the Board under this Act, render such member, officer, or agent personally liable to any legal action, claim, demand or liability whatsoever.

(7) The Interim County Management Board shall within ninety days of appointment prepare and submit to the President a report of its activities and its recommendations.

## **128. Dissolution of the Interim County Management Board**

The President by notice in the *Gazette* shall dissolve an Interim County Management Board upon the new county government coming to office after holding elections pursuant to Article 192(6) of the Constitution.

## **129. Termination of suspension**

The suspension of a county government shall be terminated in the following ways—

- (a) in the circumstances described in Article 192(4) and (5); or
- (b) upon termination by the Senate by a resolution adopted in accordance with Articles 122 and 123 of the Constitution.

## **130. County elections after suspension**

(1) Elections for a suspended county shall be held within ninety days after the suspension.

(2) The Independent Electoral and Boundaries Commission shall cause elections of the governor and county assembly to be held in the affected county according to the provisions of the Elections Act (No. 24 of 2011).

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## PART XIV – MISCELLANEOUS PROVISIONS

### **131. Financial provision**

- (1) The funds and financial management of county governments shall be as provided under the law relating to public finance.
- (2) The procedure of budgeting, borrowing powers and grants management shall be as provided in the law relating to public finance.

### **132. Pension schemes**

Subject to the transitional provisions herein, all members, officers and staff of a county government shall subscribe to an existing pension scheme for officers and staff of local government.

### **133. Protection against personal liability**

- (1) No act, matter or thing done or omitted to be done by—
- (a) any member of the county government or its administration board or committee;
  - (b) any member of the county assembly;
  - (c) any member of staff or other person in the service of the county government; or
  - (d) any person acting under the direction of the county government,

shall, if that act, matter or thing was done or omitted in good faith in the execution of a duty or under direction, render that member or person personally liable to any civil liability.

(2) A person who is not exempted from liability under subsection (1) and who directs or concurs in the use of funds contrary to existing legal rules or instructions shall be accountable for any loss arising from that use and shall be required to make good the loss even if that person has ceased to hold office.

### **134. Repeal of Cap. 265**

- (1) The Local Government Act is repealed upon the final announcement of all the results of the first elections held under the Constitution.
- (2) All issues that may arise as a consequence of the repeal under subsection (1) shall be dealt with and discharged by the body responsible for matters relating to transition.

### **135. Regulations**

- (1) The Cabinet Secretary may make regulations for the better carrying out of the purposes and provisions of this Act and such Regulations may be made in respect of all county governments and further units of decentralization generally or for any class of county governments and further units of decentralization.
- (2) Regulations made under this section shall be tabled before the Senate for approval, and shall not take effect until such approval is obtained.

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## PART XV – TRANSITIONAL PROVISIONS

### **136. First sitting of the county assembly**

(1) The first sitting of a county assembly after the first election under the Constitution, shall take place at a time, place and date determined by the Independent Electoral and Boundaries Commission, which date shall not be later than fourteen days after the results of the elections have been gazetted.

(2) The Chief Justice shall designate for each county a judge to swear in the members and the speaker elected at the meeting under subsection (1).

### **137. Facilitation of civic education**

(1) In the period preceding establishment of county governments under Article 176 of the Constitution, the design, coordination and implementation of civic education shall be facilitated by the Ministries responsible for matters relating to civic education, devolution and county governments and such other programmes.

(2) For the purposes of this section and for the avoidance of doubt—

- (a) the Ministries responsible for matters of civic education, devolution and county governments respectively shall be responsible for the design and coordination of overall civic education on devolution as provided for in this Act; and
- (b) the Commission for the Implementation of the Constitution shall ensure that the content of civic education curriculum and materials developed pursuant thereto, reflect the letter and spirit of Chapter Eleven of the Constitution.

(3) The Ministries specified under subsection (2) shall, create capacity and facilitate the county governments to effectively assume their responsibilities in the delivery of civic education in the county.

### **138. Arrangements for public servants**

(1) Any public officer appointed by the Public Service Commission in exercise of its constitutional powers and functions before the coming to effect of this Act and is serving in a county on the date of the constitution of that county government shall be deemed to be in the service of the county government on secondment from national government with their terms of service as at that date and—

- (a) the officer's terms of service including remuneration, allowances and pension or other benefits shall not be altered to the officer's disadvantage; and
- (b) the officer shall not be removed from the service except in accordance with the terms and conditions applicable to the officer as at the date immediately before the establishment of the county government or in accordance with the law applicable to the officer at the time of commencement of the proceedings for the removal; and
- (c) the officer's terms and conditions of service may be altered to office's advantage.

(2) Every public officer holding or acting in a public office to which the Commission had appointed the officer as at the date of the establishment of the county government shall discharge those duties in relation to the relevant functions of the county government or national government, as the case may be.

(3) The body responsible for the transition to county governments shall in consultation with the Public Service Commission and relevant ministries facilitate the redeployment, transfers and secondment of staff to the national and county governments.

(4) The provision under subsection (2) shall not preclude—

- (a) the County Public Service Board or other lawful authority from promoting or appointing the officer to another public office in the county; or
- (b) re-deployment by the relevant lawful authority.

(5) The period of secondment under subsection (1) shall cease upon the transfer of a public officer from the national government to a county government or upon the release of an officer by the county government to the national government.

(6) Appointment of a public officer by the Commission includes appointment of a public officer on powers delegated by the Commission.

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## FIRST SCHEDULE

### OATHS OF OFFICE

#### OATH OF OFFICE FOR GOVERNOR/DEPUTY GOVERNOR

[Sections 9(3), 12(2), 30(1), 32(1)) and 38, Act No. 7 of 2016, Sch.]

*I, ..... do swear/solemnly affirm that I shall always truly and diligently serve the people and the Republic of Kenya in the office the governor/deputy governor of ..... county; that I shall diligently discharge my duties and perform my functions in the said office, to the best of my judgment; (that (in the case of the deputy governor) I shall at all times, when so required, faithfully and truly give my counsel and advice to the Governor of the ..... county); that I shall do justice to all. (So help me God).*

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#### OATH OF OFFICE FOR SPEAKER/ACTING SPEAKER

*I, ..... having been elected as speaker/acting speaker of the county assembly of ..... county do swear/solemnly affirm that I shall always truly and diligently serve the people and the Republic of Kenya in the office speaker/acting speaker of the county assembly in ..... county; that I shall respect, uphold, preserve, protect and defend this Constitution of the Republic of Kenya; and that I shall do right to all manner of persons in accordance with the Constitution of Kenya and the laws and conventions of Parliament without fear or favour, affection or ill health. (So help me God).*

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FIRST SCHEDULE—*continued*

## OATH OF OFFICE FOR COUNTY ASSEMBLY CLERK

*I, ..... do swear/solemnly affirm that I shall always truly and diligently serve the people and the Republic of Kenya in the office of the clerk of the county assembly in ..... county; that I shall diligently discharge my duties and perform my functions in the said office, to the best of my judgment; that I shall at all times, when so required, faithfully and truly give my counsel and advice to the Speaker of the county assembly of ..... county; that I shall do justice to all. (So help me God)*

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## OATH OF OFFICE FOR COUNTY EXECUTIVE COMMITTEE MEMBER

*I ..... , do swear/solemnly affirm that I shall always truly and diligently serve the people and the Republic of Kenya in the office the executive committee member of ..... county; that I shall diligently discharge my duties and perform my functions in the said office, to the best of my judgment; that I shall at all times, when so required, faithfully and truly give my counsel and advice to the governor of the ..... county; that I shall do justice to all. (So help me God)*

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## OATH OF OFFICE FOR COUNTY ASSEMBLY MEMBERS

*I ..... , do swear/solemnly affirm that I shall always truly and diligently serve the people and the Republic of Kenya in the office of county assembly committee member of ..... county; that I shall diligently discharge my duties and perform my functions in the said office, to the best of my judgment; that I shall at all times, respect, uphold, preserve, protect and defend this Constitution of the Republic of Kenya; and that I shall do right to all manner of persons in accordance with the Constitution of Kenya and the laws and conventions of Parliament, that I shall do justice to all. (So help me God).*

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## SECOND SCHEDULE

[Section 14(8).]

MATTERS TO BE PROVIDED FOR IN THE COUNTY ASSEMBLY STANDING ORDERS	
GENERAL SUBJECT MATTER	SPECIFIC MATTER TO BE ADDRESSED
Introductory	Interpretation
Swearing-in of members and election of Speaker	Proceedings on assembly of a new Assembly Swearing-in of members Election of the Speaker
Election of member to deputize for Speaker	Election of member to deputize the Speaker Chairperson of Committees of the Whole Assembly Presiding in the Assembly
Leader of the majority	Leader of the majority party Opposition in the Assembly
Governor and persons other than a Member	Governor's address to Assembly Governor entering or leaving Chamber Address by Senator or persons other than the Governor or member
Sittings and Adjournments of the Assembly	Location of sittings of a new Assembly Regular sessions of the Assembly Special sittings of the Assembly Hours of meeting Adjournment of the Assembly Adjournment on definite matter of urgent national or county importance
Quorum of the Assembly	Quorum at commencement of the Assembly Quorum during the proceeding of the Assembly Quorum during voting or division
Order of Business	Order Paper to be prepared and circulated Messages from the Governor or Senator Sequence of proceedings
Statements	Statement Hour
Approval of county public appointments	Committal to committees

SECOND SCHEDULE—*continued*

GENERAL SUBJECT MATTER	SPECIFIC MATTER TO BE ADDRESSED
Motions	Notices of Motions Amendment of Notice of Motion Certain Motions not to be moved Time for moving Motions Motion withdrawn may be moved again Motions which may be moved without notice Manner of debating Motions, Amendments thereto and deferment of putting a question Amendments to be in writing Amendments to be relevant to Motion Question proposed after Motion made Motion in possession of the Assembly Question as amended put When amendment proposed but not made
Special Motions	Definition of Special Motion Procedure for removal of Governor Procedure for removal of Deputy Governor Procedure for removal of member of County Executive Committee
Voting and Divisions	Voting in the Assembly Division claimed Technical failure, confusion or error occurring Roll call voting In case of confusion or error Decorum during division Original vote
Rules of Debate	Proceedings to be in Kiswahili, English or Kenyan sign language Members to address the Speaker Two or more members rising to speak Speeches may not be read No member to speak after Question put Speaking twice to a Question Point of Order Anticipating debate

SECOND SCHEDULE—*continued*

GENERAL SUBJECT MATTER	SPECIFIC MATTER TO BE ADDRESSED
	Proceedings of Select Committees not to be referred to Contents of speeches Matters sub judice or secret Declaration of interest Responsibility for statement of fact Member who has spoken to question may speak to amendment Debate on amendment confined to amendment Reserving rights of speech Closure of debate Adjournment of debate
Limitation of Debate	Limitation of debate
Order in the Assembly and in Committee of the Whole Assembly	Maintenance of order Security checks Firearms and other offensive weapon Lady members' handbags When the Speaker rises members to be silent Members and the Chair Members to be seated Members to remain in their places until the Speaker has left the Chamber Irrelevance or repetition Disorderly conduct Member may be suspended after being named Member suspended to withdraw from precincts of the Assembly Duration of suspension of a member Action to be taken on refusal to withdraw Grave disorder
Public Bills	Application and limitation Introduction of Bills Printing of amending provisions Memorandum of Objects and Reasons Publication

SECOND SCHEDULE—*continued*

GENERAL SUBJECT MATTER	SPECIFIC MATTER TO BE ADDRESSED
	Not more than one stage of a Bill to be taken at the same sitting Reading of Bills First Reading Committal of Bills to Committees Second Reading Committal of Bills to Committee of the whole Assembly Sequence to be observed on a Bill in Committee Procedure in Committee of the whole Assembly on a Bill Report of Progress Bill to be reported Procedure on Bills reported from Committee of the whole Assembly Procedure on Bills reported from Select Committees Procedure upon the re-committal of a Bill Withdrawal of Bills Third Reading Re-introduction of Bills Custody of Bills
Committee of the Whole Assembly	Limits on consideration of matters by Committee Committee of the whole Assembly may not adjourn Report No debate on Motion for Report Chairperson leaves Chair without question put when directed to report General application of rules in Committee
Select Committees	Assembly Business Committee Nomination of members of select committees Criteria for nomination Approval of nomination Discharge of a member from a committee Composition of select committees Chairing of select committees and quorum Conduct of election Notice of meetings

SECOND SCHEDULE—*continued*

GENERAL SUBJECT MATTER	SPECIFIC MATTER TO BE ADDRESSED
	Sittings of select committees Member adversely mentioned not to sit Adjournment for lack of quorum Frequency of meetings Failure to attend meetings Absence of chairperson and vice-chairperson List of attendance Minutes of select committees Summoning of witnesses Temporary absence of a member of a select committee Vote of no confidence in the chairperson or vice-chairperson Filling of vacancies in select committees Original vote Attendance by non-members of select committee Procedure in select committees Public access to meetings of select committee Reports of select committees Progress reports Reports on Assembly Resolutions Joint meetings of committees Engagement of experts County Public Accounts & Investments Committee Budget and Finance Committee Rules and Programme Committee Committee on Implementation Sectoral Committees Appointment of Sectoral Committees Limitation of mandate Committee to be limited to mandate
Public Petitions	Meaning of Public Petition Member's statement on presentation of Petition

SECOND SCHEDULE—*continued*

GENERAL SUBJECT MATTER	SPECIFIC MATTER TO BE ADDRESSED
	Petition on Private Bill Notice of intention to present Petition Form of Petition Presentation of Petition Comments on petitions Printing of Petitions Committal of Petitions
Financial Procedures	General Restrictions with regard to certain financial measures Presentation of Budget Policy Paper in liaison with commission for revenue allocation. Presentation of Annual Estimates and committal to Committees Committee of Ways and Means and Committee of Supply Procedure in Committee of Supply Procedure on Supplementary Estimates Consideration of Supply Resolutions Order of Votes
Journals, Records and Broadcast of Proceedings	Journals of the Assembly Custody of Journals and Record Hansard reports Secret or personal matters Broadcast of Assembly Proceedings
Communication with the Senate	Messages to and from the Senate Procedure for presentation of reports and other matters from the Senate
The Public	Places to which members of public are not admitted Exclusion of the public Press representatives infringing Standing Orders or the Speaker's Rules
General	In cases not provided for, the Speaker to decide Exemption of business from Standing Orders Seating in the Chamber Members travelling outside the County or outside Kenya Expenses of witnesses

SECOND SCHEDULE—*continued*

GENERAL SUBJECT MATTER	SPECIFIC MATTER TO BE ADDRESSED
Suspension and Amendment of Standing Orders	
Broadcasting Rules	Broadcasting of Assembly proceedings Protection of the dignity of the Assembly External media houses Breach of broadcasting Rules

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## THIRD SCHEDULE

[Section 6A (1), Act No. 1 of 2016, s. 4, Act No. 4 of 2017.]

## PHYSICAL LOCATION OF COUNTY GOVERNMENTS

County	<i>Physical Location</i>
1. Mombasa	Mombasa City
2. Kwale	Kwale Urban Area
3. Kilifi	Kilifi Urban Area
4. Tana River	Hola Urban Area
5. Lamu	Lamu Urban Area
6. Taita/Taveta	Mwatate Urban Area
7. Garissa	Garissa Urban Area
8. Wajir	Wajir Urban Area
9. Mandera	Mandera Urban Area
10. Marsabit	Marsabit Urban Area
11. Isiolo	Isiolo Urban Area
12. Meru	Meru Urban Area
13. Tharaka-Nithi	Kathwana Urban Area
14. Embu	Embu Urban Area
15. Kitui	Kitui Urban Area
16. Machakos	Machakos Urban Area
17. Makueni	Makueni Urban Area
18. Nyandarua	OI Kalou Urban Area
19. Nyeri	Nyeri Urban Area
20. Kirinyaga	Kutus Urban Area
21. Murang'a	Murang'a Urban Area

*County Governments*

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22. Kiambu	Kiambu Urban Area
23. Turkana	Lodwar Urban Area
24. West Pokot	Kapenguria Urban Area
25. Samburu	Maralal Urban Area
26. Trans Nzoia	Kitale Urban Area
27. Uasin Gishu	Eldoret Urban Area
28. Elgeyo/Marakwet	Iten Urban Area
29. Nandi	Kapsabet Urban Area
30. Baringo	Kabarnet Urban Area
31. Laikipia	Rumuruti Urban Area
32. Nakuru	Nakuru Urban Area
33. Narok	Narok Urban Area
34. Kajiado	Kajiado Urban Area
35. Kericho	Kericho Urban Area
36. Bomet	Bomet Urban Area
37. Kakamega	Kakamega Urban Area
38. Vihiga	Vihiga Urban Area
39. Bungoma	Bungoma Urban Area
40. Busia	Busia Urban Area
41. Siaya	Siaya Urban Area
42. Kisumu	Kisumu City
43. Homa Bay	Homa Bay Urban Area
44. Migori	Migori Urban Area
45. Kisii	Kisii Urban Area
46. Nyamira	Nyamira Urban Area
47. Nairobi	Nairobi City

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Election Offences  
Act (No 37 of 2016)



**THE REPUBLIC OF KENYA**

**LAWS OF KENYA**

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**ELECTION OFFENCES ACT**

**NO. 37 OF 2016**

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**NO. 37 OF 2016****ELECTION OFFENCES ACT**  
**ARRANGEMENT OF SECTIONS***Section*

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22. Proceedings to be commenced within two years.
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24. General penalty.
25. Repeal of Part VI of No. 24 of 2012.



**NO. 37 OF 2016****ELECTION OFFENCES ACT**

[*Date of assent: 13th September, 2016.*]

[*Date of commencement: 4th October, 2016.*]

**AN ACT of Parliament to provide for election offences; and for connected purposes**

[Act No. 37 of 2016, Act No. 34 of 2017.]

**1. Short title**

This Act may be cited as the Election Offences Act, 2016.

**2. Interpretation**

In this Act, unless the context otherwise requires—

“**ballot box**” means a transparent container with a slot on the top sufficient to accept a ballot paper in an election or in a referendum but which prevents access to the votes cast until the closing of the voting period;

“**ballot paper**” means paper used to record the choice made by a voter and shall include an electronic version of a ballot paper or its equivalent for purposes of electronic voting;

“**candidate**” means a person contesting for an elective post;

“**Commission**” means the Independent Electoral and Boundaries Commission established under Article 88 of the Constitution;

“**constituency**” means one of the constituencies into which Kenya is divided under Article 89 of the Constitution;

“**county**” means one of the counties into which Kenya is divided under Article 6(1) of the Constitution and specified in the First Schedule to the Constitution;

“**election**” means a presidential, parliamentary or county election and includes a by-election;

“**election court**” means the Supreme Court in exercise of the jurisdiction conferred upon it by Article 163 (3)(a) or the High Court in the exercise of the jurisdiction conferred upon it by Article 165 (3)(a) of the Constitution or the Resident Magistrate's Court designated by the Chief Justice in accordance with section 75 of the Elections Act, 2011 (No. 24 of 2011);

“**election period**” means the period between the publication of a notice by the Commission for a presidential, parliamentary or county election under sections 14, 16, 17 and 19 of the Elections Act, 2011 and the Gazetteement of the election results;

“**referendum committee**” has the meaning assigned to it under the Elections Act, 2011;

“**Register of Voters**” has the meaning assigned to it under the Elections Act, 2011;

“**voter**” means a person whose name is included in a current register of voters;

“**ward**” means an electoral area within a county delimited in accordance with Article 89 of the Constitution.

### **3. Offences relating to register of voters**

A person who—

- (a) without authority makes, prepares, prints or is in possession of a document or paper purporting to be a register of voters;
- (b) knowingly makes any false statement on, or in connection with any application to be registered in any register of voters; or
- (c) aids, abets, counsels or procures the commission of or attempts to commit any of the offences referred to in paragraphs (a) and (b),

commits an offence and is liable on conviction, to a fine not exceeding two million shillings or to imprisonment for a term not exceeding six years, or to both.

### **4. Offences relating to multiple registration as a voter**

(1) A person who—

- (a) being registered as a voter in a register of voters applies to be registered as a voter—
  - (i) in any other register of voters, otherwise than in substitution of his subsisting registration; or
  - (ii) in the same register of voters;
- (b) having applied to be registered in a register of voters which application has not been either granted or rejected, applies to be registered in the same register of voters or in another register of voters;
- (c) simultaneously makes two or more applications to be registered as a voter; or
- (d) having been disqualified by an election court, applies to be registered as a voter,

commits an offence and is liable on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year or to both.

(2) Any person who commits an offence under subsection (1) shall, in addition to the penalty provided in subsection (1), not be eligible to vote in that election or in the next election.

(3) A member or officer of the Commission or a person who aids another person to register as a voter more than once commits an offence and is liable on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year or to both.

(4) A candidate who aids a person to register as a voter more than once, commits an offence and is liable on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year or to both and shall not be eligible to contest in the ongoing general election.

**5. Offences relating to voting**

A person who—

- (a) forges, counterfeits, defaces or destroys any ballot paper or the official perforation, stamp or mark on any ballot paper;
- (b) without authority supplies any ballot paper to any person;
- (c) sells or offers for sale any ballot paper to any person;
- (d) purchases or offers to purchase any ballot paper from any person;
- (e) not being a person entitled to be in possession of any ballot paper which has been marked with any official perforation, stamp or mark has any such ballot paper in his possession;
- (f) puts into any ballot box anything other than the ballot paper which he is authorised by law to put in;
- (g) without authority takes out of a polling station any ballot paper or is found in possession of any ballot paper outside a polling station;
- (h) not being an election official and not being authorised, removes election material from a polling station before, during or after an election;
- (i) without authority destroys, takes, opens, disposes of or otherwise interferes with any election material in use or intended to be used for the purposes of an election;
- (j) without authority prints any ballot paper or what purports to be or is capable of being used as a ballot paper at an election;
- (k) for the purposes of an election, manufactures, constructs, imports, has in his possession, supplies or uses, or causes to be manufactured, constructed, imported, supplied or used, any appliance, device or mechanism by which a ballot paper may be extracted, affected or manipulated after having been deposited in a ballot box during the polling at any election;
- (l) not being authorised to do so under this Act, makes any mark on any ballot paper issued to any person other than to himself;
- (m) votes at any election when they are not entitled to vote;
- (n) votes more than once in any election;
- (o) interferes with a voter in the casting of his vote in secret;
- (p) pretends to be unable to read or write so as to be assisted in voting; or
- (q) pretends to be visually impaired or suffering from any other disability so as to be assisted in voting,

commits an offence and is liable on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding six years or to both.

**6. Offences by members and staff of the Commission**

A member of the Commission, staff or other person having any duty to perform pursuant to any written law relating to any election who—

- (a) makes, in any record, return or other document which they are required to keep or make under such written law, an entry which

they know or have reasonable cause to believe to be false, or do not believe to be true;

- (b) permits any person whom they know or have reasonable cause to believe to be able to read or write to vote in the manner provided for persons unable to read or write;
- (c) permits any person whom they know or have reasonable cause to believe not to be visually impaired or a person with disability to vote in the manner provided for persons who are visually impaired or persons with disability, as the case may be;
- (d) wilfully prevents any person from voting at the polling station at which they know or have reasonable cause to believe such person is entitled to vote;
- (e) wilfully rejects or refuses to count any ballot paper which they know or have reasonable cause to believe is validly cast for any candidate in accordance with the provisions of such written law;
- (f) wilfully counts any ballot paper as being cast for any candidate which they know or have reasonable cause to believe was not validly cast for that candidate;
- (g) interferes with a voter in the casting of his vote in secret;
- (h) where required under the Elections Act (No. 24 of 2011) or any other law to declare the result of an election, fails to declare the results of an election;
- (i) except in the case of a member, officer or person authorised to do so, purports to make a formal declaration or formal announcement of an election result;
- (j) without reasonable cause does or omits to do anything in breach of his official duty;
- (k) colludes with any political party or candidate for purposes of giving an undue advantage to the political party or candidate;
- (l) wilfully contravenes the law to give undue advantage to a candidate or a political party on partisan, ethnic, religious, gender or any other unlawful considerations; or
- (m) fails to prevent or report to the Commission or any other relevant authority, the commission of an electoral offence committed under this Act,

commits an offence and is liable on conviction, to a fine not exceeding two million shillings or to imprisonment for a term not exceeding five years or to both.

[Act No. 34 of 2017, s. 11.]

## **7. Maintenance of secrecy at elections**

- (1) An election officer, candidate, agent or other person who—
  - (a) without authority, obtains or attempts to obtain, in a polling station, information as to the candidate for whom any voter in the station is about to vote or has voted;
  - (b) communicates at any time to any person, any information obtained in a polling station as to the candidate for whom any voter in the station is about to vote or has voted; or

*Election Offences*

(c) discloses the serial number of the ballot paper issued to any voter at the station,  
commits an offence.

(2) Every election officer, candidate, or agent in attendance at the counting of votes who fails to maintain or aids in violating the secrecy of the ballot or attempts to ascertain at such counting the number of any ballot paper, or communicate any information obtained at such counting as to the candidate for whom any vote is given by any particular ballot paper, commits an offence.

(3) A person attending any proceedings relating to an election and who, without lawful excuse—

- (a) communicates, before the poll is closed, to any person any information obtained at those proceedings as to any official perforation, stamp or mark to be used in connection with any paper;
- (b) communicates to any person at any time any information obtained at those proceedings as to the number of ballot papers issued to any person;
- (c) attempts to ascertain at the proceedings in connection with the receipt of ballot papers, the number on any ballot paper;
- (d) attempts to ascertain at the proceedings in connection with the receipt of the ballot papers the candidate for whom any vote is given in any particular ballot paper or communicate any information with respect thereto obtained at those proceedings; or
- (e) captures an image of any marked ballot for purposes of financial gain or for showing allegiance,

commits an offence and is liable on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years or to both.

**8. Personation**

(1) A person, who at an election—

- (a) applies for a ballot paper in the name of another person, or of a fictitious person;
- (b) having voted once at any such election, votes again or applies at the same election for a ballot paper in his own name;
- (c) votes with the knowledge that he is not entitled to vote in that election; or
- (d) presents himself as an election official knowing that he is not,

commits the offence of personation, which shall be cognizable.

(2) For the purposes of this section, a person who has applied for a ballot paper for the purpose of voting shall be deemed to have voted.

**9. Bribery**

(1) A person who, during an election period—

- (a) directly or indirectly offers a bribe to influence a voter to—
  - (i) vote or refrain from voting for a particular candidate or political party;

- (ii) attend or participate in or refrain from attending or participating in any political meeting, march, demonstration or other event of a political nature or in some other manner lending support to or for a political party or candidate;
- (b) in any manner unlawfully influences the result of an election;
- (c) directly or indirectly, in person or by any person on his behalf, in order to induce any other person to agree to be nominated as a candidate or to refrain from becoming a candidate or to withdraw if they have become candidates,

commits an offence.

(2) A person who, during an election period, accepts or agrees to accept a bribe that is offered in the circumstances described in subsection (1) commits an offence.

(3) A person who commits an offence under this section shall be liable, on conviction, to a fine not exceeding two million shillings or to imprisonment for a term not exceeding six years or to both.

#### **10. Undue influence**

(1) A person who, directly or indirectly in person or through another person on his behalf uses or threatens to use any force, violence including sexual violence, restraint, or material, physical or spiritual injury, harmful cultural practices, damage or loss, or any fraudulent device, trick or deception for the purpose of or on account of—

- (a) inducing or compelling a person to vote or not to vote for a particular candidate or political party at an election;
- (b) inducing or compelling a person to refrain from becoming a candidate or to withdraw if he has become a candidate; or
- (c) impeding or preventing a person from being nominated as a candidate or from being registered as a voter,

commits the offence of undue influence.

(2) A person who induces, influences or procures any other person to vote in an election knowing that the person is not entitled to vote in that election commits an offence.

(3) A person who directly or indirectly by duress or intimidation—

- (a) impedes, prevents or threatens to impede or prevent a voter from voting; or
- (b) in any manner influences the result of an election,

commits an offence.

(4) A person who directly or indirectly by duress, intimidation or otherwise compels or induces any voter who has already voted at an election—

- (a) to inform that person or any other person of the name of the candidate or political party for which the voter has voted; or
- (b) to display the ballot paper on which the voter has marked his vote,

commits an offence.

**11. Use of force or violence during election period**

A person who, directly or indirectly in person or by any other person on his behalf, inflicts or threatens to inflict injury, damage, harm or loss on or against a person—

- (a) so as to induce or compel that person to support a particular candidate or political party;
- (b) on account of such person having voted or refrained from voting; or
- (c) in order to induce or compel that person to vote in a particular way or refrain from voting,

commits an offence and is liable on conviction to a fine not exceeding two million shillings or to imprisonment for a term not exceeding six years or to both.

**12. Use of national security organs**

A candidate or any other person who uses a public officer, or the national security organs to induce or compel any person to support a particular candidate or political party commits an offence and is liable on conviction to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding six years or to both.

**13. Offences relating to elections**

A person who—

- (a) prints, publishes, distributes or posts up, or causes to be printed, published, distributed or posted up, any advertisement, handbill, placard or poster which refers to any election and which does not bear upon its face the names and addresses of the printer and publisher;
- (b) makes or publishes, before or during any election, for the purpose of promoting or procuring the election of any candidate, any false statement of withdrawal of any other candidate at such election;
- (c) forges, defaces or destroys any nomination paper, or delivers to a returning officer any nomination paper knowing it to be forged;
- (d) interferes with election material by removing, destroying, concealing or mutilating or assists in the removal, destruction, concealment or mutilation of any such material save on the authority of the Commission or under the provisions of the Elections Act (No. 24 of 2011);
- (e) directly or indirectly prints, manufactures or supplies or procures the printing, manufacture or supply of any election material in connection with the election save on the authority of the Commission;
- (f) interferes with free political canvassing and campaigning by—
  - (i) using language which is threatening, abusive or insulting or engages in any kind of action which may advocate hatred, incite violence or influence the voters on grounds of ethnicity, race, religion, gender or any other ground of discrimination;
  - (ii) directly or indirectly, using the threat of force, violence, harassment or otherwise preventing the conduct of any political meeting, march, demonstration or other event of a political nature or any other person from attending or participating therein;

- (iii) creating a material disruption with the intention of preventing a political party from holding a public political meeting;
- (iv) impeding, preventing or threatening to impede or prevent the right of any representative of any political party from gaining access, in the manner and during the hours prescribed to voters in any particular area, whether public or private for the purposes of canvassing and campaigning and soliciting membership and support; or
- (v) impeding, preventing or threatening to impede or prevent a member of the Commission, a representative of the Commission or any other authorised person or organisation engaged in voter education from gaining access, in the refuses or fails to effect a direction, instruction or lawful order issued by or on behalf of the Commission;
- (g) refuses or fails to leave an election counting centre or any area designated by the Commission for electoral purposes when so ordered in accordance with the Elections Act;
- (h) enters or remains in an election centre or in any area designated by the Commission for electoral purposes in contravention of Elections Act;
- (i) obstructs or hinders any elections officer, candidate or agent in the execution of their lawful duties;
- (j) makes a false statement or furnishes false particulars in any statement which is required under Elections Act knowing the statement or particulars to be false or without reasonable grounds for believing the same to be true; or
- (k) publishes, repeats or disseminates in any manner whatsoever, information with the intention of—
  - (i) disrupting or preventing the election;
  - (ii) creating hostility or fear in order to influence the process or outcome of the election; or
  - (iii) otherwise unlawfully influencing the process or outcome of the election, or aids, abets counsels or procures the commission of or attempts to commit any such offence; or
- (l) forges, defaces or destroys any campaign or promotional material of an opposing candidate or political party,

commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding five years or to both.

#### **14. Use of public resources**

(1) Except as authorised under this Act or any other written law, a candidate, referendum committee or other person shall not use public resources for the purpose of campaigning during an election or a referendum.

(2) *Deleted by Act No. 34 of 2017, s. 12.*

(3) For the purposes of this section, the Commission shall, in writing require any candidate, who is a member of Parliament, a county governor, a deputy county governor or a member of a county assembly, to state the facilities attached to the candidate or any equipment normally in the custody of the candidate by virtue of that office.

(4) A person who is requested to supply information required under subsection (3) shall submit the information within a period of fourteen days from the date of the notice.

(5) The provisions of subsection (3) shall apply with necessary modifications, to an employee of a statutory corporation or of a company in which the Government owns a controlling interest.

(6) A person who fails to comply with the provisions of this section commits an offence and is liable on conviction to a fine not exceeding two million shillings or imprisonment for a term not exceeding six years or to both.

(7) A member of the Commission, any person designated by the Commission or any authorised agency shall have the power to impound or to order the impounding of any state resources that are unlawfully used in an election campaign.

[Act No. 34 of 2017, s. 12.]

## **15. Participation in elections by public officers**

(1) A public officer who—

- (a) engages in the activities of any political party or candidate or act as an agent of a political party or a candidate in an election;
- (b) publicly indicates support for or opposition against any party, side or candidate participating in an election;
- (c) engages in political campaigns or other political activity; or
- (d) uses public resources to initiate new development projects in any constituency or county for the purpose of supporting a candidate or political party in that constituency or county,

commits an offence and is liable on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years, or to both.

(2) A person who knowingly aids in contravention of subsection (1) commits an offence and is liable, on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years, or to both such fine and imprisonment.

(3) A candidate who knowingly aids in contravention of subsection (1) shall not be eligible to contest in the election.

## **16. Unlawful expenditure**

(1) A person who makes payment, contracts for payment or gives any other consideration of any kind for the purpose of promoting or procuring the election of a candidate at any election—

- (a) on account of the conveyance of voters to or from the poll, whether for the hiring of vehicles, vessels or animals of transport of any kind whatsoever, or for railway fares, or otherwise; or
- (b) to or with a voter on account of the use of any house, land, building, or premises for the exhibition of any address, bill or notice, or on account of the exhibition of any address bill or notice,

commits an offence.

(2) A person who, upon the filing of an election petition in respect of an electoral area and prior to the conclusion of a by-election in respect of that electoral area where a court determines that a by-election is to be held—

- (a) knowingly register voters in the electoral area in which the by-election is to be held;
- (b) knowingly cause the registration of voters in the electoral area in which the by-election is to be held; or
- (c) transfer voters in substantial numbers to the electoral area in which a by-election is to be held,

commits an offence.

(3) A person who knowingly receives payment under the circumstances provided for under subsection (1) commits an offence.

(4) A person who lets, lends or employs a vehicle, vessel, aircraft, or animal of transport knowing that it is intended to be used to convey voters to and from a poll commits an offence.

(5) A person who hires, borrows or uses a vehicle, vessel, aircraft, or animal of transport knowing that it is intended to be used to convey voters to and from a poll commits an offence.

(6) Nothing in subsection (4) or subsection (5) shall prevent an owner of a vehicle, vessel or animal of transport of any kind from letting, hiring or being employed or used by a voter or several voters at their joint cost for the purpose of conveying the voters to or from a poll.

(7) Notwithstanding anything in this section—

- (a) where it is the ordinary business of a voter as an advertising agent to exhibit for payment bills and advertisements, a payment to or contract with such voter if made in the ordinary course of business, shall not be deemed to be an offence within the meaning of this section; and
- (b) where voters are unable at an election to reach their polling stations from their place of residence without crossing the sea or a tributary thereof or a river, means may be provided for conveying the voters to their polling stations or to enable them to cross in order to reach their polling stations.

(8) The means of conveyance referred to in subsection (7)(b) shall be made available equally to all voters who wish to be conveyed to vote.

## **17. Offences relating to the use of technology in elections**

A person who, in relation to the electoral process—

- (a) steals or intentionally causes damage to electronic equipment;
- (b) knowingly or intentionally conceals, destroys, alters or knowingly or intentionally causes another to conceal, destroy or alter any computer source code used for a computer, computer programme, computer system or computer network;

- (c) with the intent to cause or knowing that he is likely to cause wrongful loss or damage to the public or any person, destroys or deletes or alters any information residing in a computer resource or diminishes its value or utility;
- (d) accesses the whole or any part of a computer system without authorisation;
- (e) intercepts, by technical means and without authorisation, any non-public transmission of computer data to, from, or within a computer system including electromagnetic emissions from a computer system carrying such computer data;
- (f) intentionally or recklessly alters or interferes with the functioning of a computer or computer network by inputting, transmitting, damaging, deleting, deteriorating, altering or suppressing computer data or a computer program, electronic document, or electronic data message without authority, including by the introduction or transmission of viruses;
- (g) uses, produces, sells, procures, imports, distributes, or otherwise makes available, without lawful authority—
  - (i) a device, including a computer program, designed or adapted primarily for the purpose of committing any of the offences under this Act; or
  - (ii) a computer password, access code, or similar data by which the whole or any part of a computer system may be accessed with intent that it be used for the purpose of committing an offence under this Act;
- (h) knowingly inputs, alters, or deletes computer data with the intent that the result be considered or acted upon for legal purposes as if it were authentic, regardless of whether or not the data is directly readable and intelligible; or
- (i) intentionally acquires, uses, misuses, transfers, alters or deletes another person's identification information,

commits an offence and shall be liable, on conviction, to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding ten years or to both.

#### **18. Employers to allow employees reasonable period for voting**

(1) Every employer shall, on polling day, allow a voter in his employ a reasonable period for voting, and no employer shall make any deduction from the pay or other remuneration of any such voter or impose upon or exact from them any penalty by reason of his absence during such period.

(2) An employer who directly or indirectly refuses, or by intimidation, undue influence, or in any other manner interferes with the granting to any voter in his employ of a reasonable period for voting as specified in subsection (1) commits an offence and is liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding six years or to both.

(3) This section shall not extend to such categories of employees as the Commission may, from time to time by notice in the *Gazette* designate, or to an employee who at the election in question is acting as an election officer within the meaning of the Elections Act.

(4) The provisions of this section shall bind the Government.

#### **19. Aiding and abetting offences**

(1) A person who aids, abets, counsels or procures the commission of or attempts to aid, abet, counsel, or procure the commission of an offence specified in this Act commits an offence.

(2) An offence under subsection (1) shall be cognizable.

#### **20. Breach of Electoral Code of Conduct**

(1) Every officer of a political party and every nominated candidate who, attempts to participate in or participates in an election without subscribing to the Electoral Code of Conduct commits an offence and is liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding six years or to both.

(2) Any person who contravenes the Electoral Code of Conduct commits an offence.

(3) The trial of an offence under this section shall be without prejudice to any proceedings in or consequent upon a petition.

#### **21. Powers of prosecution**

The Director of Public Prosecutions shall have the power to order investigations and to prosecute offences under this Act.

#### **22. Proceedings to be commenced within two years**

(1) The Director of Public Prosecutions shall commence a proceeding in relation to an offence under this Act within twelve months of the date of the election to which the offence relates.

(2) In the case of an offence arising out of the determination of an electoral Court under section 87 of the Elections Act, 2011, the time provided under subsection (1) shall start to run from the date of final judgment.

#### **23. Power to appoint special magistrates**

(1) The Chief Justice may, by notification in the *Gazette*, appoint as many special Magistrates as may be necessary to hear and determine matters relating to offences under this Act.

(2) Notwithstanding anything contained in the Criminal Procedure Code (Cap. 75), a special Magistrate shall, as far as practicable, hold the trial of an offence under this Act on a day-to-day basis until completion.

#### **24. General penalty**

(1) A person who contravenes a provision in this Act for which a penalty has not been provided for, commits an offence and is liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years or to both.

(2) An offence under this Act relating to an election shall, with necessary modifications, be an offence during a referendum.

(3) A person who is convicted of an offence under this Act shall not be eligible for election or nomination in an election for a period of five years following the date of conviction.

**25. Repeal of Part VI of No. 24 of 2012**

The Elections Act is amended by repealing Part VI.

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**Elections Act  
(No. 24 of 2011)**



**THE REPUBLIC OF KENYA**

**LAWS OF KENYA**

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**ELECTIONS ACT**

**NO. 24 OF 2011**

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**NO. 24 OF 2011****ELECTIONS ACT**

[*Date of assent: 27th August, 2011.*]

[*Date of commencement: 2nd December, 2011.*]

**An Act of Parliament to provide for the conduct of elections to the office of the President, the National Assembly, the Senate, county governor and county assembly; to provide for the conduct of referenda; to provide for election dispute resolution and for connected purposes**

[Act No. 24 of 2011, L.N. 142/2011, L.N. 182/2011, L.N. 19/2012, Corr. No. 18/2012, Act No. 12 of 2012, L.N. 19/2012, L.N. 76/2012, Act No. 31 of 2012, Act No. 32 of 2012, Act No. 47 of 2012, Act No. 48 of 2012, No. 36 of 2016, Act No. 37 of 2016, Act No. 1 of 2017, Act No. 34 of 2017.]

**PART I – PRELIMINARY****1. Short title**

This Act may be cited as the Elections Act, 2011.

**2. Interpretation**

In this Act, unless the context otherwise requires—

“adult” has the meaning assigned to it in Article 260 of the Constitution;

“agent” means a person duly appointed by—

- (a) a political party or an independent candidate for the purposes of an election under this Act; or
- (b) a referendum committee for the purposes of a referendum under this Act,

and includes a counting agent and a tallying agent;

“ballot box” means a transparent container with a slot on the top sufficient to accept a ballot paper in an election or in a referendum but which prevents access to the votes cast until the closing of the voting period;

“ballot paper” means a paper used to record the choice made by a voter and shall include an electronic version of a ballot paper or its equivalent for purposes of electronic voting;

“biometric” means unique identifiers or attributes including fingerprints, hand geometry, earlobe geometry, retina and iris patterns, voice waves, DNA, and signatures;

“campaign period” means the period specified as such in the notice issued by the Commission in relation to an election;

“candidate” means a person contesting for an elective post;

“Commission” means the Independent Electoral and Boundaries Commission established under Article 88 of the Constitution;

“constituency” means one of the constituencies into which Kenya is divided under Article 89 of the Constitution;

**“constituency register”** means the register of voters compiled in respect of each constituency by the Commission;

**“county”** means one of the counties into which Kenya is divided under Article 6(1) of the Constitution and specified in the First Schedule of the Constitution;

**“county assembly”** means a county assembly constituted in accordance with Article 177 of the Constitution;

**“county election”** means one of the election of a county governor or a member of a county assembly;

**“disability”** has the meaning assigned to it in Article 260 of the Constitution;

**“election”** means a presidential, parliamentary or county election and includes a by-election;

**“electoral area”** means a constituency, a county or a ward;

**“election court”** means the Supreme Court in exercise of the jurisdiction conferred upon it by Article 163(3)(a) or the High Court in the exercise of the jurisdiction conferred upon it by Article 165(3)(a) of the Constitution or the Resident Magistrate’s Court designated by the Chief Justice in accordance with section 75 of this Act;

**“election material”** means ballot boxes, ballot papers, counterfoils, envelopes, packets statements and other documents used in connection with voting in an election and includes information technology equipment for voting, the voting compartments, instruments, seals and other materials and things required for the purpose of conducting an election;

**“election offence”** means an offence under this Act;

**“election officer”** means a person appointed by the Commission for the purposes of conducting an election under this Act;

**“election period”** means the period between the publication of a notice by the Commission for a presidential, parliamentary or county election under sections 14, 16, 17 and 19 and the Gazettlement of the election results;

**“election results”** means the declared outcome of the casting of votes by voters at an election;

**“harambee”** means the public collection of monies or other property in aid or support of a cause or a project;

**“identification document”** means a Kenyan national identification card or a Kenyan passport;

**“illegal practice”** means an offence specified in Part VI;

**“independent candidate”** means a candidate for presidential, parliamentary or county elections who is not a member of a political party;

**“integrated electronic electoral system”** refers to a system that includes biometric voter registration, biometric voter identification and electronic result transmission system.

**“nomination”** means the submission to the Commission of the name of a candidate in accordance with the Constitution and this Act;

**“nomination day”** in respect of an election, means the day gazetted at least sixty days before an election by the Commission as the day for the nomination of candidates for that election;

**“observer”** means a person or an organisation accredited by the Commission to observe an election or a referendum;

**“parliamentary election”** means the election of one or more members of Parliament;

**“party list”** means a party list prepared by a political party and submitted to the Commission pursuant to and in accordance with Article 90 of the Constitution and sections 28, 34, 35, 36 and 37;

**“petition”** means an application to the election court under the Constitution or under this Act;

**“political party”** has the meaning assigned to it in Article 260 of the Constitution;

**“polling station”** means any room, place, vehicle or vessel set apart and equipped for the casting of votes by voters at an election;

**“presidential election”** means an election of a President in accordance with Articles 136, 139(1)(b) and 146(2)(b) of the Constitution;

**“public officer”** has the meaning assigned to it in Article 260 of the Constitution;

**“public resources”** include—

- (a) any vehicle, or equipment owned by or in the possession; or
- (b) premises owned or occupied by,

any government, state organ, statutory corporation or a company in which the Government owns a controlling interest;

**“referendum”** means a poll held under Part V;

**“referendum committee”** means a national or a parliamentary constituency committee comprising of persons intending to support or oppose a referendum question;

**“referendum officer”** means a person appointed by the Commission for the purpose of conducting a referendum;

**“referendum question”** means a question upon which voters shall vote in a referendum as specified in section 49;

**“registration officer”** means a person appointed by the Commission for the purpose of preparing a register of voters;

**“Register of Voters”** means a current register of persons entitled to vote at an election prepared in accordance with section 3 and includes a register that is compiled electronically;

**“returning officer”** means a person appointed by the Commission for the purpose of conducting an election under this Act;

**“supporter”** means a voter who supports the nomination of a candidate;

**“vessel”** includes any ship, boat or any other description of vessel used in navigation;

**“voter”** means a person whose name is included in a current register of voters;

**“voter’s card”** deleted by Act No. 12 of 2012, Sch.;

**“voting period”** means the period specified as such in the notice issued by the Commission in relation to an election;

**“ward”** means an electoral area within a county delimited in accordance with Article 89 of the Constitution.

[Act No. 12 of 2012, Sch., Act No. 47 of 2012,  
Sch. Act No. 36 of 2016, s. 2, Act No. 1 of 2017, s. 2.]

## PART II – REGISTRATION OF VOTERS AND DETERMINATION OF QUESTIONS CONCERNING REGISTRATION

### 3. Right to vote

(1) An adult citizen shall exercise the right to vote specified in Article 38(3) of the Constitution in accordance with this Act.

(2) A citizen shall exercise the right to vote if the citizen is registered in the Register of Voters.

[Act No. 36 of 2016, s. 26.]

### 4. Register of Voters

(1) There shall be a register to be known as the Register of Voters which shall comprise of—

- (a) a poll register in respect of every polling station;
- (b) a ward register in respect of every ward;
- (c) a constituency register in respect of every constituency;
- (d) a county register in respect of every county; and
- (e) a register of voters residing outside Kenya.

(2) The Commission shall compile and maintain the Register of Voters referred to in subsection (1).

(3) The Register of Voters shall contain such information as shall be prescribed by the Commission.

[Act No. 36 of 2016, s. 26.]

### 5. Registration of voters

(1) Registration of voters and revision of the register of voters under this Act shall be carried out at all times except—

- (a) in the case of a general election or an election under Article 138(5) of the Constitution, between the date of commencement of the sixty day period immediately before the election and the date of such election:

Provided that this applies to the first general election under this Act;

- (b) in the case of a by-election, between the date of the declaration of the vacancy of the seat concerned and the date of such by-election; or

- (ba) in the case of a referendum, between the date of the publication and the date of the referendum;
- (c) *deleted by Act No. 1 of 2017, s. 3(c).*

(2) Notwithstanding subsection (1), where an election petition is filed in respect of an electoral area, between the date of the filing of the petition and the date of the by-election, where a court determines that a by-election is to be held, a voter shall not be allowed to transfer his or her vote to the affected electoral area.

(3) Any citizen of Kenya who has attained the age of eighteen years as evidenced by either a national identity card or a Kenyan passport and whose name is not in the register of voters shall be registered as a voter upon application, in the prescribed manner, to the Commission.

(3A) *Deleted by Act No. 36 of 2016, s. 3.*

(3B) *Deleted by Act No. 36 of 2016, s. 3.*

(4) All applicants for registration under this section shall be registered in the appropriate register by the registration officer or any other officer authorised by the Commission.

(5) The registration officer or any other authorised officer referred to in subsection (3) shall, at such times as the Commission may direct, transmit the information relating to the registration of the voter to the Commission for inclusion in the Register of Voters.

[Act No. 31 of 2012, s. 2, Act No. 48 of 2012, s. 2,  
Act No. 36 of 2016, s. 3, 26, Act No. 1 of 2017, s. 3.]

## **6. Inspection of register of voters**

(1) The Commission shall cause the Register of Voters to be opened for inspection by members of the public at all times for the purpose of rectifying the particulars therein, except for such period of time as the Commission may consider appropriate.

(2) The Commission shall, within ninety days from the date of the notice for a general election, open the Register of Voters for inspection for a period of at least thirty days or such period as the Commission may consider necessary.

(3) *Deleted by Act No. 36 of 2016, s. 4.*

(4) The Register of Voters shall be kept at the headquarters of the Commission and copies of the part of the Register of Voters relating to the constituency for which the registration officer is responsible shall be kept at all the constituency offices of the Commission.

[Act No. 47 of 2012, Sch., Act No. 36 of 2016, s. 4, 26, Act No. 1 of 2017, s. 4.]

## **6A. Verification of biometric data**

(1) The Commission shall, not later than sixty days before the date of a general election, open the Register of Voters for verification of biometric data by members of the public at their respective polling stations for a period of thirty days.

(2) The Commission shall, upon the expiry of the period for verification under subsection (1), revise the Register of Voters to take into account any changes in particulars arising out of the verification process.

(3) The Commission shall, upon expiry of the period for verification specified under subsection (1) publish—

- 
- (a) a notice in the *Gazette* to the effect that the revision under subsection (2) has been completed; and
  - (b) the Register of Voters online and in such other manner as may be prescribed by regulations.

[Act No. 36 of 2016, s. 5, Act No. 1 of 2017, s. 5.]

## **7. Transfer of registration**

(1) Where a voter wishes to transfer the voter's registration to an electoral area other than the one the voter is registered in, the voter shall notify the Commission, in the prescribed manner, of the intention to transfer the registration to the preferred electoral area not less than ninety days preceding an election.

(2) Upon receipt of the notification referred to in subsection (1), the Commission shall transfer the voter's registration particulars to the register of the preferred constituency not later than sixty days preceding the election.

## **8. Updating of the Register of Voters**

- (1) The Commission shall maintain an updated Register of Voters.
- (2) For purposes of maintaining an updated register of voters, the Commission shall—

- (a) regularly revise the Register of Voters;
- (b) update the Register of Voters by deleting the names of deceased voters and rectifying the particulars therein;
- (c) conduct a fresh voter registration, if necessary, at intervals of not less than eight years, and not more than twelve years, immediately after the Commission reviews the names and boundaries of the constituencies in accordance with Article 89(2) of the Constitution;
- (d) review the number, names and boundaries of wards whenever a review of the names and boundaries of counties necessitates a review; and
- (e) revise the Register of Voters whenever county boundaries are altered in accordance with Article 94(3) of the Constitution.

[Act No. 36 of 2016, s. 26.]

## **8A. Audit of the register of votes**

(1) The Commission may, at least six months before a general election, engage a professional reputable firm to conduct an audit of the Register of Voters for the purpose of—

- (a) verifying the accuracy of the Register;
- (b) recommending mechanisms of enhancing the accuracy of the Register; and
- (c) updating the register.

(2) The Kenya Citizens and Foreign Nationals Management Service established under section 3 of the Kenya Citizens and Foreign Nationals Management Service Act, No. 3 of 2011 shall make available to the Commission the information held by it in the national population register for the purpose of the conduct of an audit under subsection (1).

(3) For purposes of the first general election after the commencement of this section, the Commission shall, within thirty days of the commencement of section, engage a professional reputable firm to conduct an audit of the Register of Voters for the purpose of —

- (a) verifying the accuracy of the Register;
- (b) recommending mechanisms of enhancing the accuracy of the Register; and
- (c) updating the register.

(4) The firm engaged under subsection (3) shall conduct the audit and report to the Commission within a period of thirty days from the date of engagement.

(5) The Commission shall, within fourteen days of receipt of the report under subsection (4), submit the report to the National Assembly and the Senate.

(6) The Commission shall implement the recommendations of the audit report within a period of thirty days of receipt of the report and submit its report to the National Assembly and the Senate.

[Act No. 36 of 2016, s. 6.]

## **9. Postponement of disqualification to enable appeal**

Where a person has been adjudged or declared to be of unsound mind, adjudged bankrupt or convicted of an election offence and is thereby disqualified from being registered as a voter, then, if that person is entitled to appeal against the decision, that person shall not be disqualified from being so registered until the expiration of thirty days after the date of the decision or such further period as the Commission may, at the request of the person, direct in order to enable the person to appeal against the decision.

## **10. Eligibility to vote**

(1) A person whose name and biometric data are entered in a register of voters in a particular polling station, and who produces an identification document shall be eligible to vote in that polling station.

(2) The identification document produced in subsection (1) shall be the identification document used at the time of registration as a voter.

(3) Nothing in this section shall entitle a person who is prohibited from voting by any written law to vote or relieve that person from any penalties to which the person may be liable for voting.

[Act No. 36 of 2016, s. 7.]

## *Determination of Questions Concerning Registration*

### **11. Determination of questions as to registration**

Any question whether a person is qualified to be registered as a voter shall be determined in accordance with this Part.

### **12. Claims**

(1) A person who has duly applied to be registered and whose name is not included in the register of voters may submit a claim for the name to be included in the register to the registration officer in the prescribed form and manner and within the prescribed time.

(2) Subject to the Constitution, a claim under subsection (1) shall be determined by the registration officer in the prescribed manner, and an appeal shall lie in the prescribed manner, to the Principal Magistrates Court on matters of fact and law and to the High Court on matters of law.

### PART III – ELECTIONS

#### **13. Nomination of candidates by a political party**

(1) A political party shall nominate its candidates for an election under this Act at least ninety days before a general election under this Act in accordance with its constitution and nomination rules.

(2) A political party shall not change the candidate nominated after the nomination of that person has been received by the Commission:

Provided that in the event of the death, resignation or incapacity of the nominated candidate or of the violation of the electoral code of conduct by the nominated candidate, the political party may after notifying the candidate that the party seeks to substitute, where applicable, substitute its candidate before the date of presentation of nomination papers to the Commission.

(2A) A political party shall hear and determine all intra party disputes arising from political party nominations within thirty days.

(3) Notwithstanding subsection (1), in the case of any other election, the Commission shall by notice in the prescribed form, specify the day or days upon which political parties shall nominate candidates to contest in a presidential, parliamentary or county election in accordance with its constitution or rules, which shall be at least fifty-five days before such election.

[Act No. 12 of 2012, Sch., Act No. 36 of 2016, s. 8, Act No. 1 of 2017, s. 6.]

#### *Presidential Elections*

#### **14. Initiation of presidential election**

(1) Whenever a presidential election is to be held, the Commission shall publish a notice of the holding of the election in the *Gazette* and in electronic and print media of national circulation—

- (a) in the case of a general election, at least sixty days before the date of the election; or
- (b) in the case of an election under Article 138(5) of the Constitution, at least twenty-one days before the date of the election;
- (c) in any other case, upon the office of the President becoming vacant.

(2) The notice referred to in subsection (1) shall be in the prescribed form and shall specify—

- (a) the nomination day for the presidential election; and
- (b) the day or days on which the poll shall be taken for the presidential election, which shall not be less than twenty-one days after the day specified for nomination.

#### **15. Change of deputy president nominee candidate**

(1) A presidential candidate or a political party shall not at any time change the person nominated as a deputy presidential candidate after the nomination of that person has been received by the Commission:

Provided that in the event of death, resignation or incapacity of the nominated candidate or of the violation of the electoral code of conduct by the nominated candidate, the political party may substitute its candidate before the date of presentation of nomination papers to the Commission.

(2) Subsection (1) shall apply in the case of a fresh election under Article 138(5) of the Constitution.

#### *Parliamentary Elections*

##### **16. Initiation of election of member of Parliament**

(1) Whenever a parliamentary election is to be held, the Commission shall publish a notice of the holding of the election in the *Gazette* and in the electronic and print media of national circulation—

- (a) in the case of a general election, at least sixty days before the date of the general election; or
- (b) in any other case, upon the office of a member of Parliament becoming vacant and on receipt of a notice issued by the respective Speaker under subsection (2).

(2) The notice referred to under subsection (1) shall be in the prescribed form and shall specify—

- (a) the day upon which political parties shall submit a party list in accordance with Article 90 of the Constitution;
- (b) the day for the nomination of candidates for the parliamentary election; and
- (c) the day or days on which the poll shall be taken for the election, which shall not be less than twenty-one days after the day specified for nomination under paragraph (b).

(3) Whenever a vacancy occurs in the National Assembly or the Senate, the respective Speaker shall issue a notice in accordance with Article 101 of the Constitution.

(3A) For purposes of subsection (3), a vacancy in the office of a Member of Parliament shall be deemed to occur on the date of issuance of a notice to the Commission which shall not be later than twenty-one days from the date of the actual occurrence of the vacancy.

(4) The Commission shall within twenty one days of receipt of the notice issued under subsection (2), transmit the notice to the relevant returning officer.

[Act No. 1 of 2017, s. 7.]

#### *County Governor Elections*

##### **17. Initiation of county governor election**

(1) Whenever an election for a county governor is to be held, the Commission shall publish a notice of the holding of the election in the *Gazette* and in the electronic and print media of national circulation—

- (a) in the case of a general election, at least sixty days before the date of the general election; or
- (b) in any other case, upon the office of the county governor becoming vacant.

(2) The notice referred to in subsection (1) shall be in the prescribed form and shall specify—

- (a) the day for the nomination of candidates for the county governor election; and
- (b) the day or days on which the poll shall be taken for the county governor election, which shall not be less than twenty one days after the day specified for nomination.

#### **18. Change of deputy county governor nominee candidate**

A county governor candidate or a political party shall not at any time change the person nominated as a deputy county governor candidate after the nomination of that person has been received by the Commission:

Provided that in the event of death, resignation or incapacity of the nominated candidate or of the violation of the electoral code of conduct by the nominated candidate, the political party may substitute its candidate before the date of presentation of nomination papers to the Commission.

#### *County Assembly Elections*

#### **19. Initiation of county assembly elections**

(1) Whenever a county assembly election is to be held, the Commission shall publish a notice of the holding of the election in the *Gazette* and in the electronic and print media of national circulation—

- (a) in the case of a general election, at least sixty days before the date of general election; or
- (b) in any other case, upon the office of a member of a county assembly becoming vacant.

(2) The notice referred to under subsection (1) shall be in the prescribed form and shall specify—

- (a) the day upon which political parties shall submit a party list in accordance with Article 90 of the Constitution;
- (b) the day for the nomination of candidates for county elections; and
- (c) the day or days on which the poll shall be taken for the county election, which shall not be less than twenty one days after the day specified for the nomination under paragraph (b).

(3) Whenever a vacancy occurs in a county assembly, the speaker of the county assembly shall within twenty one days after the occurrence of the vacancy issue a notice to the Commission in the prescribed form.

(4) The Commission shall within twenty one days of receipt of the notice issued under subsection (3), transmit the notice to the relevant returning officer.

#### **20. Notification in electronic media**

The Commission may in addition publicise the notices under sections 14, 16, 17 and 19 in the electronic and print media of national circulation.

#### **21. Election of county assembly speaker**

(1) The speaker of a county assembly shall be elected by each county assembly in accordance with the Standing Orders of the county assembly, from among persons who are qualified to be elected as members of a county assembly but are not such members.

(2) For the purpose of the election of the speaker of the county assembly after the first election under the Constitution, the procedure set out in the First Schedule shall apply.

(3) The deputy speaker of a county assembly shall be elected from among persons who are members of that county assembly.

(4) The First Schedule shall, with necessary modifications, apply to the election of the deputy speaker after the first election under the Constitution.

(5) The office of speaker of a county assembly shall become vacant—

- (a) when a new county assembly first meets after an election;
- (b) if the office holder vacates office;
- (c) if the county assembly resolves to remove the office holder by a resolution supported by the votes of at least two-thirds of its members;
- (d) if the office holder resigns from office in a letter addressed to the county assembly;
- (e) where the office holder violates the Constitution;
- (f) in the case of gross misconduct on the part of the office holder;
- (g) where the office holder is incapable, owing to physical or mental infirmity, to perform the functions of the office;
- (h) where the office holder is bankrupt;
- (i) where the office holder is sentenced to a term of imprisonment of six months or more; or
- (j) if the officer holder dies.

*Nominations and Elections Generally*

**22. Qualifications for nomination of candidates**

(1) A person may be nominated as a candidate for an election under this Act only if that person—

- (a) is qualified to be elected to that office under the Constitution and this Act; and
- (b) holds—
  - (i) in the case of a Member of Parliament, a degree from a university recognized in Kenya; or
  - (ii) in the case of member of a county assembly, a degree from a university recognized in Kenya.

(1A) Notwithstanding subsection (1), this section shall come into force and shall apply to qualifications for candidates in the general elections to be held after the 2017 general elections.

(1B) The provisions of this section apply to qualifications to nomination for a party list member under section 34.

(2) Notwithstanding subsection (1)(b), a person may be nominated as a candidate for election as President, Deputy President, county Governor or deputy county Governor only if the person is a holder of a degree from a university recognised in Kenya.

(2A) For the purposes of the first elections under the Constitution, section 22(1)(b) and section 24(1)(b), save for the position of the President, the Deputy President, the Governor and the Deputy Governor, shall not apply for the elections of the offices of Parliament and county assembly representatives.

[Act No. 12 of 2012, Sch., Act No. 48 of 2012, s. 3, Act No. 1 of 2017, s. 8.]

### **23. Qualifications and disqualifications for nomination as President**

- (1) A person qualifies for nomination as a presidential candidate if the person—
- (a) is a citizen by birth;
  - (b) is qualified to stand for election as a member of Parliament;
  - (c) is nominated by a political party, or is an independent candidate; and
  - (d) is nominated by not fewer than two thousand voters from each of a majority of the counties.
- (2) A person is not qualified for nomination as a presidential candidate if the person—
- (a) owes allegiance to a foreign state; or
  - (b) is a public officer, or is acting in any State or other public office.
- (3) Subsection (2)(b) shall not apply to—
- (a) the President;
  - (b) the Deputy President; or
  - (c) a member of Parliament.

### **24. Qualifications and disqualifications for nomination as member of Parliament**

- (1) Unless disqualified under subsection (2), a person qualifies for nomination as a member of Parliament if the person—
- (a) is registered as a voter;
  - (b) satisfies any educational, moral and ethical requirements prescribed by the Constitution and this Act; and
  - (c) is nominated by a political party, or is an independent candidate who is supported—
    - (i) in the case of election to the National Assembly, by at least one thousand registered voters in the constituency; or
    - (ii) in the case of election to the Senate, by at least two thousand registered voters in the county.
- (2) A person is disqualified from being elected a member of Parliament if the person—
- (a) is a State officer or other public officer, other than a member of Parliament;
  - (b) has, at any time within the five years immediately preceding the date of election, held office as a member of the Commission;
  - (c) has not been a citizen of Kenya for at least the ten years immediately preceding the date of election;
  - (d) is a member of a county assembly;
  - (e) is of unsound mind;

- 
- (f) is an undischarged bankrupt;
  - (g) is subject to a sentence of imprisonment of at least six months, as at the date of registration as a candidate, or at the date of election; or
  - (h) is found, in accordance with any law, to have misused or abused a State office or public office or in any way to have contravened Chapter Six of the Constitution.
- (3) A person is not disqualified under subsection (2) unless all possibility of appeal or review of the relevant sentence or decision has been exhausted.

## **25. Qualifications for nomination as member of county assembly**

(1) Unless disqualified under subsection (2), a person qualifies for nomination as a member of a county assembly if the person—

- (a) is registered as a voter;
- (b) satisfies any educational, moral and ethical requirements prescribed by the Constitution and this Act; and
- (c) is either—
  - (i) nominated by a political party; or
  - (ii) an independent candidate supported by at least five hundred registered voters in the ward concerned.

(2) A person is disqualified from being elected a member of a county assembly if the person—

- (a) is a State officer or other public officer, other than a member of the county assembly;
- (b) has, at any time within the five years immediately before the date of election, held office as a member of the Commission;
- (c) has not been a citizen of Kenya for at least the ten years immediately preceding the date of election;
- (d) is of unsound mind;
- (e) is an undischarged bankrupt;
- (f) is serving a sentence of imprisonment of at least six months; or
- (g) has been found, in accordance with any law, to have misused or abused a State office or public office or to have contravened Chapter Six of the Constitution.

(3) A person is not disqualified under subsection (2) unless all possibility of appeal or review of the relevant sentence or decision has been exhausted.

## **26. Additional disqualification**

(1) A person who directly or indirectly participates in any manner in any or public fundraising or harambee within eight months preceding a general election or during an election period, in any other case, shall be disqualified from contesting in the election held during that election year or election period.

(2) Subsection (1) shall not apply to a fundraising for a person who is contesting an election under this Act or to a fundraising for a political party.

**27. Submission of party nomination rules**

(1) A political party shall submit its nomination rules to the Commission at least six months before the nomination of its candidates.

(2) An amendment to the nomination rules shall only be effective ninety days after submission of the amendments to the Commission.

(2A) Upon receipt of the nomination rules from a political party under subsection (1), the Commission shall, within fourteen days, review the rules to ensure compliance with the prescribed regulations and—

- (a) issue the political party with a certificate of compliance; or
- (b) require the political party to amend the rules to ensure such compliance within fourteen days.

(2B) For purposes of subsection (2A), the Commission shall, by notice in the Gazette, issue Regulations prescribing guidelines to be complied with and the process by which political parties nominate candidates for nomination in accordance with Article 88 (4) (d) of the Constitution failing which the rules shall become void.

[Act No. 12 of 2012, Sch., Act No. 48 of 2012, s. 4, Act No. 1 of 2017, s. 9.]

**28. Submission of party membership lists**

(1) A political party that nominates a person for an election under this Act shall submit to the Commission a membership list of the party—

- (a) in the case of a general election, at least one hundred and twenty days before the date of the election; and
- (b) in the case of a by-election, forty-five days before the date of the by-election.

(2) The Commission shall publicize the membership lists as received from political parties.

[Act No. 12 of 2012, Sch., Act No. 47 of 2012, Sch., Act No. 36 of 2016, s. 9, Act No. 1 of 2017, s. 10.]

**29. Deleted by Act No. 34 of 2017, s. 5.****30. Appointment of agents**

(1) A political party may appoint one agent for its candidates at each polling station.

(2) Where a political party does not nominate an agent under subsection (1), a candidate nominated by a political party may appoint an agent of the candidate's choice.

(3) An independent candidate may appoint his own agent.

(3A) A registered referendum committee may appoint one agent at each polling station.

[Act No. 12 of 2012, Sch., Act No. 1 of 2017, s. 11.]

**31. Nomination of political party candidates**

(1) A person qualifies to be nominated by a political party for presidential, parliamentary and county elections for the purposes of Articles 97, 98, 137, 177 and 180 of the Constitution if that person—

- (a) is selected in the manner provided for in the constitution or rules of the political party concerned relating to members of that party who wish to contest presidential, parliamentary and county elections; and
- (b) subject to subsection (4), the party certifies the nomination to the Commission.

(2) The Commission shall, upon the request of a political party, conduct and supervise the nomination of candidates by the political party for presidential, parliamentary or county elections in accordance with Article 88 of the Constitution.

(2A) Every political party shall submit the names of the party candidates who have been selected to participate in the general elections under this Act at least sixty days before the elections.

(2B) A political party shall, at least twenty-one days before the nomination day, submit to the Commission the names of the persons contesting in its party primary and the date of its party primary.

(2C) The Commission shall publish, in the *Gazette* the names of the persons contesting in a party primary under subsection (1) and the date of the party primary within seven days of receipt of the names of party candidates.

(2D) A candidate for a presidential, parliamentary or county election shall be selected by persons who are members of the respective political parties and whose names appear on the party membership list as submitted to the Commission under section 28.

(2E) Where the Commission receives multiple requests under subsection (2), the Commission shall conduct and supervise the nomination of candidates for presidential, parliamentary or county elections for all the requesting political parties—

- (a) on the same day;
- (b) in the same polling centres; and
- (c) in different polling streams for each participating political party.

(2F) Parliament shall appropriate monies for the effective implementation of this section.

(3) Every political party shall notify the Commission of the name of the person authorised by the party to certify to the Commission that a person has or persons have been selected by the party under subsection (1) and the person or persons so named shall deposit his or their specimen signature with the Commission in such manner as the Commission may require.

(4) The authorised person or persons referred to in subsection (4) shall, in writing, certify that a candidate has been nominated by the party.

[Act No. 36 of 2016, s. 10, Act No. 1 of 2017, s. 12.]

### **32. Approval of symbol for independent candidate**

(1) An independent candidate shall submit the symbol the candidate intends to use during an election to the Commission at least twenty-one days before nomination day.

(1A) Where there is a vacancy in the office of the Governor, an independent candidate shall submit to the Commission, the symbol that the person intends to use during an election at least seven days before nomination.

(2) The Commission shall, upon receipt of the symbol submitted to it under this section approve or reject the symbol.

(3) The Commission may refuse to approve the symbol of an independent candidate if the symbol—

- (a) is obscene or offensive;
- (b) is the symbol of another candidate or of a political party; or
- (c) so nearly resembles the symbol of another candidate or political party or any other legal entity registered under any other written law.

[Act No. 1 of 2017, s. 13.]

### **33. Nomination of independent candidates**

(1) A person qualifies to be nominated as an independent candidate for presidential, parliamentary and county elections for the purposes of Articles 97, 98, 137, 177 and 180 of the Constitution if that person—

- (a) has not been a member of any political party for at least three months preceding the date of the election;
- (b) has submitted to the Commission, at least sixty days before a general election, a duly filled nomination paper in such form as may be prescribed by the Commission;
- (c) has, at least ninety days before the date of a general election or at least twenty one days before the date appointed by the Commission as the nomination day for a by-election, submitted to the Commission the name and symbol that the person intends to use during the election.
- (d) is selected in the manner provided for in the Constitution and by this Act.

(2) The Commission shall publish in the *Gazette*, the names of persons intending to contest in the election as independent candidates at least fourteen days before the nomination day.

[Act No. 36 of 2016, s. 11, Act No. 1 of 2017, s. 14.]

### *Nomination of Party Lists Members*

#### **34. Nomination of party lists members**

(1) The election of members for the National Assembly, Senate and county assemblies for party list seats specified under Articles 97(1)(c) and 98(1)(b)(c) and (d) and Article 177(1)(b) and (c) of the Constitution shall be on the basis of proportional representation and in accordance with Article 90 of the Constitution.

(2) A political party which nominates a candidate for election under Article 97(1)(a) and (b) shall submit to the Commission a party list in accordance with Article 97(1)(c) of the Constitution.

(3) A political party which nominates a candidate for election under Article 98(1)(a) shall submit to the Commission a party list in accordance with Article 98(1)(b) and (c) of the Constitution.

(4) A political party which nominates a candidate for election under Article 177(1)(a) shall submit to the Commission a party list in accordance with Article 177(1)(b) and (c) of the Constitution.

(4A) In the case of a person nominated pursuant to Article 177(1) (c) of the Constitution, the party list shall include a certification in the manner prescribed by the Commission.

(5) The party lists under subsections (2), (3) and (4) shall be submitted in order of priority.

(6) The party lists submitted to the Commission under this section shall be in accordance with the constitution or nomination rules of the political party concerned.

(6A) Upon receipt of the party list from a political party under subsection (1), the Commission shall review the list to ensure compliance with the prescribed regulations and—

- (a) issue the political party with a certificate of compliance; or
- (b) require the political party to amend the party list to ensure such compliance failing which the Commission shall reject the list.

(6B) For purposes of subsection (6A), the Commission may, by notice in the gazette, issue regulations prescribing guidelines to be complied with in preparation of party lists.

(7) The party lists submitted to the Commission shall be valid for the term of Parliament.

(8) A person who is nominated by a political party under subsections (2), (3) and (4) shall be a person who is a member of the political party on the date of submission of the party list by the political party.

(9) The party list shall not contain a name of a candidate nominated for an election.

(10) A party list submitted for purposes of subsections (2), (3), (4) and (5) shall not be amended during the term of Parliament or the county assembly, as the case may be, for which the candidates are elected.

[L.N. 142/2011, Act No. 32 of 2012, s. 2, Act No. 1 of 2017, s. 15.]

### **35. Submission of party lists**

A political party shall submit its party list to the Commission at least forty-five days before the date of the general election.

[Act No. 36 of 2016, s. 12.]

### **36. Allocation of special seats**

(1) A party list submitted by a political party under—

- (a) Article 97(1)(c) of the Constitution shall include twelve candidates;
- (b) Article 98(1)(b) of the Constitution shall include sixteen candidates;
- (c) Article 98(1)(c) of the Constitution shall include two candidates;
- (d) Article 98(1)(d) of the Constitution shall include two candidates;

- (e) Article 177(1)(b) of the Constitution shall include a list of the number of candidates reflecting the number of wards in the county;
  - (f) Article 177(1)(c) of the Constitution shall include eight candidates, at least two of whom shall be persons with disability, two of whom shall be the youth and two of whom shall be person representing a marginalized group.
- (2) A party list submitted under subsection (1)(a), (c), (d), (e) and (f) shall contain alternates between male and female candidates in the priority in which they are listed.
- (3) The party list referred to under subsection (1)(f) shall prioritise a person with disability, the youth and any other candidate representing a marginalized group.
- (4) Within thirty days after the declaration of the election results, the Commission shall designate, from each qualifying list, the party representatives on the basis of proportional representation.
- (5) The allocation of seats by the Commission under Article 97(1)(c) of the Constitution will be proportional to the number of seats won by the party under Article 97(1)(a) and (b) of the Constitution.
- (6) The allocation of seats by the Commission under Article 98(1)(b), (c) and (d) of the Constitution shall be proportional to the number of seats won by the party under Article 98(1)(a) of the Constitution.
- (7) For purposes of Article 177(1)(b) of the Constitution, the Commission shall draw from the list under subsection (1)(e), such number of special seat members in the order given by the party, necessary to ensure that no more than two-thirds of the membership of the assembly are of the same gender.
- (8) For purposes of Article 177(1)(c) of the Constitution, the Commission shall draw from the list under subsection (1)(f) four special seat members in the order given by the party.
- (9) The allocation of seats by the Commission under Article 177(1)(b) and (c) of the Constitution shall be proportional to the number of seats won by the party under Article 177(1)(a) of the Constitution.

[Act No. 12 of 2012, Sch.]

### **37. Re-allocation of special seat**

- (1) If a representative from a political party list dies, withdraws from the party list, changes parties, resigns or is expelled from his or her party during the term of the representative, the seat of the representative shall be allocated to the next candidate of the same gender on the respective political party list.
- (2) Notwithstanding the provision of section 34(10), if there are no more candidates on the same party's list, the Commission shall require the concerned political party to nominate another candidate within twenty-one days.
- (3) A vacancy in any seat in a political party list shall not be filled three months immediately before a general election.
- (4) Where a political party fails to comply with the provisions of subsection (2) the Commission shall not allocate the seat for the remainder of the term of Parliament or the county assembly.

**38. Holding of elections**

After a notice of an election has been published in the *Gazette* under section 14, 16, 17 and 19, every returning officer shall proceed to hold the election according to the terms of the notice and in accordance with the regulations relating to elections.

[Act No. 47 of 2012, Sch.]

**38A. Number of voters per polling station**

For the purposes of providing efficient and effective conduct of elections, the number of voters per polling station shall not exceed seven hundred.

[Act No. 36 of 2016, s. 13, Act No. 1 of 2017, s. 16.]

**39. Determination and declaration of results**

(1) The Commission shall determine, declare and publish the results of an election immediately after close of polling.

(1A) The Commission shall appoint constituency returning officers to be responsible for—

- (i) tallying, announcement and declaration, in the prescribed form, of the final results from each polling station in a constituency for the election of a member of the National Assembly and members of the county assembly;
- (ii) collating and announcing the results from each polling station in the constituency for the election of the President, county Governor, Senator and county women representative to the National Assembly; and
- (iii) submitting, in the prescribed form, the collated results for the election of the President to the national tallying centre and the collated results for the election of the county Governor, Senator and county women representative to the National Assembly to the respective county returning officer.

(1B) The Commission shall appoint county returning officers to be responsible for tallying, announcement and declaration, in the prescribed form, of final results from constituencies in the county for purposes of the election of the county Governor, Senator and county women representative to the National Assembly.

(1C) For purposes of a presidential election, the Commission shall—

- (a) electronically transmit and physically deliver the tabulated results of an election for the President from a polling station to the constituency tallying centre and to the national tallying centre;
- (b) tally and verify the results received at the constituency tallying centre and the national tallying centre; and
- (c) publish the polling result forms on an online public portal maintained by the Commission.

(1D) The Commission shall verify that the results transmitted under this section are an accurate record of the results tallied, verified and declared at the respective polling stations.

(1E) Where there is a discrepancy between the electronically transmitted and the physically delivered results, the Commission shall verify the results and the result which is an accurate record of the results tallied, verified and declared at the respective polling station shall prevail.

(1F) Any failure to transmit or publish the election results in an electronic format shall not invalidate the result as announced and declared by the respective presiding and returning officers at the polling station and constituency tallying centre, respectively.

(1G) The Commission shall, to facilitate public information, establish a mechanism for the livestreaming of results as announced at polling stations, and the results so streamed shall be for purposes of public information only and shall not be the basis for a declaration by the Commission.

(1H) The chairperson of the Commission shall declare the results of the election of the President in accordance with Article 138(10) of the Constitution.

(2) The Chairperson may declare a candidate elected as the President before all the constituencies have transmitted their results if the Commission is satisfied the results that have not been received will not affect the result of the election.

(3) The Commission shall announce the final results in the order in which the tallying of the results is completed.

[Act No. 36 of 2016, s. 14, Act No. 34 of 2017, s.6.]

#### **40. Voter education**

(1) The Commission shall, in performing its duties under Article 88(4)(g) of the constitution establish mechanisms for the provision of continuous voter education and cause to be prepared a voter education curriculum.

(2) The mechanisms under subsection (1) shall include provision for partnership with other agencies and non-state actors in the provision of voter education.

[Act No. 36 of 2016, s. 15]

#### **41. Access to and obligation of media**

(1) Subject to subsection (2), a political party participating in an election shall have access to the state owned media services during the campaign period.

(2) The Commission shall, after consultations with the independent candidates, the political parties concerned and the officers responsible for the state owned media services, monitor the equitable allocation of air-time during the campaign period.

(3) Every state owned print or electronic media which publishes any information relating to the electoral process shall be guided by the principle of total impartiality and shall refrain from any discrimination in relation to any candidate.

(4) The Code of Conduct for the practice of journalism prescribed under the Media Act (No. 3 of 2007) shall be subscribed to and observed by every media house and every person who reports on any election and referendum under the Constitution and this Act.

(5) For the purpose of giving effect to this section, the Commission may, in writing, issue directives to the media.

(6) The Commission may prohibit a media house that contravenes the Code of Conduct prescribed under the Media Act from transmitting information related to an election under this Act.

[Act No. 12 of 2012, Sch.]

**42. Accreditation of observers, agents, reporters, etc.**

The Commission may at any election accredit—

- (a) person as an observer, agent or media representative; or
- (b) any person or institution to report on an election.

**43. Participation in elections by public officers**

(1) *Deleted by Act No. 36 of 2016, s. 16(a).*

(2) *Deleted by Act No. 36 of 2016, s. 16(a).*

(3) *Deleted by Act No. 36 of 2016, s. 16(a).*

(4) *Deleted by Act No. 36 of 2016, s. 16(a).*

(5) A public officer who intends to contest an election under this Act shall resign from public office at least six months before the date of election.

(5A) A public officer who intends to contest in a by-election under this Act shall resign from public office within seven days of the declaration of a vacancy.

(6) This section shall not apply to—

- (a) the President;
- (b) *deleted by Act No. 36 of 2016, s. 16(b);*
- (c) the Deputy President;
- (d) a member of Parliament;
- (e) a county governor;
- (f) a deputy county governor;
- (g) a member of a county assembly.

[Act No. 12 of 2012, Sch., Act No. 36 of 2016, s. 16, Act No. 1 of 2017, s. 17.]

**44. Use of technology**

(1) Subject to this section, there is established an integrated electronic electoral system that enables biometric voter registration, electronic voter identification and electronic transmission of results.

(2) The Commission shall, for purposes of subsection(1), develop a policy on the progressive use of technology in the electoral process.

(3) The Commission shall ensure that the technology in use under subsection (1) is simple, accurate, verifiable, secure, accountable and transparent.

(4) The Commission shall, in an open and transparent manner —

- (a) procure and put in place the technology necessary for the conduct of a general election at least one hundred and twenty days before such elections; and
- (b) test, verify and deploy such technology at least sixty days before a general election.

(5) The Commission shall, in consultation with the relevant agencies, institutions and stakeholders, make regulations for the better carrying into effect the provisions of this section.

(6) *Deleted by Act No. 34 of 2017, s. 7(b)*

(7) *Deleted by Act No. 34 of 2017, s. 7(c)*

(8) *Deleted by Act No. 34 of 2017, s. 7(d)*

[Act No. 36 of 2016, s. 17, Act No. 1 of 2017, s. 18, Act No. 34 of 2017, s. 7.]

**44A. Complementary mechanism for identification of voters**

Notwithstanding the provisions of section 44, the Commission shall put in place a complementary mechanism for identification of voters that is simple, accurate, verifiable, secure, accountable and transparent to ensure that the Commission complies with the provisions of Article 38 of the Constitution.

[Act No. 1 of 2017, s. 19, Act No. 34 of 2017, s. 8.]

**PART IV – RECALL OF MEMBER OF PARLIAMENT****45. Right of recall**

(1) The electorate in a county or constituency may recall their member of Parliament before the end of the term of the relevant House of Parliament on any of the grounds specified in subsection (2).

- (2) A member of Parliament may be recalled where the member—
- (a) is found, after due process of the law, to have violated the provisions of Chapter Six of the Constitution;
  - (b) is found, after due process of the law, to have mismanaged public resources;
  - (c) is convicted of an offence under this Act.

(3) A recall of a member of Parliament under subsection (1) shall only be initiated upon a judgement or finding by the High Court confirming the grounds specified in subsection (2).

(4) A recall under subsection (1) shall only be initiated twenty-four months after the election of the member of Parliament and not later than twelve months immediately preceding the next general election.

(5) A recall petition shall not be filed against a member of Parliament more than once during the term of that member in Parliament.

(6) A person who unsuccessfully contested an election under this Act shall not be eligible, directly or indirectly, to initiate a petition under this section.

**46. Petition for recall**

(1) A recall under section 45 shall be initiated by a petition which shall be filed with the Commission and which shall be—

- (a) in writing;
- (b) signed by a petitioner who—
  - (i) is a voter in the constituency or county in respect of which the recall is sought; and
  - (ii) was registered to vote in the election in respect of which the recall is sought;
- (c) accompanied by an order of the High Court issued in terms of section 45(3).

(2) The petition referred to in subsection (1) shall—

- (a) specify the grounds for the recall as specified under section 45(2);
- (b) contain a list of such number of names of voters in the constituency or county which shall represent at least thirty percent of the registered voters; and
- (c) be accompanied by the fee prescribed for an election petition.

(3) The list of names referred to in subsection (2)(b) shall contain the names, address, voter card number, national identity card or passport number and signature or thumb prints of the voters supporting the petition and shall contain names of at least fifteen percent of the voters in more than half of the wards in the county or the constituency, as appropriate.

(4) The voters supporting a petition under subsection (3) shall represent the diversity of the people in the county or the constituency as the case may be.

(5) The petitioner shall collect and submit to the Commission the list of names under subsection (2)(b) within a period of thirty days after filing the petition.

(6) The Commission shall verify the list of names within a period of thirty days of receipt of that list.

(7) The Commission, if satisfied that the requirements of this section are met, shall within fifteen days after the verification, issue a notice of the recall to the Speaker of the relevant House.

(8) The Commission shall conduct a recall election within the relevant constituency or county within ninety days of the publication of the question.

[Act No. 1 of 2017, s. 20.]

#### **47. Recall elections**

(1) Where a member of Parliament is to be recalled under section 45, the Commission shall frame the question to be determined at the recall election.

(2) A question referred to in subsection (1) shall be framed in such a manner as to require the answer “yes” or the answer “no”.

(3) The Commission shall assign a symbol for each answer to the recall question.

(4) The voting at a recall election shall be by secret ballot.

(5) A recall election shall be decided by a simple majority of the voters voting in the recall election.

(6) Where a recall election results in the removal of a member of Parliament, the Commission shall conduct a by-election in the affected constituency or county.

(7) A member of Parliament who has been recalled may run in the by-election conducted under subsection (6).

#### **48. Validity of recall election**

A recall election shall be valid if the number of voters who concur in the recall election is at least fifty percent of the total number of registered voters in the affected county or constituency.

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## PART V – REFERENDUM

### **49. Initiation of a referendum**

(1) Whenever it is necessary to hold a referendum on any issue, the President shall by notice refer the issue to the Commission for the purposes of conducting a referendum.

(2) Where an issue to be decided in a referendum has been referred to the Commission under subsection (1), the Commission shall frame the question or questions to be determined during the referendum.

(3) The Commission shall, in consultation with the Speaker of the relevant House, lay the question referred to in subsection (2) before the House for approval by resolution.

(4) The National Assembly may approve one or more questions for a referendum.

(5) The Commission shall publish the question approved under subsection (4) in the *Gazette* and in the electronic and print media of national circulation.

(6) The Commission shall conduct the referendum within ninety days of publication of the question.

(7) The Commission may assign such symbol for each answer to the referendum question or questions as it may consider necessary.

(8) A symbol assigned under subsection (7) shall not resemble that of a political party or of an independent candidate.

### **50. Notice of holding referendum**

(1) The Commission shall, within fourteen days after publication of the question referred to in section 49 publish a notice of the holding of the referendum and the details thereof in the *Gazette*, in the electronic and print media of national circulation.

(2) The notice shall specify—

- (a) the referendum question or questions and the option of the answer or answers;
- (b) the symbols assigned for the answer or answers to the referendum question or questions;
- (c) the day on which the referendum is to be held which shall not be less than twenty one days after the date of the publication of the notice;
- (d) the polling time of the referendum;
- (e) the day by which the referendum committees shall have registered with the Commission; and
- (f) the day and time by which campaign in support of or in opposition to the referendum question shall start and cease.

[Act No. 1 of 2017, s. 21.]

### **51. Referendum committees**

(1) Where a referendum question requires a “yes” or “no” answer, persons intending to campaign for or against the referendum question shall form such national referendum committees and constituency referendum committees as are necessary.

(2) Where there is more than one referendum question, persons intending to campaign for or against each referendum question shall, on application to the Commission, form one national referendum committee each and one committee each in every constituency for each referendum question.

(3) A referendum committee shall apply to the Commission for registration in the prescribed form.

(4) An application under subsection (3) shall be accompanied by information showing that the applicant adequately represents persons campaigning for or against the referendum question.

(5) The national referendum committees shall control and regulate the constituency referendum committees.

(6) A member of a referendum committee shall subscribe to and abide by the Electoral Code of Conduct set out in the Second Schedule.

[L.N. 19/2012.]

## **52. Costs of referendum committee**

(1) Each referendum committee shall bear its own costs during the campaign period of the referendum.

(2) The costs referred to in subsection (1) include payment of the agents of the respective referendum committees.

## **53. Procedure for conduct of referendum**

The procedure for the conduct of an election shall apply with necessary modifications to the conduct of referendum.

## **54. Voting threshold**

A referendum question on an issue other than that contemplated in Articles 255, 256 and 257 of the Constitution shall be decided by a simple majority of the citizens voting in the referendum.

[Act No. 1 of 2017, s. 22.]

## **55. General power of the Commission**

Nothing in this Act shall preclude the Commission from taking any administrative measures to ensure effective conduct of the referendum.

## **55A. Maintenance of secrecy at elections**

(1) Every elections officer, candidate or agent authorized to take part in any proceedings relating to the issue or receipt of ballot papers or to attend at a polling station or at the counting of the votes shall, before so attending, make an oath of secrecy prescribed in the Third Schedule.

(2) Every officer, candidate or agent in attendance at a polling station shall-

- (a) maintain and aid in maintaining the secrecy of the ballot; and
- (b) not communicate, except for a purpose authorized by law before the poll is closed, any information as to the name or number on the register of voters, of any voter who has or has not applied for a ballot paper or voted at that station or as to the official mark.

(3) A presiding officer may, upon request, divulge to a candidate or to the agent of a candidate the total number of voters who have voted in the station at any time before the poll is closed.

[Act No. 36 of 2016, s.18.]

**55B. Postponement of elections by the Commission**

(1) The Commission may, where a date has been appointed for holding an election, postpone the election in a constituency, county or ward for such period as it may consider necessary where —

- (a) there is reason to believe that a serious breach of peace is likely to occur if the election is held on that date;
- (b) it is impossible to conduct the elections as a result of a natural disaster or other emergencies,
- (c) that there has been occurrence of an electoral malpractice of such a nature and gravity as to make it impossible for an election to proceed.

(2) Where an election is postponed under subsection (1), the election shall be held at the earliest practicable time.

(3) Notwithstanding the provisions of this section, the Commission may, if satisfied that the result of the elections will not be affected by voting in the area in respect of which substituted dates have been appointed, direct that a return of the elections be made.

[Act No. 36 of 2016, s. 18.]

**PART VI – ELECTION OFFENCES**

**56.** *Repealed by Act No. 37 of 2016, s. 25.*

**57.** *Repealed by Act No. 37 of 2016, s. 25.*

**58.** *Repealed by Act No. 37 of 2016, s. 25.*

**59.** *Repealed by Act No. 37 of 2016, s. 25.*

**60.** *Repealed by Act No. 37 of 2016, s. 25.*

**61.** *Repealed by Act No. 37 of 2016, s. 25.*

**62.** *Repealed by Act No. 37 of 2016, s. 25.*

**63.** *Repealed by Act No. 37 of 2016, s. 25.*

**64.** *Repealed by Act No. 37 of 2016, s. 25.*

**65.** *Repealed by Act No. 37 of 2016, s. 25.*

**66.** *Repealed by Act No. 37 of 2016, s. 25.*

**67.** *Repealed by Act No. 37 of 2016, s. 25.*

**68.** *Repealed by Act No. 37 of 2016, s. 25.*

**69.** *Repealed by Act No. 37 of 2016, s. 25.*

**70.** *Repealed by Act No. 37 of 2016, s. 25.*

**71.** *Repealed by Act No. 37 of 2016, s. 25.*

**72.** *Repealed by Act No. 37 of 2016, s. 25.*

**73.** *Repealed by Act No. 37 of 2016, s. 25.*

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## PART VII – ELECTION DISPUTES RESOLUTION

### *Dispute Resolution by the Commission*

#### **74. Settlement of certain disputes**

(1) Pursuant to Article 88(4)(e) of the Constitution, the Commission shall be responsible for the settlement of electoral disputes, including disputes relating to or arising from nominations but excluding election petitions and disputes subsequent to the declaration of election results.

(2) An electoral dispute under subsection (1) shall be determined within ten days of the lodging of the dispute with the Commission.

(3) Notwithstanding subsection (2), where a dispute under subsection (1) relates to a prospective nomination or election, the dispute shall be determined before the date of the nomination or election, whichever is applicable.

[Act No. 1 of 2017, s. 23.]

### *Election Petitions*

#### **75. County election petitions**

(1) A question as to validity of an election of a county governor shall be determined by High Court within the county or nearest to the county.

(1A) A question as to the validity of the election of a member of a county assembly shall be heard and determined by the Resident Magistrate's Court designated by the Chief Justice.

(2) A question under subsection (1) shall be heard and determined within six months of the date of lodging the petition.

(3) In any proceeding brought under this section, a court may grant appropriate relief, including—

- (a) a declaration of whether or not the candidate whose election is questioned was validly elected;
- (b) a declaration of which candidate was validly elected; or
- (c) an order as to whether a fresh election will be held or not.

(4) An appeal under subsection (1A) shall lie to the High Court on matters of law only and shall be—

- (a) filed within thirty days of the decision of the Magistrate's Court; and
- (b) heard and determined within six months from the date of filing of the appeal.

[Act No. 47 of 2012, Sch.]

**76. Presentation of petitions**

- (1) A petition—
- (a) to question the validity of an election shall be filed within twenty eight days after the date of declaration of the results of the election and served within fifteen days of presentation;
  - (b) to seek a declaration that a seat in Parliament or a county assembly has not become vacant shall be presented within twenty-eight days after the date of publication of the notification of the vacancy by the relevant Speaker; or
  - (c) to seek a declaration that a seat in Parliament or a county assembly has become vacant may be presented at any time.
- (2) A petition questioning a return or an election upon the ground of a corrupt practice, and specifically alleging a payment of money or other act to have been made or done since the date aforesaid by the person whose election is questioned or by an agent of that person or with the privity of that person or his agent may, so far as respects the corrupt practice, be filed at any time within twenty-eight days after the publication of the election results in the *Gazette*.
- (3) A petition questioning a return or an election upon an allegation of an illegal practice and alleging a payment of money or other act to have been made or done since the date aforesaid by the person whose election is questioned, or by an agent of that person, or with the privity of that person or his election agent in pursuance or in furtherance of the illegal practice alleged in the petition, may, so far as respects the illegal practice, be filed at any time within twenty-eighty days after the publication of the election results in the *Gazette*.
- (4) A petition filed in time may, for the purpose of questioning a return or an election upon an allegation of an election offence, be amended with the leave of the election court within the time within which the petition questioning the return or the election upon that ground may be presented.
- (5) A petition filed in respect of the matters set out in subsections (2) and (3) may, where a petition has already been presented on other grounds, be presented as a supplemental petition.

[Act No. 36 of 2016, s. 19.]

**77. Service of petition**

- (1) A petition concerning an election, other than a presidential election, shall be filed within twenty-eight days after the declaration of the election results by the Commission.
- (2) A petition may be served personally upon a respondent or by advertisement in a newspaper with national circulation.

**78. Security for costs**

- (1) A petitioner shall deposit security for the payment of costs that may become payable by the petitioner not more than ten days after the presentation of a petition under this Part.
- (2) A person who presents a petition to challenge an election shall deposit—
- (a) one million shillings, in the case of a petition against a presidential candidate;

- (b) five hundred thousand shillings, in the case of a petition against a member of Parliament or a county governor; or
- (c) one hundred thousand shillings, in the case of a petition against a member of a county assembly.

(3) Where a petitioner does not deposit security as required by this section, or if an objection is allowed and not removed, no further proceedings shall be heard on the petition and the respondent may apply to the election court for an order to dismiss the petition and for the payment of the respondent's costs.

(4) The costs of hearing and deciding an application under subsection (3) shall be paid as ordered by the election court, or if no order is made, shall form part of the general costs of the petition.

(5) An election court that releases the security for costs deposited under this section shall release the security after hearing all the parties before the release of the security.

#### **79. Procedure of election court on receipt of petition**

Upon receipt of a petition, an election court shall peruse the petition and—

- (a) if it considers that no sufficient ground for granting the relief claimed is disclosed therein may reject the petition summarily; or
- (b) fix a date for the trial of the petition.

#### **80. Powers of election court**

(1) An election court may, in the exercise of its jurisdiction—

- (a) summon and swear in witnesses in the same manner or, as nearly as circumstances admit, as in a trial by a court in the exercise of its civil jurisdiction and impose the same penalties for the giving of false evidence;
- (b) compel the attendance of any person as a witness who appears to the court to have been concerned in the election or in the circumstances of the vacancy or alleged vacancy;
- (c) examine a witness who is compelled to attend or any other person who has not been called as a witness in court, and examined by a party to the petition and after examination the witness may be cross examined by or on behalf of the petitioner and respondent or either of them; and
- (d) decide all matters that come before it without undue regard to technicalities.

(2) A person who refuses to obey an order to attend court commits the offence of contempt of court.

(3) Interlocutory matters in connection with a petition challenging results of presidential, parliamentary or county elections shall be heard and determined by the election court.

(4) An election court may by order direct the Commission to issue a certificate of election to a President, a member of Parliament or a member of a county assembly if—

- (a) upon recount of the ballots cast, the winner is apparent; and

- (b) that winner is found not to have committed an election offence.
- (5) The Commission shall, in writing, notify the relevant Speaker of the decision made under subsection (4).

**81. Prohibition of disclosure of vote**

A voter who has voted at an election shall not, in the proceedings of an election petition, be required to state whom they voted for.

**82. Scrutiny of votes**

(1) An election court may, on its own motion or on application by any party to the petition, during the hearing of an election petition, order for a scrutiny of votes to be carried out in such manner as the election court may determine.

(2) Where the votes at the trial of an election petition are scrutinized, only the following votes shall be struck off—

- (a) the vote of a person whose name was not on the register or list of voters assigned to the polling station at which the vote was recorded or who had not been authorised to vote at that station;
- (b) the vote of a person whose vote was procured by bribery, treating or undue influence;
- (c) the vote of a person who committed or procured the commission of personation at the election;
- (d) the vote of a person proved to have voted in more than one constituency;
- (e) the vote of a person, who by reason of conviction for an election offence or by reason of the report of the election court, was disqualified from voting at the election; or
- (f) the vote cast for a disqualified candidate by a voter knowing that the candidate was disqualified or the facts causing the disqualification, or after sufficient public notice of the disqualification or when the facts causing it were notorious.

(3) The vote of a voter shall not, except in the case specified in subsection (1) (e), be struck off under subsection (1) by reason only of the voter not having been or not being qualified to have the voter's name entered on the register of voters.

**83. Nullification of an election**

(1) A Court shall not declare an election void for non-compliance with any written law relating to that election if it appears that —

- (a) the election was conducted in accordance with the principles laid down in the Constitution and in that written law; and
- (b) the non-compliance did not substantially affect the result of the election.

(2) Pursuant to section 72 of the Interpretation and General Provisions Act, (Cap. 2), a form prescribed by this Act or the regulations made thereunder shall not be void by reason of a deviation from the requirements of that form, as long as the deviation is not calculated to mislead.

[Act No. 34 of 2017, s. 9.]

**84. Costs**

An election court shall award the costs of and incidental to a petition and such costs shall follow the cause.

**85. Determination of election petition**

An election petition under this Act shall be heard and determined within the period specified in the Constitution.

**85A. Appeals to the Court of Appeal**

(1) An appeal from the High Court in an election petition concerning membership of the National Assembly, Senate or the office of county governor shall lie to the Court of Appeal on matters of law only and shall be—

- (a) filed within thirty days of the decision of the High Court; and
- (b) heard and determined within six months of the filing of the appeal.

(2) An appeal under subsection (1) shall act as a stay of the certificate of the election court certifying the results of an election until the appeal is heard and determined.

[Act No. 47 of 2012, Sch., Act No. 36 of 2016, s. 20.]

**86. Certificate of court as to validity of election**

(1) An election court shall, at the conclusion of the hearing of an election petition, determine the validity of any question raised in the petition, and shall certify its determination to the Commission and notify the relevant Speaker.

(2) *Deleted by Act No. 1 of 2017, s. 24(b).*

[Act No. 1 of 2017, s. 24.]

**86A. Procedure at fresh presidential election**

(1) Where, pursuant to Article 140(3) of the Constitution, a presidential election is invalidated by the Supreme Court on a petition, the Commission shall publish a notice in the Gazette, within seven days from the determination of the Court —

- (a) indicating that the presidential election has been invalidated and that no candidate has been elected as president;
- (b) announce the date for fresh election pursuant to Article 140(3) of the Constitution;
- (c) publish the names and political parties of the candidates to participate in the fresh election.

(2) The Commission shall not conduct fresh nominations for a fresh election pursuant to Article 140(3) of the Constitution.

(3) An eligible candidate for an election pursuant to Article 140(3) of the Constitution may withdraw from the election by notice in writing to the Commission, and —

- (a) where there are more than two remaining candidates in the election after the withdrawal, the election shall proceed as scheduled;
- (b) where only one candidate remains after the withdrawal, the remaining candidate shall be declared elected forthwith as the President-elect without any election being held.

[Act No. 34 of 2017, s.10]

**87. Report of court on electoral malpractices**

(1) An election court may, at the conclusion of the hearing of a petition, in addition to any other orders, make a determination on whether an electoral malpractice of a criminal nature may have occurred.

(2) Where the election court determines that an electoral malpractice of a criminal nature may have occurred, the court shall direct that the order be transmitted to the Director of Public Prosecutions.

(3) Upon receipt of the order under subsection (2), the Director of Public Prosecutions shall —

- (a) direct an investigation to be carried out by such State agency as it considers appropriate; and
- (b) based on the outcome of the investigations, commence prosecution or close the matter.

[Act No. 36 of 2016, s. 21.]

*Referendum Petitions***88. Election petition procedures to apply to referendum petition**

Unless specifically provided for in this Act, the procedure applicable to an election petition shall apply to a referendum petition.

**89. Referendum petition**

(1) The conduct, result and validity of a referendum may be challenged by petition to the High Court.

(2) A petition challenging the conduct, result or validity of a referendum shall—

- (a) set out the facts relied on to invalidate the referendum;
- (b) identify the specific matter or matters on which the petitioner relies as justifying the grant of relief;
- (c) contain a request for the relief to which the petitioner claims to be entitled; and
- (d) be filed in the High Court within twenty-one days of the publication of the notice of the results of the referendum in the *Gazette*.

(3) A referendum petition may be presented on any of the following grounds—

- (a) in respect of the result of the voting in all the constituencies or in any one constituency, that corrupt practices prevailed at or in relation to the voting at the referendum in that constituency, or that there was an error or misconduct, whether by act or omission, on the part of a referendum officer; or
- (b) in respect of the declared result of the referendum, that there was an error in the counting or tallying of the votes cast in the referendum.

**90. Composition of Court**

A referendum petition shall be heard and determined by a bench of three judges appointed by the Chief Justice.

**91. Operation of declared result of issue submitted to referendum**

- (1) Where a referendum petition is not presented to the High Court within the time specified in section 89(2)(d), the declared result of referendum shall—
- (a) have effect from the date on which the result is declared;
  - (b) be final and not be challenged in any court of law; and
  - (c) be conclusive evidence of the voting at the referendum and of the result of the referendum.
- (2) Nothing in this section shall be construed as preventing or delaying the coming into operation of any law in respect of which a referendum is held pursuant to the provisions of the Constitution or any other written law if—
- (a) it is stated in the declared result of the referendum that the provisions of the Act are supported by a simple majority of the citizens voting in the referendum; and
  - (b) the question raised by any referendum petition or, if more than one, by all referendum petitions presented to the High Court in respect of such referendum would not, if decided in favour of the petitioner or petitioners, as the case may be, lead to a declaration by the Commission that a simple majority of the citizens voting in such referendum did not support the provisions of the said law.

[Act No. 1 of 2017, s. 25.]

**92. Persons who may present referendum petition**

- (1) A referendum petition may be presented in the High Court by—
- (a) in the case of a petition in respect of the result of the voting in a constituency, a person who voted lawfully or had a right to vote in that constituency at the referendum;
  - (b) in the case of a petition in respect of the declared result of the referendum, a person who voted at the referendum or had a right to vote at the referendum; or
  - (c) in any other case, the Commission.
- (2) A petitioner who presents a referendum petition shall serve all the respondents to the petition within seven days of filing the petition.
- (3) A petitioner shall publish a notice of the petition in the *Gazette* and in at least one newspaper of national circulation, within fourteen days after the petition is filed.
- (4) A petition may be served personally upon the respondent or by advertisement in a newspaper with national circulation.

[Corr. No. 18/2012.]

**93. Respondents to referendum petition**

(1) Where, at the hearing of a referendum petition, a person is alleged to have been guilty of a corrupt practice in relation to the referendum, or where a copy of a referendum petition is served on a particular person on the direction of the High Court, the High Court may, on the application of that person, add or name that person as a respondent to the petition.

(2) Where, at the trial of a referendum petition presented by the Commission, a question of law arises in relation to action or omission by a referendum officer, the High Court may, on the application of the Attorney-General, name the referendum officer as a respondent to the petition.

**94. Filing of referendum petition**

(1) A referendum petition shall be signed by the petitioner or by all the petitioners, if more than one.

(2) Whenever a referendum petition is presented under this section, the Registrar of the High Court shall, in writing, inform the Commission of the filing.

**95. Duty of Registrar to make list of referendum petitions**

(1) Subject to the provisions of subsection (2), the Registrar of the High Court shall make a list of all the referendum petitions filed under this Part in the order in which they are filed, and shall keep in the Registrar's office, a copy of the list which shall be open for inspection by any person who applies to inspect the list.

(2) A referendum petition shall, unless the High Court orders otherwise, be tried in the order in which it appears on the list made by the Registrar under subsection (1).

(3) Where more than one petition is presented relating to the same referendum, all such petitions shall be dealt with as one petition as far as the inquiry into the referendum is concerned.

**96. Practice procedure and security for costs**

(1) Subject to the provisions of section 98, the Rules Committee as constituted under the Civil Procedure Act (Cap. 21), may make rules generally to regulate the practice and procedure of the High Court with respect to the filing and trial of election and referendum petitions, including rules—

(a) specifying—

- (i) the time within which any requirement of the rules is to be complied with;
- (ii) the costs of and incidental to the filing and the trial of an election and referendum petition; and
- (iii) the fees to be charged in respect of proceedings of an election and referendum petition; and

(b) generally with regard to any other matter relating to an election and referendum petition as the Chief Justice may deem necessary.

(2) A petitioner shall deposit one million shillings as security for costs of a petition presented under this Act, within ten days of presenting the petition.

(3) Where, a petitioner does not deposit security for costs as required under this section after presenting of a referendum petition, the referendum petition shall be struck out.

(4) The High Court may, make such order as to costs as it may deem fit and just in respect of any referendum petition dismissed under this section.

[Act No. 47 of 2012, Sch.]

#### **97. Death of or delay by petitioner**

Where there are two or more petitioners and one or more of the petitioners dies or die at any time before the final order of the court hearing the petition, the surviving petitioner or petitioners shall be entitled to continue with the petition.

#### **98. Hearing of referendum petition**

(1) A referendum petition shall be—

- (a) heard and determined within six months from the date of presentation of a petition; and
- (b) heard in open court.

(2) The High Court may, in respect of the trial of a referendum petition, exercise such powers within its civil jurisdiction as it may deem appropriate.

(3) A referendum petition may be withdrawn by the petitioner on notice to the other parties and the High Court, subject to any order of the Court as to costs.

#### **99. Powers of a court to summon witnesses in a referendum petition**

(1) A Court hearing a referendum petition may, at the hearing of the petition—

- (a) order any person who appears to the court to be concerned in or affected by the referendum petition to attend as a witness at such hearing; and
- (b) examine any witness or any person who is present at the hearing even if the witness or person is not called as a witness by any party to the proceedings:

Provided that after examination by the court, the witness or person may be cross-examined by or on behalf of the petitioner or the respondent.

(2) Where a person is ordered to attend as a witness under subsection (1), the Court may direct that a copy of the referendum petition be served on that person.

(3) A person who is called as a witness at the trial of a referendum petition shall not be excused from answering any question relating to any offence connected with the referendum on the ground that the answer thereto may incriminate them or on the ground of privilege.

(4) Notwithstanding subsection (3)—

- (a) a witness who answers every question which they are required to answer under this section to the satisfaction of the court, and the answers to which may tend to incriminate them, shall not be liable to prosecution for any offence committed by them in connection with the referendum and in respect of which they are so examined, and shall be entitled to receive a certificate of indemnity issued by the Registrar stating that the person is discharged from liability and shall not be prosecuted for that offence; and

(b) an answer by a witness to a question before the Court under this section shall not, except in the case of any criminal proceedings for giving false evidence in respect of such evidence, be admissible as evidence in any civil or criminal proceedings against them.

(5) Where a person has received a certificate of indemnity under subsection (3), and legal proceedings are, at any time, brought against that person for an offence to which the certificate relates, the court having cognizance of the case shall, on proof of the certificate of indemnity, stay such proceedings.

(6) All reasonable expenses incurred by any person in attending at or appearing before the High Court to give evidence as a witness at the trial of a referendum petition shall be paid to such person according to the scale of allowances and expenses appropriate in civil proceedings before the High Court.

#### **100. Prohibition of disclosure of vote**

A voter who has voted at a referendum shall not, in proceedings to question the referendum be required to state how he voted.

#### **101. Examination of votes**

(1) The High Court on its own motion or on an application by a petitioner may, during the hearing of a referendum petition, order for a scrutiny of votes to be carried out in such manner as the High Court may determine.

(2) The provisions of section 82 shall apply with respect to scrutiny of votes under this section.

#### **102. Powers of Court**

(1) At the conclusion of the hearing of a referendum petition challenging the conduct or result of the referendum, the High Court may—

- (a) dismiss the petition;
- (b) declare the published result to be incorrect;
- (c) declare the referendum to be void; or
- (d) uphold the petition in whole or in part.

(2) Without limiting the generality of this section, the High Court may exercise its powers to declare a referendum void on the ground that this Act or the regulations made under this Act were contravened during the referendum, and such contravention has seriously affected the result of the referendum.

(3) The Registrar of the High Court shall deliver to the Commission a certified copy of any decision made by the High Court under subsection (1).

(4) The Registrar of the High Court shall, at the conclusion of the proceedings in respect of a referendum petition, submit to the Commission a certificate under the Registrar's hand, stating that the hearing of the referendum petition has been concluded, and the Commission shall, upon receipt of such certificate, declare and publish the result of the referendum in accordance with the findings of the High Court.

(5) A declaration made by the Commission under subsection (4) shall be final, shall not be challenged in any court, and shall be conclusive evidence of the voting at the referendum to which it relates and of the result of such referendum.

(6) Where the High Court declares a referendum void, the Commission shall conduct a fresh referendum.

**103. Petition expenses**

(1) Subject to the provisions of this section, all costs, charges and expenses of and incidental to the presentation and hearing of a referendum petition shall be borne in such manner and in such proportions as the High Court may order, and in particular, any costs which, in the opinion of the High Court, have been caused by any vexatious conduct or by any frivolous or vexatious allegations or objections on the part of the petitioner or of the respondent, may be ordered to be paid by the party by whom such costs have been caused.

(2) Where in the hearing of a referendum petition a person appears to the High Court to have been guilty of any corrupt practice relating to the referendum, the High Court may, after giving that person an opportunity to make a statement to show why the order should not be made, order the whole or a portion of the costs of or incidental to the trial of the referendum petition to be paid by that person to such person or persons as the High Court may determine.

(3) Money deposited as security shall, when no longer needed as security for costs, be returned to the person in whose name it is deposited or to any person entitled to receive the money by order of the High Court, which may be made upon motion after notice and proof that all just claims have been satisfied or otherwise sufficiently provided for as the High Court may require.

**104. Facilitation of persons with special needs including persons with disabilities.**

The Commission shall, for the purpose of ensuring that persons with special needs including persons with disabilities realise their right to vote —

- (a) put in place appropriate infrastructure including special voting booths; and
- (b) have in each polling station such officers as the Commission considers necessary to facilitate voting.

[Act No. 36 of 2016, s. 22.]

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## PART VIII – GENERAL PROVISIONS

### **105. Duty to co-operate**

(1) It shall be the duty of every public officer and public or private entity to co-operate with the Commission in its activities during an election and not to hinder the Commission in carrying out its functions.

(2) It shall be the duty of police officers in their respective areas of operation, to take all necessary measures for the maintenance of law and order and stability necessary for the conduct of an election and to protect and uphold the rights of all persons under any written law relating to elections.

(3) Notwithstanding the provisions of the law relating to the National Police Service or any other written law, a police officer assigned duties during the conduct of an election or referendum shall be deemed to be an elections officer for purposes of this Act and subject to direction and instruction of the Commission.

(4) It shall be the duty of—

- (a) all officers of the county administration, in their respective administrative units;
- (b) all persons in charge of local authority facilities;
- (c) persons in charge of facilities;
- (d) all political parties and members of the public;
- (e) all persons in charge of public utilities including teachers in charge of public schools;
- (f) the Registrar of Persons; and
- (g) the Registrar of Political Parties,

to give the Commission and its officers the support and collaboration necessary for the Commission to execute the activities relating to the conduct of an election.

### **106. Deleted by Act No. 36 of 2016, s. 23.**

### **107. Powers of arrest and prosecution**

(1) A member of the Commission or any officer designated by the Commission may order the arrest of a person who commits an offence under this Act.

(2) The Commission shall have the power to prosecute any offences under this Act and impose sanctions against a person who commits an offence under this Act pending the hearing and determination of the offence.

(3) A member of the Commission or any person designated by the Commission shall have the power to impound or to order the impounding of any state resources that are used in an election campaign.

### **108. Airtime by state radio and television for election campaign**

All candidates and political parties participating in an election shall be allocated reasonable airtime on all broadcasting media during the campaign period.

[Act No. 12 of 2012, Sch.]

### **109. Regulations**

(1) The Commission may make regulations generally for the better carrying out of the purposes and provisions of this Act, and in particular, but without prejudice to the generality of the foregoing, may make regulations to—

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- (a) prescribe the manner in which registers of voters shall be compiled and the manner in which they shall be revised;
  - (b) prescribe the procedure for registration and issuance of voters cards and provide for the progressive registration of Kenyan citizens living abroad prisoner;
  - (c) to provide for the regulation of the process by which parties nominate candidates for elections;
  - (d) to provide for the manner of nomination, allocation and re-allocation of special seats and mechanisms for resolving disputes arising out of such nomination, allocation and re-allocation;
  - (e) prescribe the procedure for making and determining claims to be registered and objections to registration;
  - (f) authorise any registration officer to consider or determine any application, claim, objection or appeal, to summon any person to appear before them and give evidence on oath, and to administer an oath for that purpose and to order the production of any document relevant to any issue which the officer is required to consider and determine;
  - (g) provide for the division of constituencies into units for the purpose of the registration of voters;
  - (h) prescribe the conditions under which elections may be held in accordance with the provisions of the Constitution, this Act or any other written law relating to elections;
  - (i) prescribe the amount of the deposit to be paid by or on behalf of candidates at all elections and the circumstances in which the deposit may be forfeited;
  - (j) provide for the appointment of officers to preside at polling stations;
  - (k) prescribe the facilities to be provided at polling stations and the persons who may be admitted to polling stations;
  - (l) prescribe the place and manner in which votes may be cast and the construction and scaling of ballot boxes and provide for the issue of ballot papers to voters;
  - (m) provide for the manner in which, and the person by whom any question as to the identity of any person claiming the right to vote shall be determined;
  - (n) provide for the manner in which a voter who is not able to read or write may vote or be assisted in voting;
  - (o) provide for the manner in which a voter with special needs including a person with a disability may vote or be assisted in voting;
  - (p) prescribe the procedure to be followed in the counting of votes and the circumstances in which votes may be rejected by a returning officer as being invalid;
  - (q) prescribe conditions for the use of private motor vehicles, vessels or buildings at elections;

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- (r) prescribe the facilities to be provided during the electoral process and in particular, for voting by electronic machines and the persons entitled so to vote and the circumstances in which persons may so vote;
  - (s) provide for the allocation by the Commission, in a just and equitable manner of the use of state owned radio and television broadcasting services during any election period;
  - (t) prescribe the procedure to be adopted by the public in making representations for the alteration of electoral area boundaries;
  - (u) prescribe the forms which may be used under this Act and the fees in respect of anything to be done under this Act;
  - (v) prescribe the procedure for advance voting for special categories including patients admitted in hospital, pastoralists, armed forces, elections officers and other citizens of Kenya providing essential services;
  - (w) prescribe the procedure for voting for citizens residing outside Kenya;
  - (x) provide for complaints resolution mechanisms and for the manner of settlement of electoral disputes;
  - (y) provide for the conduct of election observers, the media, monitors and evaluators and organisations carrying out civic and voter education;
  - (z) provide with reasonable grounds for the postponement of elections;
  - (aa) provide for mechanisms for carrying out effective voter education;
  - (bb) provide for the mode of declaration of the result of an election;
  - (cc) prescribe the manner of enforcing the Electoral Code of Conduct; or
  - (dd) provide for the conduct of campaigns during a referendum or an election;
  - (ee) provide for the financing of campaigns during a referendum or an election;
  - (ff) prescribe anything which is required to be prescribed or is necessary or desirable for the better giving effect to this Act.
- (2) The power to make regulations conferred on the Commission under this Act shall be—
- (a) for the purpose and objective of giving effect to the Constitution and this Act;
  - (b) limited to the nature and scope specifically stipulated in the Constitution and this Act; and
  - (c) based on the general principles and standards contained in the Constitution and this Act.
- (3) The power to make regulations shall be exercised only after a draft of the proposed regulations has been approved by the National Assembly, at least four months preceding a general election:
- Provided that this applies to the first general election under this Act.
- (4) The Commission shall publish in the *Gazette*, not later than sixty days prior to the date of a general election, the regulations approved by the National Assembly under subsection (3).

[Act No. 31 of 2012, s. 3, Act No. 47 of 2012, Sch., Act No. 36 of 2016, s. 24.]

**110. Electoral code of conduct**

(1) Every political party and every person who participates in an election or referendum under the Constitution and this Act shall subscribe to and observe the Electoral Code of Conduct set out in the Second Schedule in such manner as the Commission may, subject to paragraph 6 of that Schedule, determine.

(2) A political party that is eligible to nominate candidates under the Constitution, this Act or any other written law shall not be eligible to contest in any election unless the political party and the candidate have subscribed to the Electoral Code of Conduct referred to in subsection (1).

(3) *Deleted by Act No. 36 of 2016, s. 25(a).*

(4) *Deleted by Act No. 36 of 2016, s. 25(b).*

(5) The trial of an offence under this section shall be without prejudice to any proceedings in or consequent upon a petition.

(6) *Deleted by Act No. 36 of 2016, s. 25(c).*

(Act No. 36 of 2016, s. 25)

**111. Repeals**

The National Assembly and Presidential Elections Act (Cap. 7) and the Election Offences Act (Cap. 66) are repealed.

**112. Transitional provisions**

(1) Notwithstanding the provisions of this Act—

- (a) the register of voters prepared under the National Assembly and Presidential Elections Act (Cap. 7) shall be deemed to have been prepared under this Act;
- (b) a voter's cards issued under the National Assembly and Presidential Elections Act shall be deemed to have been issued under this Act;
- (c) an election official holding office immediately before the commencement of this Act shall be deemed to have been appointed in accordance with the provisions of this Act; and
- (d) an election petition filed under the National Assembly and Presidential Elections Act (Cap. 7) shall be deemed to have been filed under this Act.

(2) For avoidance of doubt, until the final announcement of all results of the first elections for Parliament under the Constitution—

- (a) a notice of commencement of the provisions of this Act under section 1 shall apply to the extent contemplated by section 2(1)(a) of the Sixth Schedule to the Constitution;
- (b) any election held before the first elections for Parliament under the Constitution shall be held in accordance with the provisions of the former Constitution and the law applicable under that Constitution pursuant to section 3(2) of the Sixth Schedule to the Constitution:

Provided that the period prescribed for the issuance of any document or the doing of any other act or thing in respect of an election to which is due at the commencement of this subsection shall, notwithstanding the provisions of any other written law, be deemed to run with effect from the date of such commencement.

[Act No. 12 of 2012, Sch., L.N. 76/2012.]

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**FIRST SCHEDULE**

[Section 21(2).]

**ELECTION OF SPEAKER OF COUNTY ASSEMBLY**

1. A speaker of a county assembly shall be elected when the county assembly first meets after a general election and before the county assembly proceeds with the dispatch of any other business.
2. If the office of speaker falls vacant at any time before the dissolution of the county assembly, another member of the assembly shall be elected to preside over the transaction of business until after the election of a new speaker.
3. The clerk of the county assembly shall preside over the election under paragraph (2).
4. The names of candidates for election to the office of speaker shall be entered upon nomination papers obtained from and handed to the clerk, at least forty-eight hours before the time appointed at which the county assembly is to meet to elect a speaker, and shall be accompanied in each case, by signatures of two members who support the candidate and a declaration by them that the candidate is willing to serve and that the candidate is qualified to be elected as a member of the county assembly under this Act.
5. The clerk shall maintain a register in which shall be shown the date and time when each candidate's nomination papers were received and shall ascertain that every such candidate for election to the office of speaker is qualified to be elected as such under this Act.
6. The election of the speaker shall be by secret ballot.
7. The clerk shall prepare, at least one hour before the meeting of the county assembly, ballot papers upon which shall be shown the names of all candidates validly nominated under paragraph (5) and shall issue not more than one such paper to each member who comes to the table to obtain it.
8. The clerk shall, at the commencement of each ballot, cause the ballot box, empty and unlocked, to be displayed to the county assembly and shall, in the presence of the county assembly, lock the box, which shall thereafter be kept in the full view of the county assembly until the conclusion of the ballot.
9. Each member of the county assembly who wishes to vote shall proceed to a booth or designated area provided by the clerk for that purpose and located next to and within reasonable distance of the ballot box and shall, whilst therein, mark the ballot paper by placing a mark in the space opposite the name of the candidate for whom the member wishes to vote, fold the marked ballot paper before leaving the booth or area and place the folded ballot paper in the ballot box:

Provided that a member who, before the conclusion of a ballot has marked a paper in error may, by returning it to the clerk, obtain another in its place and the clerk shall immediately cancel and destroy the paper so returned.
10. The clerk shall make such arrangements as may be necessary to enable any member with disability to vote.

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**11.** When it appears to the clerk that all members who are present and who wish to vote have placed their ballot papers in the ballot box, the clerk shall unlock the box, examine the ballot papers and, having rejected those unmarked or spoilt, report the result of the ballot; and no member who has not already recorded his or her vote shall be entitled to do so after the clerk has unlocked the ballot box.

**12.** A person shall not be elected as speaker of a county assembly, unless supported by votes of two-thirds of all the members of the county assembly and if no candidate is supported by the votes of two-thirds of all the members, the candidate who in that ballot receives the highest number of votes and the candidate who in the ballot receives the next highest number shall alone stand for election in a further ballot and the candidate who receives the highest number of votes on the further ballot shall be elected speaker.

**13.** A candidate may, by written notice to the clerk, withdraw his or her name before a ballot is started, and in the event of such withdrawal, the clerk shall cross the name of that candidate off any ballot papers issued for that or any subsequent ballot.

**14.** Notwithstanding anything to the contrary in this Schedule, if there is only one candidate who has been duly nominated, that candidate shall be declared forthwith to have been elected speaker, without any ballot or minimum vote being required.

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## SECOND SCHEDULE

[Sections 51(6) & 110(1), Act No. 1 of 2017.]

### ELECTORAL CODE OF CONDUCT

**1.** (1) This Code shall be subscribed to by—

- (a) every political party participating in the election of a president, a member of Parliament, a county governor, a member of a county assembly;
- (b) every candidate; and
- (c) every leader, chief agent, agent or official of a referendum committee.

(2) This Code shall, in so far as it is applicable, bind the Government and every political party, leader, office bearer, agent and member of a political party or a person who supports a political party, and every candidate nominated under the electoral laws for any election.

(3) All registered political parties and referendum committees shall execute this Code through the hand of their respective registered officials to signify their acceptance to be bound by the provisions of this Code and their commitment to strive to ensure that their members and any person who supports the political party abide by the code at all stages of elections and referendum.

**2.** In this Code, unless the context otherwise requires—

**“Committee”** means the Electoral Code of Conduct Enforcement Committee;

**“electoral area”** means a ward, county or constituency;

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**“election court”** means the Supreme Court in exercise of the jurisdiction conferred upon it by Article 163(3)(a), the High Court in the exercise of the jurisdiction conferred upon it by Article 165(3)(a) of the Constitution, or the High Court in the exercise of the jurisdiction conferred upon it by this Act;

**“electoral laws”** means the Constitution, the Elections Act and subsidiary legislation made thereunder as they relate to the presidential, parliamentary, county elections and the referendum.

**3.** The object of this Code is to promote conditions conducive to the conduct of free and fair elections and a climate of tolerance in which political activity may take place without fear, coercion, intimidation or reprisals.

**4.** All registered political parties and other persons bound by this Code shall endeavour to promote the object of the code to enable free political campaigning and open public debate to take place in all parts of Kenya during an election period.

**5.** Registered political parties, referendum committees, officials of political parties and referendum committees and candidates do, by subscribing to this Code, further commit themselves to—

- (a) adhere to the values and principles of the Constitution;
- (b) give wide publicity to this Code;
- (c) promote voter education campaigns;
- (d) condemn, avoid and take steps to prevent violence and intimidation;
- (e) instruct their candidates, office-bearers, agents, members and persons who support the political party of their obligations under this Code;
- (f) promote gender equality;
- (g) promote ethnic tolerance;
- (h) promote cultural diversity;
- (i) promote the fair representation of special interest groups;
- (j) generally affirm the rights of all participants in an election to—
  - (i) express divergent political opinions;
  - (ii) debate and contest the policies and programmes of other parties;
  - (iii) canvass freely for membership and support from voters;
  - (iv) subject to the Public Order Act (Cap. 56) hold public meetings;
  - (v) attend public meetings convened by others;
  - (vi) distribute non-offensive electoral literature and campaign materials;
  - (vii) publish and distribute non-offensive notices and advertisements;
  - (viii) erect non-offensive banners, placards and posters;
  - (ix) remove all banners, placards and posters erected during the election period;
  - (x) promote free electoral campaigns by all lawful means; and

- 
- (xi) co-operate with the Commission and the relevant Government agencies and other authorities in the investigation of issues and allegations arising during the election period.

**6. All those bound by this Code shall, throughout an election period—**

- (a) publicly and repeatedly condemn violence and intimidation and avoid the use of hate speech, language or any kind of action which may lead to violence or intimidation, whether to demonstrate party strength, gain any kind of advantage, or for any other reason;
- (b) refrain from any action involving violence or intimidation;
- (c) ensure that no arms or weapons of any kind are carried or displayed at political meetings or any march, demonstration or other event of a political nature;
- (d) refrain from campaigning in places of worship or during burial ceremonies;
- (e) co-operate and liaise in good faith with other parties to avoid organizing public meetings, demonstrations, rallies or marches to take place at the same time and venue as similar political events organized by other parties;
- (f) do nothing to impede the right of any party, through its candidates, canvassers and representatives, to have reasonable access to voters for the purposes of conducting voter education, fund raising, canvassing membership and soliciting support;
- (g) avoid plagiarizing the symbols, colours or acronyms of other parties; and to discourage and, if possible, prevent the removal, disfigurement or destruction of political campaign materials of any party;
- (h) refrain from offering any document or reward to any person in consideration of such person either joining or not joining any party; attending or not attending any political event; voting or not voting (either at all, or in any particular manner); or accepting, refusing or withdrawing such person's nomination as a candidate in the election;
- (i) refrain from any attempt to abuse a position of power, privilege or influence, including parental, patriarchal, state or traditional authority for political purposes including any offer of reward or threat of penalty;
- (j) avoid any discrimination based on race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth in connection with the election and political activity;
- (k) in relation to the Commission—
  - (i) acknowledge the authority of the Commission in the conduct of the election or referendum;
  - (ii) ensure the attendance and participation of representatives at meetings of any party liaison committee and other forums convened by or on behalf of the Commission;
  - (iii) implement the orders and directions of the Commission;
  - (iv) facilitate the Commissions right of access through official observers and other representatives to all public political meetings or other electoral activities;

- (v) co-operate in the official investigation of issues and allegations arising during an election period;
- (vi) take all reasonable steps to ensure the safety of observers and other representatives of the Commission from exposure to insult, hazard or threat in the course of their official duties;
- (vii) to establish and maintain effective lines of communication with the Commission; and
- (viii) to abide by the provisions of this Code;
- (l) reassure voters with regard to the impartiality of the Commission and the secrecy and integrity of the ballot, and to reaffirm that no one should know how any other person has voted;
- (m) take reasonable steps to discipline and restrain their party office-bearers, employees, candidates, members and persons who support the political party who—
  - (i) infringe this Code;
  - (ii) engage in activities of commission or omission which constitute offences under the electoral laws or otherwise fail to observe this Code; and
  - (iii) contravene or fail to comply with any provision of the electoral laws;
- (n) agree for party office bearers, employees, candidates members and persons who support the political party to submit to the disciplinary procedures of the Commission for any violation of this Code; and
- (o) without prejudice to the right to present a petition to an election court, accept the final outcome of the election and the Commission's declaration and certification of the results thereof.

7. Where, in the opinion of the Commission, any political party or referendum committee participating in any election or referendum or the leader, office-bearer or member of a political party or person who supports the political party or referendum committee or any candidate at any election, in any way infringes any provision of this Code, the Commission may—

- (a) in the case of a political party and, subject to sub-paragraph (b), and in the case of the leader, any office-bearer or member of a political party or person who supports the political party referendum committee or candidate, impose upon that political party one or more of the following penalties or sanctions which any or all may be suspended on specific conditions—
  - (i) a formal warning;
  - (ii) a fine determined by the Commission;
  - (iii) notwithstanding the provisions of any other written law, an order prohibiting the political party, whether permanently or for a specified period, from utilizing any public media time, through the television or radio broadcasting service of such media as have been or may be allocated to the political party for electoral purposes;

- (vi) an order prohibiting the political party, referendum committee or candidate from—
  - (aa) holding particular public meetings, demonstrations or marches, or any kind of meeting, demonstration or march;
  - (bb) entering any specified electoral area for purposes of canvassing for membership, or for any other electoral purpose;
  - (cc) erecting placards or banners, or from publishing and distributing campaign literature;
  - (dd) publishing or distributing campaign literature and electoral advertising or limiting the rights of the political party to do so, and such prohibition or limitation shall be notified to the relevant regulating officers under the Public Order Act (Cap. 56) in the affected places or electoral areas for purposes of the Act;
  - (ee) in the case of the leader, candidate, an office-bearer or member of a political party or person who supports the political party or referendum committees impose any one or more of the penalties or sanctions referred to in subparagraph (a)(i) or (ii) of this paragraph;
- (b) Where a political party, referendum committee, leader or any office bearer, member or person who supports the political party, referendum committee or any candidate at an election fails, neglects or refuses to comply with the orders of the Commission issued under paragraph 7(a), the Commission shall impose upon the defaulting party any of the following sanctions which may be suspended on specific conditions—
  - (i) in case of fine imposed, prohibit the defaulting party from participating in ongoing and future elections as candidates in case of a defaulting candidate or prohibit the political party or the referendum committee official from participating in ongoing elections and referendum, and future elections or referendum or any activity facilitated by the Commission until such fine has been paid;
  - (ii) in case of failure to comply with any other sanctions imposed, cancel the right of such political party or candidate to participate in the next election; and
  - (iii) file execution proceedings in the High Court to enforce the recovery of the fine.

**8.** A fine imposed by the Commission under this Code shall be registered in the High Court.

**9.** Without prejudice to the provisions of paragraph 7, the Commission may either of its own motion or in consequence of any report made to it, institute proceedings in the High Court as may be appropriate in the case of any alleged infringement of this Code by a political party or by the leader, any office-bearer or member of a political party or person who supports a political party or any candidate and where the Court finds the infringement of the provisions of this Code—

- 
- (a) in the case of a political party, any act or omission involving violence, intimidation or a gross or systematic violation of the rights of any political party, candidate or voter, the Court may, in addition to or in substitution for any other penalty or sanction specified in paragraph 7(a), make an order cancelling the right of such party to participate in the election concerned; or
  - (b) in the case of the leader, any office-bearer or member of a political party or person who supports the political party or of any candidate, that any act or omission involving violence or intimidation or gross or systematic violation of the rights of any political party candidate or voter, the Court may in addition to or in substitution of any other penalty or sanction specified in paragraph 7(a)(i) and (ii), make an order disqualifying, in the case of a person who is a candidate, that person from being a candidate or deleting the name of that candidate from the list or lists of candidates concerned.

**10.** In making its decision regarding appropriate penalties or sanctions, the Commission or, as the case may be, the High Court shall have regard to any other legal consequences that may result from civil or criminal proceedings instituted by reason of the same occurrence.

**11.** The High Court shall ensure that any proceedings initiated under paragraph 9 are dealt with in priority to all other matters brought before it, and that the decision of that Court is given before the date of the election concerned.

**12.** The procedure of the High Court in cases falling within the provisions of this Code shall, without prejudice to paragraph 9, be in accordance with such Rules of Procedure as shall from time to time be promulgated by the Chief Justice.

**13.** Every registered political party, referendum committee, candidate and agent—

- (a) shall respect the role of the media before, during and after an election or referendum conducted under this Act;
- (b) may not prevent access by members of the media to public political meetings, marches, demonstrations and rallies; and
- (c) shall take all reasonable steps to ensure that journalists are not subjected to harassment, intimidation, hazard, threat or physical assault by any of their representatives or persons who supports the candidate or political party.

**14.** Every media house and its representative shall—

- (a) adhere to the media professional ethics in its coverage of public meetings, campaign rallies and demonstrations;
- (b) during the prescribed hours of polling, not publish or distribute the result of an exit poll taken in that election or referendum;
- (c) adhere to any media regulations issued by the Commission; and
- (d) abide by the provisions of this Act.

**15.** (1) The Commission shall set up the Electoral Code of Conduct Enforcement Committee which shall comprise of not less than five members of the Commission and shall be chaired by a member appointed by the Chairperson; the Commission may nominate a member of its staff to be the secretary to the Committee.

(2) The Chairperson of the committee shall be a person who is qualified to hold the office of Judge of the High Court.

(3) Every candidate, official and agent shall—

- (a) acknowledge the authority of the Committee to enforce the provisions of this Code on behalf of the Commission;
- (b) ensure compliance with summons issued to the party, its candidates or representatives by the Committee;
- (c) co-operate in the official investigation of issues and allegations arising at election period; and
- (d) respect and comply with the orders issued by the Committee.

(4) The Committee shall issue summons to the person, political party or referendum committee against whom a complaint has been received as having infringed the provisions of this Code and any other person who the Commission has reason to believe to have infringed the provisions of this Code to attend its meetings. The meetings will be convened at any place which the Committee may deem fit.

(5) In its proceedings, the Committee may examine the person summoned and may allow a person to have legal representation.

(6) The committee shall not be bound by the provisions of the Criminal Procedure Code (Cap. 75) or the Evidence Act (Cap. 80) in its proceedings.

(7) Every person who is summoned by the Committee and who attends the meetings of the Committee shall be accorded the right to be heard.

(8) The Committee shall exercise the powers provided under this Code to punish any person found to have infringed this Code.

(9) The Committee shall deliver its verdict expeditiously and inform the parties of the decision.

(10) Notwithstanding the provisions of this Code, any complaint submitted in writing alleging any irregularity with any establishment of the electoral process at any stage if not satisfactorily resolved by the peace committee shall be examined and determined by the Committee.

**16.** Every registered political party referendum committee, candidate and agent shall—

- (a) ensure security and full participation of women and persons with disabilities as candidates and voters;
- (b) respect the right of women to communicate freely with political parties, committees and candidates;
- (c) facilitate the full and equal participation of women in political activities;
- (d) ensure free access of women and persons with disabilities to all public political meetings, marches, demonstrations, rallies and other public political events; and
- (e) take reasonable steps to ensure that women are free to engage in any political activity.

**17.** (1) The Commission may establish peace committees in every constituency during an election and referendum period.

(2) Every political party, referendum committee, candidate, official and agent shall—

- (a) acknowledge the activity of peace committee established at the constituency level by the Commission;
  - (b) ensure attendance of the peace committee meetings convened at the constituency level on behalf of the Commission; and
  - (c) co-operate in the official investigation initiated by the peace committee on issues and allegation arising at the election period.
- (3) The peace committee shall have power to—
- (a) reconcile warring parties;
  - (b) mediate political disputes in the constituencies;
  - (c) liaise with government security agencies in the constituency and report suspected election malpractices; and
  - (d) report any violation of this Code to the Committee for appropriate action.
- 18.** This Code shall apply—
- (a) in the case of a general election, from the date of publication of a notice of election until the swearing in of newly elected candidates; and
  - (b) in the case of a by-elections, from the date of declaration of a vacancy until the swearing in of elected candidates.

[Act No. 1 of 2017, s. 26.]

- 19.** Any person may complain about the breach of this Code.

### THIRD SCHEDULE

[Section 60(1), Act No. 12 of 2012, Sch., Act No. 36 of 2016, s. 27.]

#### OATH OF SECRECY

I, ..... I.D./Passport No..... swear that I shall maintain the secrecy of the ballot and shall not communicate, except for a purpose authorized by law before the poll is closed, any information as to the name or number on the register of voters, of any voter who has or has not applied for a ballot paper or voted at that station or as to the official mark with respect to the ..... constituency/county/ward or do anything that compromises the secrecy of the vote.

.....

Signature of person taking the oath

Before me

.....

(Signature)

Commissioner for Oaths/Magistrate

Date: .....



**NO. 24 OF 2011**

**ELECTIONS ACT**

SUBSIDIARY LEGISLATION

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**ELECTIONS (REGISTRATION OF VOTERS) REGULATIONS, 2012**

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## ELECTIONS (REGISTRATION OF VOTERS) REGULATIONS, 2012

[L.N. 126/2012, L.N. 73/2017.]

### PART I – PRELIMINARY

#### 1. Citation

These Regulations may be cited as the Elections (Registration of Voters) Regulations, 2012.

#### 2. Interpretation

In these Regulations, unless the context otherwise requires—

**"acknowledgement slip"** means a document issued by the returning officer acknowledging application for registration;

**"alphanumeric details"** means all the other details of a voter except the biometric data;

**"biometric"** has the meaning assigned to it in section 2 of the Act (No. 24 of 2011);

**"Commission"** has the meaning assigned to it in the Act;

**"foreign representative of Kenya"** means a public officer serving in a Kenyan foreign mission abroad;

**"identification document"** has the meaning assigned to it in section 2 of the Act (No. 24 of 2011);

**"prisoner"** has the meaning assigned to it in section 2 of the Prisons Act (Cap. 90);

**"register"** deleted by L.N. 73/2017, r. 2(a);

**"Register of Voters"** has the meaning assigned to it in section 2 of the Act (No. 24 of 2011);

**"registration centre"** means a centre designated and gazetted by the Commission under regulation 3; and

**"Voter Records Book"** means the first book of data entry during the registration of a voter.

[L.N. 73/2017, r. 2.]

### PART II – ADMINISTRATION

#### 3. Registration centres

(1) The Commission may, from time to time, designate and *Gazette* registration centers which shall include—

- (a) places within the Republic as provided for in subregulation (2);
- (b) premises of, or facilities provided by Kenyan missions abroad;
- (c) any facility belonging to a public body or private persons in any foreign country;
- (d) other facilities that the Commission may deem fit as registration centres for purposes of registering voters.

(2) The Commission may use, free of charge, for the purposes of voter registration—

- (a) a room or rooms in any public school as defined in the Education Act, (Cap. 211);
- (b) facilities belonging to, and maintained by, any public body;
- (c) facilities in any foreign country as the Commission may, by arrangement with the relevant authorities in that country, determine for the purpose of registering Kenyan citizens residing in that country;

[Subsidiary]

- (d) such other public space or premises as the Commission may *Gazette*.

(3) Where, as a result of the use of any facility under this regulation, any damage is caused to that facility, or any expense is unavoidably incurred by any person having control over the facility, the Commission shall repair the damage, or compensate such person, as the case may be.

(4) The Commission may, with prior arrangement with the owner, use private facilities where in the opinion of the Commission public facilities are unavailable, inadequate or unsuitable.

(5) No place whose use as a registration centre may offend the sensitivities of sections of the public or that may cause conflict of interest shall be used for purposes of registration.

[L.N. 73/2017, r. 3.]

#### **4. Registration officers**

The Commission shall appoint—

- (a) a registration officer for every registration area; and
- (b) such number of registration officers to register Kenyan citizens living abroad as the Commission may determine.

#### **5. Assistant registration officers**

(1) The Commission may appoint one or more assistant registration officers to assist a registration officer.

(2) An assistant registration officer may have all the powers and duties of the registration officer.

(3) An assistant registration officer shall be subject to the general direction and control of the registration officer.

(4) The recruitment and appointment of registration officers and assistant registration officers under this regulation shall be done competitively and transparently.

#### **5A. Gazettement of registration officers**

Every appointment under regulations 4 and 5 shall—

- (a) be done transparently and competitively; and
- (b) be published in the *Gazette*.

[L.N. 73/2017, r. 4.]

### PART III – THE REGISTER OF VOTERS

#### **6. Preparation of register**

Each registration officer shall prepare and maintain a register of voters for his or her polling station, ward and constituency in such form as the Commission may prescribe.

#### **7. Registration areas and registration centres**

(1) The Commission shall—

- (a) divide each constituency in which registration is to be held into registration areas or, if it deems fit, declare any particular constituency to be a single registration area;
- (b) assign to each registration area a distinguishing number or letter or a combination of number and letter;
- (c) appoint a place or places or designate a vehicle or vehicles, vessel or vessels at which the polling station or stations for each registration area shall be established;

- (d) designate such areas outside Kenya, in which registration is to be held, as a single registration area;
- (e) declare the entire territory of the foreign country or any part of a foreign country, to be a registration area;
- (f) declare a region consisting of more than one foreign country to be a single registration area; and
- (g) publish in the *Gazette* and publicise through electronic and print media of national circulation and other easily accessible medium a notice specifying—
  - (i) the registration areas established for registration;
  - (ii) the distinguishing number or letter, or combination thereof, assigned to each registration area; and
  - (iii) the place or places appointed, or the vehicle or vehicles, vessel and vessels designated, as registration centres.

(2) The Commission may designate any of its offices to be a registration centre and may provide for mobile registration centres.

(3) The Commission may use the facilities of Kenyan foreign missions abroad, free of charge, for the purposes of voter registration or polling, as the case may be.

(4) The Commission shall, in respect of each registration area appoint a registration officer to be responsible for the compilation of a register for the respective area.

(5) Notwithstanding subregulation (1), a registration officer may receive applications for registration at places not specified in the notice published under subregulation (1)(g)(iii).

(6) If a registration officer closes a registration centre, the registration officer shall post a notice at that place indicating the other places at which applications may be made.

(7) Where applications are received at a place other than the designated registration centre, the registration officer shall ensure that the voter is aware of the particulars of the centre and that he or she intends to register at the centre to which the registration in question relates.

## **8. Registration particulars**

A register of voters shall contain biometric data and the particulars set out in Form A in the Schedule.

[L.N. 73/2017, r. 5.]

## **9. Changes to register**

(1) A registration officer may, in accordance with these Regulations, make changes to the register of voters—

- (a) to carry out a decision relating to a claim;
- (b) related to transfer of registration;
- (c) to correct clerical or other errors;
- (d) to delete the name of a person who the registration officer is satisfied has died;
- (e) to ensure that no person is registered more than once;
- (f) to ensure that no person is registered if the person is not qualified to be so registered; and
- (g) to include any appropriate changes that may be requested by a registered voter in respect of his or her registration.
- (h) to correct loss of data owing to technological errors or any other causes;

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[Subsidiary]

- (i) to delete the names of persons who have renounced their Kenyan citizenship as provided for under section 19 of the Kenya Citizenship and Immigration Act, 2011 (No. 12 of 2011) and any other written law; and
  - (j) to delete the names of persons whose citizenship has been revoked under section 21 of the Kenya Citizenship and Immigration Act, 2011 and any other written law.
- (2) Subject to paragraph (1)(d), the registration officer shall work in collaboration with the Registrar of Births and Deaths and National Registration Bureau to obtain the particulars in Form B set out in the Schedule.

[L.N. 73/2017, r. 6.]

## **10. Other changes requiring notice, etc.**

The following provisions shall apply to any proposed change not initiated by the person in respect of whom they relate—

- (a) the registration officer shall give the person whose registration particulars are the subject of the proposed change, a notice of the change;
- (b) the notice under paragraph (a) shall be sent to the registered address of the person and the notice shall inform the person of his or her right to make representations under paragraph (c);
- (c) the registration officer shall give the person an opportunity to, within seven days after the date of the notice under paragraph (b), make representations with respect to the proposed change; and
- (d) after considering any representations that the person may make the registration officer may make the proposed change.

## **11. Periodic list of changes**

(1) At least once every six months, each registration officer shall prepare a list of changes to the register of voters for his constituency and post the list at a place at the headquarters of the division and district within which the constituency is located where the public has access.

(2) The changes included on a list under subregulation (1) shall consist of the changes made since the previous list was prepared under subregulation (1).

(3) The list posted under subregulation (1) shall be posted for at least thirty days.

(4) The changes included on the first list prepared by each registration officer under subregulation (1) shall consist of the changes made since this regulation came into operation.

## **12. Certification of Register of Voters**

(1) Where as a result of operation of section 5 of the Act, the registration of voters has been ceased, the Registration officer shall compile the list of registered persons.

(2) The registration officer shall after effecting compilation of the register of voters relating to the constituency submit his or her component for compilation by the Commission.

(3) The Commission shall compile the register of voters comprising of components under section 4 of the Act.

(4) The Commission shall certify and publish the Register of Voters in the *Gazette*.

(5) The published Register of Voters under sub regulation (4) shall include the names of the County Assembly Wards and the total number of registered voters therein.

[L.N. 73/2017, r. 7.]

## PART IV – REGISTRATION OF VOTERS

### **13. Application for new registration**

- (1) A person who desires to be registered as a voter shall make an application in Form A set out in the Schedule.
- (2) An application under sub regulation (1) shall be made to the registration officer for the constituency in which the person wishes to be registered.
- (3) The registration officer shall collect biometric data of persons applying for registration.

[L.N. 73/2017, r. 8.]

### **13A. Registration procedure**

- (1) A person who applies to be registered as a voter shall present his or her identification document to the registration officer stationed at a Registration Centre of his or her choice.
- (2) The registration officer shall, where the applicant is qualified to be registered as a voter, issue the applicant with Form A as set out in the Schedule.
- (3) The applicant shall return the duly completed Form A to the registration officer and the registration officer shall confirm the details in the form and enter them in the biometric voter registration system and the Voters Record Book.
- (4) The applicant shall be issued with an acknowledgement slip upon registration.

[L.N. 73/2017, r. 9.]

### **13B. Numerous registrations**

- (1) A person shall not, at any time, be registered as a voter in more than one constituency.
- (2) A person shall not be registered as a voter more than once in the Register of Voters.
- (3) A person who simultaneously makes two or more applications to be registered as a voter shall not be qualified as a registered voter.

[L.N. 73/2017, r. 9.]

### **13C. Transfer of registration**

A voter is not qualified to transfer his or her registration unless at the date of his or her application to be transferred he or she was ordinarily resident in that constituency six months immediately preceding the date of his or her application for transfer.

[L.N. 73/2017, r. 9.]

### **14. Application for change in registration**

- (1) A person who is already registered as a voter, but who wishes to have a change described in subregulation (2) made, shall make an application in accordance with this regulation.
- (2) The changes referred to in subregulation (1) are—
  - (a) a change in the particulars of the person's registration; or
  - (b) a change of the electoral area or polling station at which the person is registered to vote.
- (3) An application for a change described in subregulation (2)(a) shall be made in Form B, to the registration officer for the constituency in which the person is registered.
- (4) An application for a change described in subregulation (2)(b) shall be made in Form C, to the registration officer for the constituency in which the applicant wishes to be registered.
- (5) *Deleted by L.N. 73/2017, r. 10(c).*

[L.N. 73/2017, r. 10.]

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[Subsidiary]**15. When applications not allowed**

- (1) A person may not make an application for registration under regulation 13 or 14—  
(a) during a time in which the registration of voters and revision of the register of voters is not allowed under section 5 of the Act; or  
(b) during a period in which the Commission has suspended, under subregulation (2), the making of applications under regulations 13 and 14.
- (2) The Commission may, by notice in the *Gazette*, suspend the making of applications under regulations 13 and 14 for a period specified in the notice.

[L.N. 73/2017, r. 11.]

**16. Consideration by registration officer**

- (1) The registration officer to whom an application is made under regulation 13 or 14 shall consider the application and—  
(a) in the case of an application for registration under regulation 13, register the applicant if the registration officer is satisfied the applicant is qualified to be registered; or  
(b) in the case of an application for a change under regulation 14, make the requested change if the registration officer is satisfied that it is proper to do so.
- (2) If the registration officer registers a person or makes a change under subregulation (1), the registration officer shall issue an acknowledgement slip, to the applicant.

[L.N. 73/2017, r. 12.]

**PART V – CLAIMS****17. Time for making claims**

- (1) A claim to a registration officer under section 12 of the Act in respect of an application under these Regulations shall be made at any time by the registered voter.
- (2) A claim under subregulation (1) shall not be made within ninety days to the date of a general election or referendum or within sixty days to the date of a by-election.

**18. Method for making claim**

A claim shall be in Form D set out in the Schedule and shall be accompanied by a new application for registration under Part IV.

[L.N. 73/2017, r. 13.]

**19. Notice of claims**

- (1) The registration officer shall, within seven days of receipt of a claim publish a notice of the claim.
- (2) The notice of claim under subregulation (1) shall set out the names and addresses of all persons who have made claims and shall be in Form E set out in the Schedule.

[L.N. 73/2017, r. 14.]

**20. Consideration of claims**

(1) After publishing the notice of claims under regulation 19, the registration officer shall consider and determine each claim.

(2) For the purpose of considering a claim, the registration officer may require the claimant to attend before the registration officer.

(3) The registration officer shall within seven days of the date of publishing the Notice give the claimant a written notice of the determination of the claim.

[L.N. 73/2017, r. 15.]

**21. Time for appeal**

An appeal, under section 12(2) of the Act, to the Principal Magistrate Court from a determination by a registration officer may be made within fourteen days after the determination was made.

**22. Method of appeal**

(1) To make an appeal, the appellant shall deliver a written request to the Principal Magistrates Court or to High Court briefly stating the grounds of the appeal.

(2) The request shall be signed by the appellant.

**23. Request**

For each request received under regulation 22, the registration officer shall forward the following to the Principal magistrates Court or the High Court—

- (a) a copy of the claim and new application under regulation 18;
- (b) a copy of the notice of the determination of the claim under regulation 20(3); and
- (c) written reasons for the determination.

**24. Hearing of appeal**

(1) This regulation applies with respect to the hearing of an appeal under section 12(2) of the Act.

(2) The parties to the appeal are the appellant and the registration officer.

(3) The Principal Magistrates Court or the High Court shall cause notice of the hearing of the appeal to be given to the parties at least seven days before the hearing.

(4) The notice of the hearing of an appeal shall set out the time and place of the hearing of the appeal.

(5) An appeal shall be heard and determined on a priority basis.

**25. Changes to register**

After an appeal has been determined under regulation 24, the registration officer shall—

- (a) make any changes to the register of voters that are necessary as a result of the appeal;
- (b) prepare a list of the changes made;
- (c) post the list at the place where the list of changes was posted under regulation 11(1); and
- (d) submit the list to the Commission for inclusion in the Principal Register of Voters.

**26. Claims not to affect register**

Claims under this Part shall not affect the validity of the register of voters.

## PART VI – INSPECTION AND VERIFICATION OF REGISTER

[L.N. 73/2017, r. 16.]

**27. Inspection of register**

The Commission shall make available the Register of Voters for inspection to the public at all polling stations, by way of public web portal or any other medium the Commission may approve.

[L.N. 73/2017, r. 17.]

**27A. Verification of Register of Voters**

(1) The Commission shall publish a notice of the availability of the register of voters for verification in the *Gazette* and in at least two newspapers of national circulation and through any other medium as the Commission may determine.

(2) The notice published under sub regulation (1) shall set out—

- (a) a statement calling on the public to verify their particulars as captured in the register;
- (b) a statement specifying where and within which period the verification may be carried out; and
- (c) the hours during which verification may be carried out.

(3) The notice under sub regulation (2) shall be in Form F set out in the Schedule.

[L.N. 73/2017, r. 18.]

**27B. Process of Verification**

(1) A voter may verify the details of his or her registration at the voter's polling station in accordance with regulation 27A.

(2) A voter may, where any of the details of the registration of the voter are incorrect, submit to the registration officer at the voter's polling station a claim form as prescribed by regulation 19.

(3) The registration officer shall consider and determine the claim within three days after submission.

[L.N. 73/2017, r. 18.]

**28. Revision of register**

After the last day of verification, the registration officer for each constituency in respect of which the inspection and verification was carried out shall revise the register of voters for the respective constituency within such period as the Commission may determine.

[L.N. 73/2017, r. 19.]

## PART VII – PREPARATION OF NEW REGISTER

**29. Direction from Commission**

The Commission may direct that a new register of every constituency be prepared.

**30. Notices**

(1) If the Commission makes a direction under regulation 29, the Commission shall publish a notice in the *Gazette* and in one or more newspapers of national circulation.

(2) The notice shall set out?

- (a) a statement calling on all persons who wish to be registered to apply; and
- (b) a statement specifying where and when applications may be made.

(3) The notice shall be in Form G set out in the Schedule.

(4) The Commission may amend a direction under regulation 29 by publishing a notice of the amendment in the *Gazette* and in one or more newspapers. After the last day of verification, the registration officer for each constituency in respect of which the inspection and verification was carried out shall revise the register of voters for the respective constituency within such period as the Commission may determine.

[L.N. 73/2017, r. 20.]

### **31. Registrations**

(1) A person may apply for registration in accordance with the notice published under regulation 30 and, for that purpose, regulations 13 and 14 shall, with necessary modifications apply.

(2) Notwithstanding paragraph (1), a registration officer may transfer a place specified in the notice published under regulation 30 for making applications if, in the opinion of the registration officer, the number of applications made at the place does not warrant keeping it open.

(3) If a registration officer transfers a place for making applications under paragraph (2), the registration officer shall post a notice at that place indicating the other places at which applications may be made.

### **32. Preparation of new register**

As soon practicable after the last day for making applications to be registered in a constituency, the registration officer shall prepare a new register of voters under regulation 6.

### **33. Publication of register**

(1) The registration officer shall publish the new register of voters in the following manner—

- (a) by making the relevant register available for inspection at the respective registration centre, ward and constituency Commission offices;
- (b) by posting, at a place at the Commission's website, constituency offices, registration centre and ward where the public has access, a notice, in Forms H set out in the Schedule, of the availability of the register for inspection; and
- (c) by having in place an electronic register which may be accessed on a website using a mobile phone or such other electronic media as the Commission may determine.

(2) The notice posted under paragraph (1)(b) shall explain how a person may make a claim under section 12 of the Act.

[L.N. 73/2017, r. 21.]

## PART VIII – REGISTRATION OF KENYAN CITIZENS RESIDING OUTSIDE KENYA

### **34. Registration of Kenyan citizens residing out of Kenya**

(1) The Commission shall, at regular intervals, publish the names of countries in which registration and voting is scheduled to take place.

(2) A decision by the Commission to register Kenyan citizens residing outside Kenya or to conduct elections outside Kenya shall be based on the presence of a Kenyan Embassy, High Commission or Consulate.

### **35. Registration particulars of Kenyan citizens residing out of Kenya**

A register of voters who are Kenya citizens residing outside Kenya shall contain the particulars set out in Form I in the Schedule.

[L.N. 73/2017, r. 22.]

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[Subsidiary]**36. Application for registration by Kenyan citizens residing out of Kenya**

A Kenya citizen residing outside Kenya shall apply for registration as a voter in Form I set out in the Schedule.

[L.N. 73/2017, r. 23.]

**37. Eligibility to vote**

A Kenya citizen residing outside Kenya shall apply for registration as a voter upon production of a valid Kenyan Passport.

Provided that citizens residing in countries within the East African Community may present an Identity Card.

[L.N. 73/2017, r. 24.]

**38. Registration personnel**

For the purpose of registration of Kenyan citizens residing outside Kenya as voters, the Commission may appoint a foreign any representative of Kenya who shall not be the Ambassador, Deputy Ambassador, High Commissioner or Deputy High Commissioner of a Kenyan mission.

**39. Type of elections**

A Kenya citizen residing outside Kenya shall only participate in a presidential election or a referendum.

**PART VIIIA — REGISTRATION OF CITIZENS IN KENYAN PRISONS**

[L.N. 73/2017, r. 25.]

**39A. Registration of citizens in Kenyan prisons**

The Commission shall, at regular intervals, publish the centres in which prisoners may register and vote.

[L.N. 73/2017, r. 25.]

**39B. Registration particulars of citizens in Kenyan prisons**

A prisoner who is not already registered as a voter but wishes to be registered shall make an application in Form K set out in the Schedule.

[L.N. 73/2017, r. 25.]

**39C. Eligibility to vote**

A prisoner shall comply with the provisions relating to the identification of persons for the purposes of registration as a voter set out in regulation 13.

[L.N. 73/2017, r. 25.]

**39D. Registration personnel**

The Commission shall appoint Registration Officers for the purpose of the registration of prisoners.

[L.N. 73/2017, r. 25.]

**39E. When prisoner may vote**

A prisoner may only vote in a presidential election or a referendum.

[L.N. 73/2017, r. 25.]

## PART IX – MISCELLANEOUS

**40. Summoning witnesses, evidence, etc.**

A registration officer may, for the purpose of considering or determining an application or claim—

- (a) summon any person to appear before him or her; or
- (b) order the production of any document relevant to an issue that the registration officer is required to consider and determine.

[L.N. 73/2017, r. 26.]

**41. Notices to individuals**

All notices required to be given by a registration officer or the court to an individual shall be deemed to have been duly given if—

- (a) sent at least seven days to the date of hearing by registered post to the postal address, if any, given in the application, claim, appeal or; or
- (b) published in at least one newspaper with nationwide circulation.

**42. Publication of notices**

(1) If a notice is required by these Regulations to be published and, in the opinion of the authority required to publish the notice, the prescribed mode of publication does not give sufficient publicity of the notice, the authority may, in addition to publishing the notice as required, exhibit copies of the notice at prominent places or take such other steps as the authority may deem necessary for giving sufficient publicity to the notice.

(2) Subregulation (1) also applies, with necessary modifications, to anything that is required by these Regulations to be posted or to be made available for inspection.

**43. Minor inaccuracies immaterial**

No misnomer or inaccurate description of a person or place in a register of voters or other document prepared or issued under or for the purposes of these Regulations shall prejudice the validity of the register or document as respects that person or place, if the person or place is so designated as to be commonly understood.

**44. Observation of the registration on process**

(1) Every registered political party shall have the right to observe the registration of voters and the revision of registers of voters through designated representatives.

(2) A registered party shall notify the Commission, in writing, of the names of its designated representatives.

(3) Any person, association or organization may apply to the Commission to be allowed to observe the registration of voters and the revision of registers of voters and to verify the accuracy of the register.

(4) Representatives of the media shall have the right to observe the registration process and to access the registration centres.

(5) Every individual observing the registration of voters and the revision of registers of voters shall comply with any guidelines issued by the Commission respecting the conduct of such observation.

**45. Alternative means of signification**

If, because of physical inability, illness or illiteracy, a person cannot sign an application form, he or she may do any of the following instead of signing—

- (a) put the print of his or her thumb or other finger at the appropriate place in the form; or
- (b) if the person has no thumb, print at the appropriate place in the form, the print of any finger or such other mark as the registration officer may allow.

**46. Revocation of L.N. 173/2002**

The National Assembly Elections (Registration of Electors) Regulations, 2002, are revoked.

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**SCHEDULE**

[L.N. 73/2017, r. 27.]

**FORM A**

[Rules 13 &amp; 13A.]

**APPLICATION FOR REGISTRATION AS A VOTER**

To the Registration Officer .....

Constituency: ..... County: .....

Ward: ..... Registration Centre: .....

Surname: ..... Other names: .....

Identity Card No./Kenyan Passport No.: .....

Date of birth: ..... Sex: .....

Residential Address: .....

Contact Telephone: .....

Postal Address: .....

Email: .....

Disability (if any): .....

Whether you will require to be assisted by any one during voting: .....

I, the above named applicant, hereby apply to be registered in the Principal Register of Voters in accordance to the Constitution and the Elections Act.

**DECLARATION**

I, ..... declare that at the date of this application:

- (i) I am qualified to be, and not disqualified from being, registered as a voter under the law in respect of the classes of election for which I now apply for registration.
- (ii) I am in possession of a national identity card or Kenyan passport with the number indicated in this application.
- (iii) The particulars entered on this form or submitted to the Commission (which I have entered, read or have had read to me) are true to the best of my knowledge.

Dated: ..... 20 .....

*Signature or Thumbprint of Applicant:* .....

Witnessed by: .....

*Registration Officer/Assistant Registration Officer**Official Stamp*

**FORM B**

[Rules 9(2) &amp; 14(3).]

**APPLICATION TO CHANGE PARTICULARS OF REGISTRATION**

I, (the applicant), am registered in the register of voters as follows:—

Name of Constituency: .....

Constituency Code: .....

Name of Ward: .....

Ward Code: .....

Name of Registration Centre: .....

Registration Centre Code: .....

Surname: .....

Other Name(s): .....

Identity Card/Kenya Passport Number: ..... Expiry Date: .....

Telephone Number: .....

I wish to change the particulars of my registration as follows:—

Surname: .....

Other names: .....

Identity Card/Kenya Passport Number: .....

Voter's Number: .....

Sex: .....

Date of Birth: .....

Dated: ..... 20 .....

*Signature or Thumbprint of Applicant:* .....

Witnessed by: ..... (RO/RA)

**FORM C**

[Rule 14(4).]

**APPLICATION FOR TRANSFER OF REGISTRATION  
IN AREA WHICH A PERSON IS REGISTERED**

Surname .....

Other Names .....

Identity Card No./Kenyan Passport No.: .....

Date of Birth: ..... Sex: .....

Residential Address: .....

Contact Telephone.....

Postal Address .....

Tel: .....

[Subsidiary]

Email: .....

Current Constituency: .....

Current County Assembly Ward: .....

Current Registration Centre.....

I, the above named applicant, is registered in the register of voters for the constituency noted above.

I wish to transfer my registration particulars to the register of voters for the following:—

County: .....

Constituency: .....

County Assembly Ward: .....

Registration Centre: .....

Signature or thumbprint of the applicant: .....

Dated: ..... 20 .....

Received by ..... RO/ARO

Signature .....

Dated: ..... 20 .....

Stamp

**FORM D**

[Rule 18.]

**CLAIM UNDER SECTION 12 OF THE ACT**

To the Registration Officer ..... Constituency

*Particulars of claimant*

Surname: .....

Other Name(s) .....

Identity Card Number/Kenyan Passport Number: .....

Physical Address: .....

Postal Address: .....

Tel: .....

Email: .....

I, ..... the claimant, applied to be registered in the register of voters but have not been so registered. I hereby make a claim under section 12 of the Act to be registered.

Dated: ..... , 20 .....

*Signature or thumbprint of Claimant*

**FORM E**

[Rule 19(2).]

**NOTICE OF CLAIMS**

Notice is hereby given that the following Claims have been filed at the office of the Registration officer;

Name of Claimant	Address of Claimant	Date of Hearing of Claim
.		
.		
.		
.		
.		

Dated: ..... , 20 .....

.....  
*Registration Officer*

..... Constituency  
\_\_\_\_\_

**FORM F**

[Rule 27A(3).]

**NOTICE OF AVAILABILITY OF REGISTER FOR VERIFICATION**

Date of posting notice: .....

NOTICE is hereby given that the new preliminary register of voters for the ..... Constituency has been completed and is available for verification for ..... days. The register may be inspected at the places listed in the Schedule.

*How to make a claim:*

A person who claims that his or her biometric data has not been captured in the register of voters may make a claim to the registration officer within the period prescribed for inspection.

The claim must be made in the prescribed Form.

Dated the ..... , 20 .....

Registration Officer: .....

Stamp

**SCHEDULE**

Places where application may be made:

1. .....
  2. .....
  3. .....
- \_\_\_\_\_

[Subsidiary]

**FORM G**

[Rule 30(3).]

**NOTICE—REGISTER OF VOTERS TO BE REPLACED**

NOTICE is hereby given that a new register of voters will be compiled for the following constituency/county/ward: .....

All persons who wish to be registered as voters should apply.

Applications may be made on or after ..... 20 ..... but not later than ..... 20 .....

Applications may be made at the places listed in the Schedule to this notice.

If a place listed in the Schedule is closed before the last day for making applications, a notice will be posted at that place indicating the other places where application may be made.

NB: Please take note that registration shall be done where one wishes to vote.

Any person who wishes to vote in any other place other than where he or she is registered he or she shall apply at the nearest constituency office.

**SCHEDULE****PLACES WHERE APPLICATIONS MAY BE MADE**

1. .....
2. .....
3. .....

Dated the ..... 20 .....

.....  
*Chairperson  
Independent Electoral and Boundaries Commission*

**FORM H**

[Rule 33 (1)(b).]

**NOTICE OF AVAILABILITY OF REGISTER FOR INSPECTION**

Date of posting notice: .....

NOTICE is hereby given that the new preliminary register of voters for the ..... Constituency has been completed and is available for inspection for ..... days. The register may be inspected at the places listed in the Schedule.

*How to make a claim:*

A person who claims that he or she should be included in the register may make a claim to the registration officer within the period prescribed for inspection.

The claim must be made in the prescribed Form.

*How to make an objection:*

A person who is registered and who wishes to object to his or her own registration or the registration of another may make an objection to the Court within the period prescribed for inspection.

A person who is registered and who wishes to object to a claim of another may make an objection to the Court within the prescribed inspection period after the claim was posted.

An objection must be made in the prescribed form.

Dated the ..... 20 .....

Registration Officer .....

Stamp

#### SCHEDULE

Places where application may be made:

1. .....
  2. .....
  3. .....
- 

#### FORM J

[Rules 35 & 36.]

#### **APPLICATION FOR REGISTRATION BY A KENYAN CITIZEN RESIDING OUTSIDE KENYA**

Surname .....

Other Name(s) .....

Passport Number, Date and place of issue, passport expiry date .....

Identity Card Number, Date and place of issue: .....

Date of birth: .....

#### CITIZENSHIP

Country of Birth.....

Citizen by birth/ registration .....

If by registration, date of registration (dd mm yyyy)

COUNTRY OF RESIDENCE: .....

PHYSICAL ADDRESS: .....

#### CONTACT ADDRESS

(a) Telephone (country code, telephone number) .....

(b) Email .....

(c) Postal Address .....

#### APPLICANT'S LAST RESIDENCE IN KENYA

(a) Constituency.....

(b) Ward.....

(c) Address.....

(d) Cell phone number.....

#### DURATION OF STAY IN COUNTRY OF RESIDENCE

(a) Years .....

(b) Months .....

(c) Days .....

---

[Subsidiary]

DISABILITY (if any): .....

WHETHER YOU WILL REQUIRE TO BE ASSISTED BY ANY ONE DURING VOTING: .....

I, the applicant, hereby apply to be registered in the register of voters for the following:

- (a) Presidential election
- (b) Referenda

## DECLARATION

I declare that:

- (i) I am qualified to be, and not disqualified from being, registered as a voter under the Law in respect of the class or classes of election for which I now apply for registration.
- (ii) I am in possession of a Kenyan passport with the number indicated in this application.
- (iii) The particulars entered on this form (which I have entered, read or have had read to me) are in every respect true and correct.

Dated: ..... 20 .....

---

*Signature or thumbprint of Applicant*

Declared before me: .....

*Registration Officer/Assistant Registration Officer*

Official Stamp: .....

## SCHEDULE

## PLACES WHERE APPLICATION MAY BE MADE:

- 1. .....
  - 2. .....
-

**FORM K**

[Rule 39B.]

**APPLICATION FOR REGISTRATION AS A VOTER BY A PRISONER**

To the Registration Officer ..... Constituency: .....

County: .....

Ward: ..... Name of Prison Facility: .....

Contact Telephone of the Facility: .....

Postal Address: .....

Surname: ..... Other names: .....

Identity Card No./Kenyan Passport No: .....

Date of Birth: ..... Sex: .....

Disability (if any): .....

Whether you will require to be assisted by any one during voting:

I, the above named applicant, hereby apply to be registered in the Register of Voters in accordance to the Constitution and the Elections Act.

**DECLARATION**

I ..... declare that at the date of this application:

- (i) I am qualified to be, and not disqualified from being, registered as a voter under the law in respect of the classes of election for which I now apply for registration.
- (ii) I am in possession of a National Identity Card or Kenyan Passport with the number indicated in this application.
- (iii) The particulars entered on this form or submitted to the Commission (which I have entered, read or have had read to me) are true to the best of my knowledge.

Dated: ..... , 20 .....

*Signature or Thumbprint of Applicant:* .....

Witnessed by: .....

*Registration Officer/Assistant Registration Officer**Official Stamp*



**ELECTIONS (VOTER EDUCATION) REGULATIONS, 2012**

[L.N. 127/2012.]

*Revoked by L.N. 70/2017, r. 22.*

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**ELECTIONS (GENERAL) REGULATIONS, 2012**

## ARRANGEMENT OF REGULATIONS

## PART I – PRELIMINARY

*Regulation*

1. Citation.
2. Interpretation.

## PART II – MATTERS PRELIMINARY TO ELECTIONS

3. Constituency returning officers and other staff.
4. Appointment of county returning officers.
5. Presiding at polling station, oath of secrecy, etc.
6. Appointment of polling clerks.
7. Electoral areas and polling stations.
8. Use of schools and other facilities for elections.
9. Party symbol.
10. Independent candidate name and symbol.
11. Vacancy notices and notices for elections.
12. Publication of notice of election.

PART III – NOMINATION OF CANDIDATES BY POLITICAL PARTIES  
AND PARTICIPATION OF INDEPENDENT CANDIDATES IN ELECTIONS

13. Parties to observe qualifications, etc.
- 13A. Submission of party membership lists.
- 13B. Submission of details by parties for primaries.
- 13C. Submission of names.
14. Party to submit list of candidates.
15. Certain requirements on independent candidates.

## PART IV – NOMINATION OF PRESIDENTIAL CANDIDATES

16. Manner of nomination of political party presidential candidate.
17. Manner of nomination of independent presidential candidates.
18. Supporters of nomination of presidential candidate and statutory declaration.
19. Nomination fees of presidential candidates.
20. Certain obligations of independent candidates for the office of president.
21. Declaration of no contest: Presidential Election.

## PART V – NOMINATION OF CANDIDATES FOR NATIONAL ASSEMBLY

22. Nomination of political party candidates for National Assembly.
23. Nomination of independent candidates for National Assembly.
24. Supporters of nomination of candidate for National Assembly.
- 24A. Nomination of County Woman Representative of the National Assembly.
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28. Supporters of nomination of candidate for Senate.
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[Subsidiary]**PART VII – NOMINATION OF COUNTY GOVERNOR CANDIDATES***Regulation*

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**ELECTIONS (GENERAL) REGULATIONS, 2012**

[L.N. 128/2012, L.N. 72/2017.]

**PART I – PRELIMINARY****1. Citation**

These Regulations may be cited as the Elections (General) Regulations, 2012.

**2. Interpretation**

In these Regulations, unless the context otherwise requires—

“**acknowledgement slip**” means a document issued by the returning officer acknowledging application for registration;

“**Act**” means the Elections Act, 2011;

“**agent**” means a person appointed under section 30 of the Act;

“**authorised official of the party**” in relation to a person required to sign the nomination paper of a candidate means an official of a party authorised in that behalf in accordance with section 31(3) of the Act;

“**campaign**” means the promotion of a candidate or political party for the purposes of an election during the campaign period;

“**close of nominations**” means four o’clock in the afternoon of the last nomination day for respective elections;

“**Commission**” means the Independent Electoral and Boundaries Commission established under Article 88 of the Constitution;

“**copy register**” means the copy of the Register of Voters or part thereof supplied to a polling station under regulation 61(4)(a) or its electronic version;

“**county returning officer**” means a returning officer appointed pursuant to regulation 4;

“**election officer**”, means a person appointed by the Commission to assist in conducting an election under these Regulations and includes a returning officer, deputy returning officer, a presiding officer, a deputy presiding officer, a clerk or an interpreter;

“**electoral number**”, in relation to a voter, means the number shown against the name of that voter in the Register of Voters for his or her constituency;

“**nomination paper**” means nomination papers delivered, in accordance with these Regulations, to the appropriate officer by or on behalf of a person intending to contest as a candidate at an election;

“**party primary**” means the process through which a political party elects or selects a candidate for an election but does not include a party list;

“**police officer**” means a police officer assigned to perform the duties that are performed by a police officer under these Regulations;

“**political party candidate**” means a candidate nominated by a political party to contest an election under the Act;

“**polling day**” means the election date as stipulated in the Constitution or such other date set for an election by the Commission;

“**polling station diary**” means a record of all the activities at a polling station on the polling day;

**“presiding officer”** means a person appointed under regulation 5 to preside at a polling station;

**“rejected ballot paper”** means a ballot paper rejected in accordance with regulation 78;

**“returning officer”** has the meaning assigned to it under the Act and includes, a county returning officer appointed under regulation 4;

**“spoilt ballot paper”** means a ballot paper accepted as spoilt by the presiding officer under regulation 71;

**“stray ballot paper”** means ballot a paper cast in the wrong ballot box;

**“subscriber”** in relation to a nomination paper, means any supporter whose name appears on the nomination paper other than the authorised official of a political party.

[L.N. 72/2017, r. 2.]

## PART II – MATTERS PRELIMINARY TO ELECTIONS

### 3. Constituency returning officers and other staff

(1) The Commission shall appoint a constituency returning officer for each constituency and may appoint such number of deputy constituency returning officer for each constituency as it may consider necessary.

(2) Prior to appointment under paragraph (1), the Commission shall provide the list of persons proposed for appointment to political parties and independent candidates at least fourteen days prior to the proposed date of appointment to enable them make any representations.

(3) The constituency returning officer shall be responsible for—

- (a) conducting elections at the constituency level;
- (b) receiving nomination papers in respect of candidates nominated for the post of National Assembly and Ward representative;
- (c) tallying, announcing and declaring, in the prescribed form, the final results from each polling station in a constituency for the election of a member of the National Assembly and members of the county assembly;
- (d) collating and announcing the results from each polling station in the constituency for the election of the President, county Governor, Senator and county woman representative to the National Assembly;
- (e) submitting, in Form 34B, the collated results for the election of the President to the national tallying center and the collated results for the election of the county Governor in Form 37B, Senator in Form 38B and county woman representative to the National Assembly in Form 39B, to the respective county returning officer; and
- (f) such other functions as may be assigned by the Commission.

(4) Every appointment under this regulation shall be done transparently and competitively and thereafter published in the *Gazette* and in such other manner as the Commission may deem necessary in order to widely publicize the appointment.

(5) A deputy constituency returning officer shall, subject to the general direction and control of the returning officer to whom he or she is a deputy, have all the power, and may perform all the duties, of the returning officer under these Regulations.

(6) The Commission shall appoint such other staff as it may deem necessary for the purpose of conducting elections.

[L.N. 72/2017, r. 3.]

#### **4. Appointment of county returning officers**

- (1) The Commission shall appoint county returning officers to be responsible for—
- (a) receiving nomination papers in respect of candidates nominated for the post of Governor or county woman representative to the National Assembly and the Senate;
  - (b) tallying results from constituencies in the county for purposes of the election of the county Governor, Senator and county women representative to the National Assembly;
  - (c) the declaration and announcement of results tallied under paragraph (b); and
  - (d) such other functions as may be assigned by the Commission.

(1A) The Commission shall transparently and competitively appoint a deputy county returning officer who shall, subject to the general direction and control of the county returning officer to whom he or she is a deputy, have all the power, and may perform all the duties, of the county returning officer under these Regulations.

(2) Prior to appointment under subregulation (1), the Commission shall provide the list of persons proposed for appointment to political parties and independent candidates at least fourteen days prior to the proposed date of appointment to enable them make any representations.

(3) Every appointment under this regulation shall be done transparently and competitively and thereafter published in the *Gazette* and in such other manner as the Commission may deem necessary in order to widely publicize it.

(4) The county elections coordinator shall not be appointed as the returning officer or the deputy returning officer of the county in which he or she is deployed.

[L.N. 72/2017, r. 4.]

#### **5. Presiding at polling station, oath of secrecy, etc.**

(1) The Commission shall transparently and competitively appoint a presiding officer for every polling station and may similarly appoint such number of deputy presiding officers as may be necessary.

- (1A) The functions of a presiding officer shall be—
- (a) presiding over elections at an assigned polling station;
  - (b) tallying, counting and announcement of results at the Polling station;
  - (c) submitting polling station results to the Constituency returning officer; and
  - (d) electronically transmitting presidential results to the constituency, counties and national tallying centers.

(2) Prior to appointment under subregulation (1), the Commission shall provide the list of persons proposed for appointment to political parties and independent candidates at least fourteen days prior to the proposed date of appointment to enable them make any representations.

(3) A returning officer may preside at a polling station and in that case the returning officer shall, for the purposes of these Regulations, be deemed to be the presiding officer of that station.

(4) A deputy presiding officer may perform any act, including the asking of any question, which a presiding officer is required or authorized to perform by these Regulations.

(5) The returning officer shall require every presiding officer, deputy presiding officer, clerk, interpreter and agent authorised to attend at a polling station, as soon as he or she has made the oath of secrecy prescribed by the Act, to make before the returning officer, a declaration that the officer making the declaration understands that he or she shall not prompt any voter whom he or she is empowered by these Regulations to assist, and shall strictly follow the provisions of these Regulations, and any instructions which may lawfully be given to him or her relating to the election concerned.

(6) The declaration under subregulation (4) shall be in Form 1 set out in the Schedule.

(7) Every agent appointed by a candidate for the purposes of these Regulations shall at all times during the performance of the duties authorized by the candidate wear the official badge or insignia of the political party sponsoring the candidature of the candidate at the election or an insignia previously approved by the Commission for independent candidates.

[L.N. 72/2017, r. 5.]

## **6. Appointment of polling clerks**

(1) The Commission shall appoint such number of polling clerks for each constituency as it may consider necessary.

(2) The Commission shall make the list of the persons appointed under subregulation (1) available to political parties and independent candidates within fourteen days from the date of appointment to enable them raise any objections.

(3) The list of the persons appointed under sub-regulation (1) shall be displayed prominently at the offices of the Commission within the constituency.

## **7. Electoral areas and polling stations**

(1) The Commission shall—

- (a) assign to each electoral area a distinguishing number or letter or a combination of number and letter;
- (b) appoint a place or places or designate a vehicle or vehicles or a vessel or vessels at which the polling station or stations for each electoral area shall be established; and
- (c) publish in the *Gazette* and publicise through electronic and print media of national circulation and other easily accessible medium, a notice specifying—
  - (i) the polling stations established for each constituency, which may be the same as the registration centres which they respectively comprise;
  - (ii) the distinguishing number or letter, or combination thereof, assigned to each polling station; and
  - (iii) the place or places appointed or the vehicle or vehicles, vessel or vessels designated for the establishment of a polling station or stations for each electoral area.

(2) In determining the number of polling stations and the location of any polling station, the Commission shall have regard to geographical considerations, accessibility for persons with special needs, (including persons with disabilities), population and any other factors affecting communication between places within the electoral area.

(3) Subject to subregulation (2), the Commission may alter the number of polling stations and the location of any polling station made under subregulation (1), and shall thereupon publish a notice in the *Gazette* specifying the alteration at least three months before the date of any election.

## **8. Use of schools and other public facilities for elections**

(1) The Commission may use, free of charge, for the purposes of polling—

- (a) a room or rooms in any public school within the meaning of the Education Act (Cap. 211) or any part of the school as a polling station;
- (b) such other facilities belonging to, and maintained by, public bodies.

(2) Where, as a result of the use of any facility under this regulation, any damage is caused to a school or facility belonging to or maintained by a public body, the Commission shall make good the damage, or compensate the school or facility, as the case may be.

(3) The Commission may, with prior arrangement with the owner and subject to the Public Procurement and Disposal Act (Act No. 3 of 2005) use private facilities where in the opinion of the Commission, the public facilities are unavailable, inadequate or unsuitable for purposes of polling.

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[Subsidiary]

(4) The Commission may not designate as a polling station, any place which, by its nature may compromise the freedom of any voter to exercise his or her right to vote.

### **9. Party symbol**

(1) The Commission shall, by notice in the *Gazette* and through electronic and print media of national circulation and other easily accessible medium notify the public of the distinctive symbol for use by each political party candidate at elections.

(2) The political party symbol shall be the symbol by which the respective party is registered under the Political Parties Act (Act No. 11 of 2011).

(3) Each political party in a coalition of political parties shall use its own symbol.

### **10. Independent candidate name and symbol**

(1) The Commission shall by notice in the *Gazette* and through electronic and print media of national circulation and other easily accessible medium, publish the name and symbol approved for each independent candidate.

(1A) The name of the independent candidate referred to in sub regulation (1) shall be the same as the name appearing in the identification document used by the independent candidate to register as a voter.

(2) The symbols published under subregulation (1) shall be *gazetted* at the same time as the list of persons nominated to contest the election.

(3) The symbol of an independent candidate shall be submitted in an electronic and print format as prescribed by the Commission together with the candidates details in Form 11P set out in the Schedule.

[L.N. 72/2017, r. 6.]

### **11. Vacancy notices and notices for elections**

(1) A notice issued by the Commission for presidential elections under section 14(1) of the Act shall be in Form 2 set out in the Schedule.

(2) A notice of a vacancy in the National Assembly or Senate shall be in Form 3 set out in the Schedule.

(3) A notice of a vacancy in the county assembly shall be in Form 4 set out in the Schedule.

(4) A notice issued by the Commission for parliamentary elections under section 16(1) of the Act shall be in Form 5 set out in the Schedule.

(5) A notice issued by the Commission for country governor elections under section 17(1) of the Act shall be in Form 6 set out in the Schedule.

(6) A notice issued by the Commission for county assembly elections under section 19(3) of the Act shall be in Form 7 set out in the Schedule.

### **12. Publication of notice of election**

(1) The Commission shall publish a notice of the holding of the respective elections in the *Gazette* and in the electronic and print media of national circulation as set out in the Act and through other easily accessible medium.

(2) Immediately after the publication of a notice under section 14(1) of the Act, the returning officer of every constituency shall notify the holding of a presidential election in Form 8 set out in the Schedule.

(3) Immediately after publication of a notice under section 16(1), 17(1) and 19(1) of the Act, a returning officer shall notify the day or days on which each political party shall nominate candidates to contest parliamentary, county governor or county assembly elections and the holding of a parliamentary, county governor or county assembly election, which shall specify the place at which, and the time during which, nomination papers for parliamentary, county governor and county assembly elections may be obtained.

- (4) For purposes of subregulation (3) a notice—
- (a) for the election of a member of Parliament shall be in Form 9 set out in the Schedule;
  - (b) for the election of county governor shall be in Form 10 set out in the Schedule; and
  - (c) for the election of a member of a county assembly shall be in Form 11 set out in the Schedule.

(5) After the publication of a notice under sub-regulation (3), the returning officer of every constituency shall proceed to hold the relevant election according to the terms of the notice and in accordance with these Regulations.

### PART III – NOMINATION OF CANDIDATES BY POLITICAL PARTIES AND PARTICIPATION OF INDEPENDENT CANDIDATES IN ELECTIONS

#### **13. Parties to observe qualifications, etc.**

(1) A political party that intends to nominate a candidate for an elective post under the Act shall observe the provisions of the Constitution, the Act and any other written law in respect of the qualifications and disqualifications for that office.

(1A) A political party whose nomination rules have been declared void by the Commission under section 27(2B) of the Act shall not participate in the elections.

(2) The Commission shall reject a candidate submitted by a political party for any elective post if the candidate is not qualified or eligible for election under the Constitution, the Act or any other written law.

(3) Each political party shall issue a nomination certificate, duly signed by the authorized party officials, to the candidate nominated to participate in the elections.

(4) The Commission shall reject a nomination certificate which has any alterations.

[L.N. 72/2017, r. 7.]

#### **13A. Submission of Party membership lists**

Each political party shall submit to the Commission a party membership list as prescribed in Form 11A in the Schedule.

[L.N. 72/2017, r. 8.]

#### **13B. Submission of details by parties for primaries**

Each political party shall submit to the Commission the date, venue and names of persons contesting in party primaries in both printed and electronic format set out in Forms 11B, 11C, 11D 11E, 11F and 11G.

[L.N. 72/2017, r. 8.]

#### **13C. Submission of names**

Every political party shall submit the names the party candidates who have been selected to participate in the general elections in both printed and electronic format as prescribed in Forms 11H, 11I, 11J, 11K, 11L and 11M set out in the Schedule.

[L.N. 72/2017, r. 8.]

#### **14. Party to submit list of candidates**

(1) Each political party intending to present a candidate in an election shall, after its nominations and on such date or within such period as the Commission may designate, submit a list of persons nominated as candidates indicating the elective posts to which they are seeking election.

(2) The list referred to in sub-regulation (1) shall be in the prescribed Forms set out in sub-regulation 13C.

[Subsidiary]

(3) The list submitted under this regulation shall be signed by the authorised official of the political party.

(4) Each political party shall submit only the name of one person as their candidate for a presidential election or for any electoral area as defined in the Act.

[L.N. 72/2017, r. 9.]

## **15. Certain requirements for independent candidates**

A person who is a Kenyan citizen, and who intends to contest for an elective post as an independent candidate shall—

- (a) obtain and file with the Commission a clearance certificate from the Registrar of Political Parties certifying that the person has not been a member of any political party for at least three months immediately before the date of the election; and
- (b) file with the Commission a form of intention to contest, in the Form 11N.

[L.N. 72/2017, r. 10.]

## PART IV – NOMINATION OF PRESIDENTIAL CANDIDATES

### **16. Manner of nomination of political party presidential candidate**

(1) A political party candidate at a presidential election shall be nominated by a political party by and delivery to the Commission on the day fixed for the nomination of candidates at that election, an application for nomination in Form 12 set out in the Schedule.

(2) An application for nomination under this regulation shall be—

- (a) signed by the candidate, and the authorised official of the party; and
- (b) delivered to the Commission personally by the candidate or by an official of the party.

### **17. Manner of nomination of independent presidential candidate**

(1) An independent candidate at a presidential election shall deliver to the Commission on the day fixed for the nomination of candidates at that election, an application for nomination in Form 12 set out in the Schedule.

(2) An application for nomination under this regulation shall—

- (a) signed by the candidate, and by two persons who have nominated the candidate in accordance with section 29(2) of the Act;
- (b) delivered to the Commission personally by the candidate or by any of the two persons referred to in paragraph (a).

### **18. Supporters of nomination of presidential candidate and statutory declaration**

(1) The person delivering an application for nomination under regulation 16 or 17 shall at least five days to the day fixed for nomination, deliver to the Commission a list bearing the names, respective signatures, identity card or passport numbers of at least two thousand voters registered in each of a majority of the counties, in standard A4 sheets of paper and in an electronic form.

(2) The sheets of paper delivered under this regulation shall—

- (a) be serially numbered;
- (b) each have at the top, in typescript, the wording at the top of Form 12; and
- (c) be accompanied by copies of the identification document of the voters referred to in sub-regulation (1).

(3) There shall be delivered to the returning officer together with the application for nomination, a statutory declaration in Form 13 set out in the Schedule, made not earlier than one month before the nomination day.

[L.N. 72/2017, r. 11.]

## **19. Nomination fees of presidential candidates**

An application for nomination for candidature at a presidential election shall be accompanied by a non-refundable nomination fee, in banker's draft of—

- (a) one hundred thousand shillings for a candidate who is a youth, a woman or a person with disability; and
- (b) two hundred thousand shillings for any other candidate.

## **20. Certain obligations of independent candidates for the office of president**

(1) Every independent candidate contesting for the office of president shall establish and maintain a functioning office in Kenya.

(2) The office contemplated in subregulation (1) shall be established and be available for inspection by the Commission not later than forty-five days prior to the elections.

## **21. Declaration of no contest: Presidential election**

If at the close of nominations for a presidential election, only one candidate is validly nominated, the Commission shall publish a notice in the *Gazette* showing the name of the candidate so nominated and stating that the presidential election shall not be held, and the Commission shall declare the candidate elected as President in Form 14.

## PART V – NOMINATION OF CANDIDATES FOR NATIONAL ASSEMBLY

### **22. Nomination of political party candidates for National Assembly**

A political party candidate at a parliamentary election for the National Assembly or county woman representative shall be nominated by a political party by delivery, to the returning officer on the day fixed for the nomination of candidates at that election, of an application for nomination in Form 15 set out in the Schedule.

### **23. Nomination of independent candidates for National Assembly**

An independent candidate at a parliamentary election for the National Assembly or the county woman representative shall deliver to the returning officer, on the day fixed for the nomination of candidates at that election, an application for nomination in Form 15 set out in the Schedule.

### **24. Supporters of nomination of candidate for National Assembly**

(1) The person delivering an application for nomination under regulation 23 shall at the same time deliver to the returning officer for each elective post, standard A4 sheets of paper bearing the names, respective signatures and identity card numbers of at least one thousand voters registered in the constituency or county, as the case may be.

(2) The sheets of paper delivered under sub-regulation (1) shall—

- (a) be serially numbered;
- (b) each have at the top, in typescript, the wording at the top of Form 15; and
- (c) be accompanied by copies of the identification documents of the voters referred to in sub regulation (1).

[L.N. 72/2017, r. 12.]

### **24A. Nomination of County Woman representative of the National Assembly**

Where the nomination is for a county woman representative of the National Assembly, the candidate shall make an application for nomination in Form 15A as prescribed in the Schedule.

[L.N. 72/2017, r. 13.]

**25. Nomination fees for candidate for National Assembly**

An application for nomination for candidature at a parliamentary election shall be accompanied by a non-refundable nomination fee, in banker's draft, of—

- (a) ten thousand shillings for a candidate who is a youth, woman or person with disability; and
- (b) twenty thousand shillings for any other candidate.

**PART VI – NOMINATION OF CANDIDATES FOR SENATE****26. Nomination of political party candidate for Senate**

A political party candidate at an election for the Senate shall be nominated by a political party by delivery, to the county returning officer on the day fixed for the nomination of candidates at that election, of an application for nomination in Form 16 set out in the Schedule.

**27. Nomination of independent candidate for Senate**

An independent candidate at an election for the Senate shall be nominated by delivery to the county returning officer on the day fixed for the nomination of candidates at that election, of an application for nomination in Form 16 set out in the Schedule.

**28. Supporters of nomination of candidate for Senate**

(1) The person delivering an application for nomination under regulation 27 shall at the same time deliver to the returning officer, standard A4 sheets of paper bearing the names, respective signatures and identity card numbers of two thousand registered voters in the county.

- (2) The sheets of paper delivered under sub-regulation (1) shall—
  - (a) be serially numbered;
  - (b) each have at the top, in typescript, the wording at the top of Form 16; and
  - (c) be accompanied by copies of the identity cards of the voters referred to in sub regulation (1).

[L.N. 72/2017, r. 14.]

**29. Nomination fees for candidate for Senate**

An application for nomination for candidature at a Senate election shall be accompanied by a non-refundable nomination fee, in banker's draft, of—

- (a) twenty-five thousand shillings for a candidate who is a youth, woman or person with disability; and
- (b) fifty thousand shillings for any other candidate.

**PART VII – NOMINATION OF COUNTY GOVERNOR CANDIDATES****30. Nomination for political party candidate for county governor**

A political party candidate for election as county governor shall be nominated by the political party by delivery, to the county returning officer, on the day fixed for the nomination of candidates at that election, of an application for nomination in Form 17 set out in the Schedule.

**31. Nomination of independent candidates for county governor**

(1) An independent candidate at a county governor election shall deliver to the returning officer on the day fixed for the nomination of candidates at that election, an application for nomination in Form 17 set out in the Schedule.

### **32. Supporters of nomination of county governor candidate**

(1) The person delivering an application for nomination under regulation 31 shall at the same time deliver to the returning officer standard A4 sheets of paper bearing the names, respective signatures and identity card numbers of five hundred voters registered in the county.

- (2) The sheets of paper delivered under sub-regulation (1) shall—
  - (a) be serially numbered;
  - (b) each have at the top, in typescript, the wording at the top of Form 17; and
  - (c) be accompanied by copies of the National identification cards of the voters referred to in sub-regulation (1).

[L.N. 72/2017, r. 15.]

### **33. Nomination fees for county governor candidates**

An application for nomination for candidature at a county governor election shall be accompanied by a non-refundable nomination fee, in banker's draft, of—

- (a) twenty-five thousand shillings for a candidate who is a youth, woman or person with disability; and
- (b) fifty thousand shillings for any other candidate.

### PART VIII – NOMINATION OF CANDIDATES FOR COUNTY ASSEMBLY MEMBER

#### **34. Nomination of political party candidate for county assembly member by political parties**

A political party candidate at a county assembly election shall be nominated by a political party by delivery to the returning officer on the day fixed for the nomination of candidates at that election, of an application for nomination in Form 18 set out in the Schedule.

#### **35. Nomination of independent candidate for county assembly**

An independent candidate at a county assembly member election shall deliver to the returning officer on the day fixed for the nomination of candidates at that election, of an application for nomination in Form 18 set out in the Schedule.

#### **36. Supporters of nomination of candidate for county assembly**

(1) The person delivering a nomination application under regulation 35 shall at the same time deliver to the returning officer, standard A4 sheets of paper bearing the names, respective signatures and identity card numbers of five hundred voters registered in the ward.

- (2) The sheets of paper delivered under sub-regulation (1) shall—
  - (a) be serially numbered; and
  - (b) each have at the top, in typescript, the wording at the top of Form 18; and
  - (c) be accompanied by copies of the identity cards of the voters referred to in sub regulation (1).

[L.N. 72/2017, r. 16.]

#### **37. Nomination fees for candidate for member of county assembly**

An application for nomination for candidature at a county assembly member election shall be accompanied by a non-refundable nomination fee, in banker's draft of—

- (a) two thousand five hundred shillings for a candidate who is a youth, woman or person with disability; and
- (b) five thousand shillings for any other candidate.

**PART IX – GENERAL PROVISIONS ON  
NOMINATION OF CANDIDATES AND REFERENDUM**

**38. General requirements: political party candidates**

A nomination paper submitted by a political party candidate to the Commission shall—

- (a) contain the candidate's name as it appears in the register of voters;
- (b) be signed by the candidate and by a proposer and seconder who shall be voters registered in the respective electoral areas, and who shall be members of the political party, and by an authorised official of the political party; and
- (c) be delivered to the returning officer personally by the candidate or by a person authorised by the candidate in that behalf on the day set for the nomination.

**39. General requirements: independent candidates**

A nomination paper submitted by an independent candidate to the Commission shall—

- (a) contain the candidate's name as it appears in the voter register;
- (b) show the voter registration number of each of the subscribers thereto;
- (c) be signed by the candidate, and by a proposer and seconder who shall be voters registered in the respective electoral areas but who shall not be members of any political party;
- (d) show the respective electoral area and voters number of the proposer and the seconder; and
- (e) be delivered to the returning officer personally by the candidate himself or herself or by a person authorized in that behalf by the candidate on the day set for the nomination of that election.

**40. Independent candidates to supply physical address**

Every independent candidate for elections shall provide a physical address located in the respective electoral area for purposes of physical service of documents.

**41. Statutory declaration for purposes of nomination**

A person nominated to contest in a parliamentary or county election shall submit to the returning officer together with the application for nomination a statutory declaration in Form 19 set out in the Schedule.

**42. Supply of nomination forms**

A returning officer shall supply free of charge to any voter of his or her electoral area an application for nomination upon a request made by the voter or on behalf of the voter at such place and time as is specified in a notification under regulation 11.

**43. Validity of nomination papers**

(1) Where a candidate has applied for nomination in accordance with these Regulations, unless the returning officer holds a nomination paper invalid in accordance with these Regulations, or the candidate withdraws his or her candidature, or proof is given to the satisfaction of the returning officer of the candidates' death, the candidate named therein shall stand validly nominated.

(2) A returning officer shall hold a nomination paper invalid on any of the following grounds—

- (a) that the particulars of the candidate or supporters contained in the nomination paper are not as required by the Act or these Regulations in respect of that elective post;

- (b) that the nomination paper is not subscribed as required by these Regulations in respect of that elective post;
- (c) that the candidate is not qualified to be, or is disqualified by law from being nominated or elected to the elective post for which nomination is sought;
- (d) that so many of the supporters as would reduce the number of qualified supporters to less than the required number of supporters are not qualified to be supporters;
- (e) that the candidate was not nominated by a political party under section 13 of the Act;
- (f) that the candidate's name is not on the list submitted by the political party under section 35 of the Act;
- (g) that the nomination paper was presented after the prescribed period had lapsed;
- (h) that the nomination paper was not accompanied by the prescribed fee;
- (i) that the person stands nominated as a candidate in another electoral area; or
- (j) that the candidate is disqualified under any other written law.

(3) A returning officer shall give his or her decision on an objection to a nomination paper as soon as practicable after the objection is made.

(4) Where a returning officer decides that a nomination paper is invalid, the returning officer shall record that decision and the reasons therefor on the nomination paper, add his or her signature thereto and return the invalid nomination paper to the candidate or its presenter.

(5) Notwithstanding that a returning officer has held nomination papers invalid, the returning officer may admit the nomination papers once the reason rendering the nomination papers invalid has been addressed.

#### **44. Withdrawal of candidature before nomination**

A candidate whose nomination papers have been delivered to the returning officer may, before the close of nominations, by notice in writing signed by him or her before the returning officer and presented to the returning officer, withdraw his or her candidature.

#### **45. Multiple subscribers, etc.**

(1) No person shall be a subscriber to more than one nomination paper in respect of different candidates in the same election and if any person subscribes to more than one nomination paper such subscription shall be inoperative on nomination papers:

Provided that this subregulation shall not apply to the subscription of a person by reason only of his or her having subscribed a nomination paper of a candidate who has died or who has withdrawn his or her candidature before a second nomination paper subscribed by that person has been delivered to the returning officer.

(2) For purposes of verifying the names of the members of the political party on the party membership list provided by a political party for purposes of these Regulations, such names shall be confirmed against the party membership list submitted to, and kept by, the Registrar of Political Parties and the party membership list submitted to the Commission pursuant to section 28 of the Act.

#### **46. Ethical requirements**

A candidate shall obtain and submit a self-declaration form as prescribed under the Leadership and Integrity Act, 2012 (No. 19 of 2012).

[L.N. 72/2017, r. 17.]

**47. Ascertainment of educational qualifications**

(1) For purposes of ascertaining the educational qualification of persons for an elective post, a person seeking nomination shall submit to the Commission certified copies of certificates of the educational qualification.

(2) Where the body that issued the certificate is not based in Kenya, a candidate shall be required to seek authentication of that body with the Kenya National Examinations Council, in the case of form four certificates, or the Commission for University Education, in the case of university degrees.

[L.N. 72/2017, r. 18.]

**48. Attendance at delivery of nomination papers**

(1) No person shall be entitled to attend the proceedings taking place during the time fixed for the delivery of nomination papers unless that person is—

- (a) a candidate;
- (b) a person nominated as deputy to the candidate, where applicable;
- (c) an agent; or
- (d) present for the purpose of assisting the returning officer at the request of the returning officer.

(2) Only two persons shall be entitled to attend the proceedings under subregulation (1) at any one time, in respect of any one candidate, whether one of the two persons is the candidate himself or herself or not.

(3) A person entitled to attend proceedings under this regulation shall also be entitled to inspect and to object to the validity of any nomination paper delivered in his or her presence.

(4) Nothing contained in this regulation shall prevent the returning officer from authorizing observers or members of the press duly approved or accredited by the Commission from attending the nomination proceedings.

**49. Death of candidate**

Where after the close of the nomination, and before the poll is commenced, proof is given to the satisfaction of the returning officer of the death of a person who has been duly nominated, all the proceedings with reference to the election in that electoral area shall cease and shall be commenced afresh as if the notice had been received on the day on which proof of the death was given, or in the case of a general election or an election involving other electoral areas, the day following the announcement of the last election results:

Provided that no fresh nomination shall be necessary in the case of a person already duly nominated for the election affected by this regulation whose nomination shall remain valid.

**50. Disruption of nomination**

(1) Where the proceedings of a nomination in an electoral area are interrupted by riots, violence, floods or other natural disaster, the proceedings in that electoral area shall be suspended for that day.

(2) If the day referred to in subregulation (1) is the last day for the delivery of nomination papers, the nomination proceedings in that electoral area shall be continued on the next day as if that were the last day for the delivery thereof.

(3) The "last day" referred to in sub-regulation (2) shall be treated for purposes of these Regulations as being the last day (subject to any further application of this rule in the event of interruption on that day):

Provided the returning officer shall advertise the postponing of the nominations in such manner as the returning officer considers sufficient to bring it to the notice of the public.

(4) A returning officer may extend the hours of nomination at the electoral area where nomination has been interrupted and shall, where nomination started late, extend the hours of nomination by the amount of time which was lost in so starting late.

### **51. Nomination certification, etc.**

(1) The chairperson of the Commission shall issue a candidate who is validly nominated to contest in a presidential election with a certificate in Form 20 set out in the Schedule.

(2) The returning officer shall issue a candidate who is validly nominated to contest in a parliamentary, county governor or county assembly with a certificate in Form 21 set out in the Schedule.

(3) If, after the closure of nomination no person stands validly nominated, the returning officer shall certify accordingly to the Commission in Form 22 set out in the Schedule.

(3A) Where after the closure of nomination no person stands validly nominated under sub regulation (3), the Commission shall publish a notice in the *Gazette* cancelling the holding of the election concerned.

(4) If, after the close of nominations, only one candidate is validly nominated, the returning officer shall—

- (a) declare the candidate to be nominated; and
- (b) certify accordingly to the Commission in Form 23 set out in the Schedule.

(5) Upon receipt of a certificate under subregulation (1) or (2), the Commission shall publish a notice in the *Gazette* and, where two or more certificates are received at substantially the same time, such notice may be a composite one.

(6) If, after the close of nominations, two or more candidates stand validly nominated, the returning officer shall publish a statement and post it prominently at a place at the returning officer's office where the public has full access and at such other places as the Commission may deem necessary in Form 24 set out in the Schedule stating—

- (a) the names, in alphabetical order of surnames, addresses and occupations or descriptions of such candidates as given in their nomination papers;
- (b) the name of the subscribers to the nomination papers;
- (c) the day or days upon which, and the hours during which, the poll will be taken;
- (d) the situation of each polling station and the description of the voters entitled to vote at each polling station; and
- (e) the location of each tallying centre.

[L.N. 72/2017, r. 19.]

### **52. Withdrawal of candidature after nomination**

(1) A candidate who has been nominated may withdraw his or her candidature by delivering to the respective returning officer a notice to that effect in Form 24A not later than three days after nomination.

(2) Where there are only two nominated candidates and one candidate withdraws, the remaining candidate shall be declared duly elected in accordance with regulation 53.

[L.N. 72/2017, r. 20.]

### **53. Declaration of no contest: Other elective posts**

If at the close of nominations for any elective post only one candidate is validly nominated in respect of that elective post in an electoral area, the Commission shall declare the candidate duly elected and publish a notice in the *Gazette* to that effect.

[L.N. 72/2017, r. 21.]

**53A. Swearing in of an elected candidate**

Where a candidate has been duly elected the speaker of the relevant assembly shall swear in the candidate within seven days of the date of the election.

[L.N. 72/2017, r. 22.]

**PART X – NOMINATIONS FOR PARTY LISTS****54. Submission of political party list for allocation of special seats**

(1) Each political party shall submit to the Commission a party list of all persons who would stand elected if the party were entitled to seats in the National Assembly, Senate or the County Assembly, as the case may be on the basis of proportional representation in accordance with Article 90 of the Constitution and sections 34, 35, 36 and 37 of the Act.

(2) The party list referred to in sub-regulation (1) shall contain the name, address, age, sex, disability and category of disability, phone number, occupation, identity card number or passport number and colored passport size photograph image, elective post sought and such other qualifications as are provided under the Constitution and the Act in the prescribed Form 24B.

(3) A party list submitted under subregulation (1) shall be in accordance with section 36 of the Act, and shall be—

- (a) signed by the authorised official of the political party submitting the party list; and
- (b) be submitted in hard copy, in electronic form and such other form that the Commission may specify.

(4) Each political party list nominee shall after nomination, submit to the Commission a letter stating his or her intention to serve if nominated.

(4A) Each political party list nominee representing persons with disabilities shall submit, to the Commission, a certification from the National Council for Persons with Disabilities.

(5) The Commission may reject a nominee submitted by a political party for any elective post if that nominee is not qualified to be elected to the office for which the nomination is sought as specified under the Constitution or the Act.

(6) The rejection by the Commission of a nominee under this regulation shall not invalidate the entire party list submitted by the political party.

(7) The Commission, after making the decision to reject a nominee, inform the political party concerned of that decision and request that political party to submit another name within such time as the Commission shall determine.

(8) The Commission shall publish the final party list in at least two newspapers with nationwide circulation.

[L.N. 72/2017, r. 23.]

**55. Party list to be prepared in accordance with party rules**

(1) The party list contemplated under regulation 54 shall be prepared in accordance with the nomination rules of the political party.

(2) The Commission shall within fourteen days of receipt reject any party list that does not comply with the requirements of the Constitution, the Act or these Regulations.

(3) The political party whose party list or nominee has been rejected by the Commission under sub-regulation (2) shall resubmit the party list or nominee within seven days from the date that the party list was rejected under sub regulation (2).

(3A) Where a political party fails to amend the party list or resubmit the list as directed by the Commission, the Commission shall reject the party list.

(4) A political party submitting a party list under regulation 54 shall submit a declaration to the effect that the political party has complied with its rules relating to the nomination of the names contained in the list.

[L.N. 72/2017, r. 24.]

## **56. Commission to publish formula for allocation of seats**

(1) The Commission shall before the election to which a party list applies, publish in the *Gazette* and publicise through electronic and print media of national circulation and other easily accessible medium, the formula for allocating the seats to the respective political parties.

(2) The formula for allocation of seats to the respective political parties from the party lists shall be the number of seats won by a political party divided by the total number of seats multiplied by available seats for allocation in the respective House.

## **56A. Re-allocation of special seats from the Party list**

(1) Where a political party expels a member elected through a party list during the term of Parliament or County Assembly as the case may be, the party shall be required to submit—

- (a) a resolution or decision of the party;
- (b) a notification by the Registrar of Political Parties effecting the expulsion;
- (c) a declaration of vacancy from the relevant Speaker; and
- (d) a court order sanctioning the expulsion where applicable,

to the Commission for re-allocation.

[L.N. 72/2017, r. 25.]

## **56B. Resignation of a member elected through party list**

Where a member elected through a party list resigns during the term of parliament or County Assembly as the case may be, the party shall be required to submit—

- (a) the resignation letter of the member; and
- (b) a declaration of vacancy from the relevant Speaker,

to the Commission for re-allocation.

[L.N. 72/2017, r. 25.]

## PART XI – PROVISIONS RELATING TO THE CAMPAIGN PERIOD

### **57. Appointment of national and county chief elections agents**

(1) Every political party shall at least fourteen days to the date of the election submit to the Commission the names of one national chief agent and forty-seven county chief agents.

(2) Every independent candidate at a presidential election shall fourteen days to the date of the election submit to the Commission the names of one national chief agent and forty-seven county chief agents.

**58. Deleted by L.N. 72/2017, r. 26.**

## PART XII – PROVISIONS ON VOTING AT ELECTIONS

### **59. Election procedure**

(1) Every election shall be by secret ballot and shall be held in accordance with the provisions of the Constitution, the Act and these Regulations.

(2) A voter shall cast his or her vote by use of a ballot paper or electronically.

(3) No person shall cast more than one vote at any particular election.

(4) No person shall vote in a polling station other than that in respect of which that person is registered to vote.

## **60. Electronic voting**

Where the Commission intends to conduct an election by electronic means, it shall, not later than three months before such election, publish in the *Gazette* and publicise through electronic and print media of national circulation and other easily accessible medium, guidelines that shall apply in such voting.

## **61. Election material at polling station**

(1) The returning officer shall provide each presiding officer with such number of ballot boxes and ballot papers necessary for the effective carrying out of the provisions of these Regulations relating to the election concerned.

(2) Every ballot box shall be—

- (a) fairly transparent or translucent;
- (b) be colour coded prominently and distinctively to identify the respective elective post and shall correspond with the colour of the ballot paper for that elective post;
- (c) constructed with an aperture which is large enough to receive a ballot paper;
- (d) clearly labelled with the text of the respective elective post;
- (e) constructed so as to be capable of being sealed so that ballot papers cannot be taken out of the box so long as the seal is unbroken;
- (f) constructed so that the ballot boxes shall bear serial numbers of the polling station and which serial numbers shall be posted prominently and in full view of voters at every polling station.

(3) The ballot box shall be designed in such way as to facilitate voting during the election.

(4) The returning officer shall provide each polling station with—

- (a) both electronic and hard copy of the Register of Voters or such part thereof as contains the biometric data and alpha numerical details of the voters entitled to vote at that polling station;
- (b) materials to enable voters to mark their ballot papers in elections where marking is necessary;
- (c) instruments for stamping the official mark on ballot papers;
- (d) material for the marking of the voters fingers;
- (e) a seal of the Commission suitable for the purposes of regulation 69(1)(g);
- (f) sufficient number of compartments in which voters can mark their votes secretly;
- (fa) sufficient number of compartments in which voters can mark their votes secretly with special consideration for persons with disabilities; and
- (g) such other materials for the better carrying out of polling.

[L.N. 72/2017, r. 27.]

## **62. Admission to polling station**

(1) The presiding officer shall regulate the number of voters to be admitted to the polling station at the same time, and may exclude all other persons except—

- (a) a candidate;
- (b) a person nominated as a deputy to the candidate, where applicable;
- (c) authorised agents;
- (d) members of the Commission and election officers on duty;
- (e) police officers on duty;
- (f) persons necessarily assisting or supporting voters with special needs or assisted voter; and

(g) observers and representatives of the print and electronic media accredited by the Commission.

(2) Notwithstanding sub-regulation (1), the presiding officer shall admit to the polling station not more than one agent for each candidate or political party.

(3) The absence of agents shall not invalidate the proceedings at a polling station.

(4) Every agent appointed by an independent candidate or political party for the purposes of these Regulations shall at all times during the performance of the duties authorized by the independent candidate or political party display the official badge supplied by the Commission.

(5) No person shall be admitted to vote at any polling station other than that allotted to that person under regulation 59(4).

(6) No person shall be admitted into a polling station if that person is wearing a badge or has any dressing, signifying symbols or other indication of support for any political party, a candidate in the election or a referendum committee.

### **63. Keeping order at polling station**

(1) It shall be the duty of the presiding officer to keep order at his or her polling station.

(2) The presiding officer may order the removal of any person who misconducts himself or herself at the polling station, or fails to obey any lawful instructions or orders of the presiding officer and such person shall be removed by the police officer present.

(3) A person removed from the polling station under sub-regulation (2) shall not re-enter the polling station during the continuance of the poll without the permission of the presiding officer.

(4) A person removed from a polling station under sub-regulation (2) may, if charged with the commission in the polling station of an offence, be dealt with as a person taken into custody for an offence by a police officer without a warrant.

(5) The presiding officer may order the dispersal of any gathering of persons which appears to the presiding officer to be preventing free entry to, or exit from, the polling station or to be intimidating or interfering with voters, and any such order shall be sufficient authority for a police officer, or any other person authorized by the order, to effect the dispersal.

(6) The power conferred on a presiding officer and a police officer under subregulation (5) shall not be limited to the area covered by the polling station only but shall extend to a radius of not more than four hundred meters from the centre of the polling station.

(7) The powers conferred by this regulation shall not be exercised so as to prevent any voter who is entitled to vote at the polling station from having an opportunity to peaceably vote at that polling station.

### **64. Adjournment, etc., of polling by the presiding officer**

(1) Notwithstanding the terms of any notice issued under the Act or these Regulations, a presiding officer may, after consultation with the returning officer, adjourn the proceedings at his or her polling station where they are interrupted by a riot, violence, natural disaster or other occurrence, shortage of equipment or other materials or other administrative difficulty, but where the presiding officer does so, the presiding officer shall re-start the proceedings at the earliest practicable moment.

(2) The discretionary powers of a presiding officer under subregulation (1) shall include a power in the circumstances therein mentioned to transfer the proceedings to another polling station or public facility in the same constituency, and where presiding officer does so—

(a) the presiding officer shall advertise the fact in such manner as is sufficient to bring it to the notice of voters; and

(b) the electoral area for the polling station from which the proceedings are transferred shall, for all the purposes of these Regulations, be deemed to be part of the electoral area of the polling station to which the proceedings are transferred.

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[Subsidiary]

- (3) A presiding officer shall, in consultation with the returning officer—  
 extend the hours of polling at the polling station where polling has been interrupted under this regulation or for other valid cause; and  
 where polling in that polling station has started late, extend the hours of polling by the amount of time which was lost in so starting late.

(4) Where hours of polling have been extended as contemplated under subregulation (3), the presiding officer shall give a detailed report on the clear facts justifying such extension of hours.

#### **64A. Postponement of an election by the Commission**

(1) The Commission may, where a date has been appointed for holding an election, postpone the election in a constituency, county or ward for such period as it may consider necessary where—

- (a) there is a reason to believe that a serious breach of peace is likely to occur if the election is held on that date; and
- (b) it is impossible to conduct the elections as a result of a natural disaster or other emergencies.

(2) Where an election is postponed under sub regulation (1), the election shall be held at the earliest practicable time.

(3) Notwithstanding the provisions of this regulation, the Commission may declare the results if satisfied that the result of the elections will not be affected by the votes yet to be received and tallied from the affected polling stations.

[L.N. 72/2017, r. 28.]

#### **65. Communication at polling station**

(1) No person other than an election officer or police officer on duty shall, except with the authority of the presiding officer, have any communication whatsoever with a voter who is in, or in the immediate precincts of, a polling station for the purpose of voting.

(2) This regulation shall not prevent the companion of an assisted or supported voter from communicating with that voter.

(3) Every election officer, candidate or agent attending at a polling station shall not communicate, unless for a purpose authorized by law, any information as to the name or number on the Register of Voters of any voter who has or has not applied for a ballot paper or voted at that station.

(4) A presiding officer may, upon request, divulge to a candidate or agent of a candidate the total number of voters who have voted at the station at any time before the poll is closed.

[L.N. 72/2017, r. 29.]

#### **66. Polling time**

(1) Subject to regulation 64, voting shall commence at 6 o'clock in the morning and end at 5 o'clock in the afternoon on the polling day.

(2) Notwithstanding subregulation (1), a person who is on a queue for the purposes of voting before 5 o'clock in the afternoon shall be allowed to vote despite the fact that the voting time may extend to after 5 o'clock.

(3) The voting by Kenyan citizens residing outside Kenya shall be carried out during the Kenyan time specified in subregulation (1).

#### **67. Sealing of ballot boxes, etc.**

- (1) The presiding officer shall, immediately before the commencement of the poll—  
 (a) show the ballot box or ballot boxes to those persons lawfully present in the polling station;

- (b) allow those of the candidates, agents and any voter as may wish, to do so, to ascertain that the box or boxes are empty; and
- (c) close the box or boxes with seals so that they may not be opened without breaking the seal.

(2) After a ballot box is sealed under subregulation (1) the presiding officer shall cause it to be so placed in the polling station that it can at all times be in the view of himself or herself or a deputy presiding officer and of the candidates or the agents.

(3) On the adjournment of the poll in a polling station to another day, or on the close of the poll at one station with a view to transferring a ballot box to another station, and at any other time when a ballot box is not in use for the purpose of receiving ballot papers, the presiding officer shall close up the aperture used for the insertion of the ballot papers into the box and place his or her seal on it in such a manner as to prevent the insertion of ballot papers without breaking the seal.

(4) After a box has been sealed under subregulation (3), the seal shall not be broken or the aperture opened except in the presence of the candidates or agents present in the polling station where polling is about to re-commence.

(5) Where a presiding officer affixes his or her seal on a ballot box or aperture thereof under this regulation, the presiding officer shall permit any candidate or agent who so wishes to affix his or her seal on the box or aperture.

## **68. Ballot papers**

(1) Ballot papers for an election—

- (a) for use at a presidential election shall be in Form 25 set out in the Schedule;
- (b) for use at a National Assembly election shall be in Form 26 set out in the Schedule;
- (c) for use at a county woman representative to the National Assembly election shall be in Form 27 set out in the Schedule;
- (d) for use at a Senate election shall be in Form 28 set out in the Schedule;
- (e) for use at an election for governor shall be in Form 29 set out in the Schedule;
- (f) for use at a county assembly member election shall be in Form 30 set out in the Schedule;
- (g) for use in referendum shall be in Form 31 set out in the Schedule.

(2) Where an election is in respect of more than one elective post, each ballot paper shall be printed on paper of a different colour which is prominent and distinctive from those for use in the other elective posts.

(3) The persons validly nominated under these Regulations shall have their names included in the ballot papers for an election in the same order as they appeared in a notice published in accordance with regulation 51(5).

(4) Every ballot paper for use at an election shall—

- (a) contain the name and symbol of the candidate validly nominated;
- (b) contain a photograph of the candidate where applicable;
- (c) be capable of being folded up;
- (d) have a serial number, or combination of letter and number, printed on the front; and
- (e) have attached a counterfoil with the same number or combination printed thereon.

(5) The presiding officer shall before polling commences, allow the candidates or agents who are present at the polling station to inspect the ballot papers provided for use at the polling station and to note the serial numbers thereon.

[L.N. 72/2017, r. 30.]

[Subsidiary]

## 69. Voting procedure

- (1) Before issuing a ballot paper to a voter, an election official shall—
- (a) require the voter to produce an identification document which shall be the same document used at the time of registration as a voter;
  - (b) ascertain that the voter has not voted in that election;
  - (c) call out the number and name of the voter as stated in the polling station register;
  - (d) require the voter to place his or her fingers on the fingerprint scanner and cross out the name of the voter from the printed copy register once the image has been retrieved;
  - (e) in case the electronic voter identification device fails to identify a voter the presiding officer shall—
    - (i) invite the agents and candidates in the station to witness that the voter cannot be identified using the device;
    - (ii) complete verification Form 32A in the presence of agents and candidates;
    - (iii) identify the voter using the printed Register of voters; and
    - (iv) once identified proceed to issue the voter with the ballot paper to vote;
  - (f) *deleted by L.N. 72/2017, r. 31(c);*
  - (g) *deleted by L.N. 72/2017, r. 31(c).*
- (2) A voter shall, in a multiple election, be issued with the ballot papers for all elections therein at the same time and shall after receiving the ballot papers—
- (a) cast his or her votes in accordance with regulation 70 without undue delay;
  - (b) submit to having one finger as prescribed by the Commission immersed, dipped or marked in ink of a distinctive colour which, so far as is possible, is sufficiently indelible to leave a mark for the period of the election;
  - (c) where a voter has no finger, make a mark on the next most suitable part of the body; and
  - (d) upon collecting his or her identification documents, immediately leave the polling station.
- (3) A person who knowingly fails to place a ballot paper issued to him or her (not being a spoilt ballot paper) into a ballot box before leaving the place where the box is situated commits an offence under the Act.
- (4) An election officer who deliberately refuses to stamp any ballot paper commits an offence.
- (5) The presiding officer may, where a voter so requests, explain the voting procedure to such voter.

[L.N. 72/2017, r. 31.]

## 70. Method of voting

- (1) A voter shall, upon receiving a ballot paper under regulation 69(2)—
- (a) go immediately into one of the compartments of the polling station and secretly mark his or her ballot paper by putting a cross, a tick, thumbprint or any other mark in the box and column provided for that purpose against the name and the symbol of the candidate for whom that voter wishes to vote; and
  - (b) fold it up so as to conceal his or her vote, and shall then put the ballot paper into the ballot box in the presence of the presiding officer and in full view of the candidates or agents.

(2) The voter shall after following the procedure specified in subregulation (1) put each ballot paper into the ballot box provided for the election concerned.

(3) No replacement of a ballot paper under this regulation may be done more than twice in respect of any particular voter.

### **71. Spoilt ballot papers**

A voter who has inadvertently dealt with his or her ballot paper in such a manner that it cannot be conveniently used as a ballot paper may, on delivering it to the presiding officer and providing to the satisfaction of such officer the fact of the inadvertence, obtain another ballot paper in the place of the ballot paper so delivered and the spoilt ballot paper shall be immediately cancelled and the counterfoil thereof marked accordingly.

### **72. Assisted voters**

(1) On the application of a voter who is, by reason of a disability or being unable to read or write, and therefore unable to vote in the manner prescribed in these Regulations, the presiding officer shall permit the voter to be assisted or supported by a person of the voter's own free choice, and who shall not be a candidate or an agent.

(2) Where the person who applies to be assisted is not accompanied by a person who is qualified to assist him or her, the presiding officer shall assist such voter, in the presence of the agents.

(3) The presiding officer may make such necessary and respectful inquiry in order to establish that the voter and the person the voter has chosen to assist him or her satisfies the provisions of this regulation.

(4) The person chosen by the voter is not required to be qualified to vote but is required to have attained the age of eighteen years.

(5) The following shall apply with respect to a person who assists a voter under this regulation—

- (a) the person shall, before assisting or supporting the voter, make a declaration of secrecy before the presiding officer in Form 32 set out in the Schedule;
- (b) a person who breaches his or her declaration commits an offence under the Act;
- (c) the person shall assist or support only one voter at that election and have a mark as proof of assisting or supporting a voter.

(6) Where a presiding officer grants the request of a voter under this regulation, the presiding officer shall record in the polling station register against the name of the voter the fact that the voter was assisted and the reason for the assistance.

(7) No person other than a person acting under this regulation shall be present in a compartment of a polling station while a voter is in the compartment for the purpose of marking his or her ballot paper and any person who contravenes this subregulation commits an offence.

## PART XIII – COUNTING OF VOTES AND DECLARATION OF RESULTS

### **73. Procedure on close of polling**

(1) At the end of voting, the presiding officer shall declare the polling station closed and shall proceed to seal the ballot boxes in the presence of the candidates or agents and observers at his or her polling station.

(2) Immediately after the close of the polling at his or her polling station, the presiding officer shall make in the polling station diary a written statement of—

- (a) the number of ballot papers issued to him or her under regulation 61;
- (b) the number of ballot papers, other than spoilt ballot papers, issued to voters;
- (c) the number of spoilt ballot papers; and
- (d) the number of ballot papers remaining unused.

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[Subsidiary]

(3) Immediately after the completion of the statement under subregulation (2), the presiding officer, in the presence of the candidates or agents shall seal in separate tamper proof envelopes—

- (a) the spoilt ballot papers, if any;
- (b) the marked copy register, where necessary;
- (c) the counterfoils of the used ballot papers; and
- (d) the statement specified in subregulations,

and shall seal each of the envelopes with his or her own seal and the seal of the Commission and shall allow any candidate or agent who may wish to do so, to affix his seal to the envelope and any statement recorded under these regulations.

(4) After complying with the provisions of this regulation, the presiding officer shall, as soon as practicable, deliver the ballot boxes, and the tamper proof sealed envelopes to the returning officer who shall take charge thereof.

#### **74. Attendance at counting of votes**

(1) No agent shall be deemed to be an agent for the purposes of counting unless, at least forty eight hours before the close of the poll in that election, the candidate or political party, as the case may be, has submitted to the presiding officer—

- (a) the name and address of the agent; and
- (b) a letter of the appointment of the agent.

(2) A presiding officer shall not allow a person whose name, address and authorization has not been so submitted to attend at a counting of votes notwithstanding that the appointment of that person is otherwise in order.

(3) A presiding officer shall not be obliged to admit more than one agent of any one political party, candidate or referendum committee, as the case may be, to the counting venue.

(4) The presiding officer shall permit into the counting venue—

- (a) a candidate;
- (b) a person nominated as a deputy to the candidate, where applicable;
- (c) members of the Commission and election officers on duty;
- (d) agents appointed under subregulation (1);
- (e) police officers on duty;
- (f) observers and representatives of the media duly approved or accredited by the Commission.

(5) If a vehicle or vessel is designated as a polling station and weather conditions exist, immediately after the presiding officer complies with the provisions of regulation 74, which may interfere with the counting of votes, the returning officer may allow the vehicle or vessel to be moved to another appropriate place for the counting of the votes.

#### **75. Commencement and sequence of the count**

(1) The presiding officer shall, in the presence of the candidates or agents, proceed to arrange the counting venue, assign duties to the clerks and begin to count the votes for that polling station.

(2) The presiding officer shall carry out the counting of votes for the respective elective posts in the following order—

- (a) president;
- (b) member of the National Assembly;
- (c) member of the County Assembly;
- (d) senator;

- (e) county woman representative in the National Assembly; and
- (f) county governor.

(3) A presiding officer shall, so far as practicable, proceed continuously with the counting of votes.

(4) A presiding officer shall not commence the counting or recount of votes unless the presiding officer is of the opinion that the count or recount, as the case may be, can conveniently be completed without a break.

(5) Subject to subregulation (2), the counting of votes cast by Kenyan citizens residing outside Kenya shall be carried out after the close of polling time in Kenya and in accordance with the time of counting in Kenya.

(6) At the end of voting and before counting of the ballots and in the presence of candidates and agents, the presiding officer shall enter in the polling station diary the number of persons identified during polling using the printed register of voters.

[L.N. 72/2017, r. 32.]

## **76. Counting of votes**

- (1) The presiding officer shall, in the presence of the candidates or agents—
  - (a) open each ballot box and empty its contents onto the counting table or any other facility provided for the purpose and, shall cause to be counted the votes received by each candidate; and
  - (b) record the total number of votes cast in favour of each candidate.
- (2) Each ballot paper shall be counted as follows—
  - (a) the presiding officer shall in respect of every ballot paper, announce the candidate in whose favor the vote was cast;
  - (b) display to the candidates or agents the ballot paper sufficiently for them to ascertain the vote; and
  - (c) put the ballot paper at the place on the counting table, or other facility provided for this purpose, set for the candidate in whose favor it was cast.
- (3) The presiding officer shall record the count of the vote in a tallying sheet in Form 33 set out in the Schedule.
- (4) A candidate or an agent shall have a right to—
  - (a) dispute the inclusion in the count, of a ballot paper; or
  - (b) object to the rejection of a ballot paper,

where upon the presiding officer may decide to uphold or reject the complaint and act as provided under regulation 80.

## **77. Rejection of ballot papers, etc.**

- (1) At the counting of votes at an election, any ballot paper—
  - (a) which does not bear the security features determined by the Commission;
  - (b) on which votes are marked, or appears to be marked against the names of, more than one candidate;
  - (c) on which anything is written or so marked as to be uncertain for whom the vote has been cast;
  - (d) which bears a serial number different from the serial number of the respective polling station and which cannot be verified from the counterfoil of ballot papers used at that polling station; or
  - (e) is unmarked,

shall, subject to sub-regulation (2), be void and shall not be counted.

- (2) A ballot paper on which a vote is marked—
  - (a) elsewhere than in the proper place;

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[Subsidiary]

- (b) by more than one mark; or
- (c) which bears marks or writing which may identify the voter,

shall not by that reason only be void if an intention that the vote shall be for one or other of the candidates, as the case may be, clearly appears, and the manner in which the paper is marked does not itself identify the voter and it is not shown that the voter can be identified thereby.

### **78. Rejected ballot papers**

(1) Every rejected ballot paper shall be marked with the word "rejected" by the presiding officer, and, if an objection is made by a candidate or an agent to the rejection, the presiding officer shall add the words "rejection objected to" and shall be treated as rejected for the purpose of the declaration of election results at the polling station.

(2) The presiding officer shall mark every ballot paper counted but whose validity has been disputed or questioned by a candidate or an agent with the word "disputed" but such ballot paper shall be treated as valid for the purpose of the declaration of election results at the polling station.

(2A) The presiding officer shall make a decision on the validity of the disputed ballot paper under sub regulation (2) and award it to a candidate and such decision shall be final.

(3) After the counting of votes is concluded, the presiding officer shall draw up a statement in Form 41 set out in the Schedule showing the number of rejected ballot papers under such of the following heads of rejection as may be applicable—

- (a) want of security feature;
- (b) voting for more than one candidate;
- (c) writing or mark by which the voter might be identified; or
- (d) unmarked or void for uncertainty,

and any candidate, counting agent or observer shall, if he or she so desires, be allowed to copy that statement.

[L.N. 72/2017, r. 33.]

### **79. Candidates, etc. to sign declaration**

(1) The presiding officer, the candidates or agents shall sign the declaration in respect of the elections.

(2) For purposes of subregulation (1), the declaration for—

- (a) Presidential election results shall be in Form 34A set out in the Schedule; and
- (b) National Assembly, County women representatives, Senator, Governor and county assembly elections shall be in Forms 35A, 36A, 37A, 38A, and 39A set out in the Schedule.

(2A) The presiding officer shall—

- (a) immediately announce the results of the voting at the polling station before communicating the results to the returning officer;
- (b) request each of the candidates or agents present to append his or her signature;
- (c) provide each political party, candidate, or their agent with a copy of the declaration of the results; and
- (d) affix a copy of the declaration of the results at the public entrance to the polling station or at any place convenient and accessible to the public at the polling station.

(3) Where any candidate or agent refuses or otherwise fails to sign the declaration form, the candidate or agents shall be required to record the reasons for the refusal or failure to sign.

(4) Where a candidate or an agent refuses or fails to record the reasons for refusal or failure to sign the declaration form, the presiding officer shall record the fact of their refusal or failure to sign the declaration form.

(5) Where any candidate or agent of a candidate is absent, the presiding officer shall record the fact of their absence.

(6) The refusal or failure of a candidate or an agent to sign a declaration form under subregulation (4) or to record the reasons for their refusal to sign as required under this regulation shall not by itself invalidate the results announced under subregulation (2)(a).

(7) The absence of a candidate or an agent at the signing of a declaration form or the announcement of results under subregulation (2) shall not by itself invalidate the results announced.

(8) After complying with the provisions of this regulation, the presiding officer shall, as soon as practicable, deliver the ballot boxes, and the tamper proof envelopes to the returning officer who shall take charge thereof.

[L.N. 72/2017, r. 34.]

## **80. Recount**

(1) A candidate or agent, if present when the counting is completed, may require the presiding officer to have the votes rechecked and recounted or the presiding officer may on his or her own initiative, have the votes recounted:

Provided that the recount of votes shall not take place more than twice.

(2) No steps shall be taken on the completion of a count or recount of votes until the candidates and agents present at the completion of the counting have been given a reasonable opportunity to exercise the right given by this regulation.

## **81. Sealing of ballot papers by presiding officer**

(1) Upon completion of a count, including a recount, the presiding officer shall seal in each respective ballot box—

- (a) valid votes;
- (b) rejected ballots sealed in a tamperproof envelope;
- (c) unused ballot papers sealed in a tamperproof envelope;
- (d) counterfoils of used ballot papers sealed in a tamperproof envelope;
- (e) copy of election results declaration forms; and
- (f) stray ballot papers in a tamperproof envelope.

(2) The presiding officer shall deliver, to the returning officer—

- (a) the sealed ballot boxes;
- (b) the statements made under regulations 78 and 79;
- (c) copy of the Register of Voters; and
- (d) Polling station diary.

[L.N. 72/2017, r. 35.]

## **82. Provisional results to be transmitted electronically**

(1) The presiding officer shall, before ferrying the actual results of the election to the returning officer at the tallying venue, submit to the returning officer the results in electronic form, in such manner as the Commission may direct.

(2) The results submitted under sub-regulation (1) shall be provisional and subject to confirmation after the procedure described in regulation 76.

[L.N. 72/2017, r. 36.]

[Subsidiary]

### **83. Tallying and announcement of election results**

- (1) Immediately after the results of the poll from all polling stations in a constituency have been received by the returning officer, the returning officer shall, in the presence of candidates or agents and observers, if present—
- (a) tally the final results from each polling station in a constituency for the election of a member of the National Assembly and members of the county assembly;
  - (b) disregard the results of the count of a polling station where the total valid votes exceeds the number of registered voters in that polling station;
  - (c) disregard the results of the count of a polling station where the total votes exceeds the total number of voters who turned out to vote in that polling station;
  - (d) collate and publicly announce to the persons present the results from each polling station in the constituency for the election of the President, county Governor, Senator and county women representative to the National Assembly;
  - (e) complete the relevant Form 35B and 36B for the respective elective position set out in the Schedule in which the returning officer shall declare, as the case may be, the—
    - (i) name of the respective electoral area;
    - (ii) total number of registered voters;
    - (iii) votes cast for each candidate or referendum side in each polling station;
    - (iv) number of rejected votes in each polling station;
    - (v) aggregate number of votes cast in the respective electoral area; and
    - (vi) aggregate number of rejected votes;
  - (f) sign and date the relevant forms and publicly declare the results for the position of—
    - (i) member of County Assembly;
    - (ii) member of National Assembly; and
  - (g) issue certificates to persons elected in the county assembly and National Assembly elections in Forms 36C and 35C respectively set out in the Schedule;
  - (h) deliver to the county returning officer the collated results for the election of the county Governor, Senator and county women representative to the National Assembly; and
  - (i) deliver to the Chairperson of the Commission the collated results for the election of the president to the national tallying centre.
- (2) The Chairperson of the Commission shall tally and verify the results received at the national tallying centre.

[L.N. 72/2017, r. 37.]

### **84. Venue of final tallying**

- (1) A final tallying of results for the respective elective posts shall be at a venue gazetted by the Commission for that purpose.
- (2) A tallying centre shall be selected subject to the following requirements—
- (a) the presidential elections tallying centre shall be located in Nairobi;
  - (b) the county tallying centre shall be located at the county headquarters;
  - (c) the constituency tallying centre shall be located at the constituency or district headquarters;
  - (d) all tallying centres shall be located at public buildings.

### **85. Persons allowed into tallying centres**

(1) The returning officer shall allow the following persons to be present at the tallying centre—

- (a) the presiding officers and other election officials on duty;
- (b) a candidate;
- (c) a person nominated as a deputy to the candidate, where applicable;
- (d) a member of the Commission;
- (e) authorized agents;
- (f) a police officer on duty;
- (g) duly accredited election observers; and
- (h) duly accredited media persons.

(2) Notwithstanding the provisions of this regulation, the returning officer shall not be obliged to admit more than one agent per candidate or political party to the tallying venue.

### **86. Safe keeping of election materials**

(1) After the final tallying and announcement of results, the returning officer shall keep in safe custody the following documents—

- (a) copies of all election result declaration forms;
- (b) copies of the register of voters sealed and labelled; and
- (c) the Electronic Voter Identification Device.

(2) The returning officer shall—

- (a) put the polling station diaries in a separate ballot box, seal and label the box; and
- (b) keep the sealed ballot boxes and all material relating to the election in safe custody for such period as may be required under these Regulations and the Act.

[L.N. 72/2017, r. 38.]

### **87. Returns of persons elected**

(1) The constituency returning officer shall, as soon as practicable—

- (a) deliver to the county returning officer all Forms 37B, 38B and 39B from the respective constituencies and the collated results; and
- (b) deliver to the National tallying centre all the Form 34B from the respective polling stations and the summary collation forms.

(2) The county returning officer shall upon receipt the results from the constituency returning officers as contemplated under regulation (1)—

- (a) tally and announce the results for the county governor, senator and county woman representative to the National assembly;
- (b) complete Forms 37C, 38C and 39C set out in the Schedule in which the county returning officer shall declare, as the case may be, the—
  - (i) name of the respective electoral area;
  - (ii) total number of registered voters;
  - (iii) votes cast for each candidate or referendum side in each polling station;
  - (iv) number of rejected votes for each constituency;
  - (v) aggregate number of votes cast in the respective electoral area; and
  - (vi) aggregate number of rejected votes; and
- (c) sign and date the relevant forms publicly and declare the results for the position of—

[Subsidiary]

- (i) county Governor;
- (ii) Senator; and
- (iii) county woman representative to the National Assembly; and
- (d) issue certificates to persons elected in the county Governor, Senator, county woman representative to the National Assembly in Forms 37D, 38D and 39D respectively set out in the Schedule.

(3) Upon receipt of Form 34A from the constituency returning officers under sub-regulation (1), the Chairperson of the Commission shall—

- (a) verify the results against Forms 34A and 34B received from the constituency returning officer at the national tallying centre;
- (b) tally and complete Form 34C;
- (c) announce the results for each of the presidential candidates for each County;
- (d) sign and date the forms and make available a copy to any candidate or the national chief agent present;
- (e) publicly declare the results of the election of the president in accordance with Articles 138(4) and 138(10) of the Constitution;
- (f) issue a certificate to the person elected president in Form 34D set out in the Schedule; and
- (g) deliver a written notification of the results to the Chief Justice and the incumbent president within seven days of the declaration;

Provided that the Chairperson of the Commission may declare a candidate elected as the President before all the Constituencies have delivered their results if in the opinion of the Commission the results that have not been received will not make a difference with regards to the winner on the basis of Article 138(4)(a) (b) of the Constitution; and

- (h) in the case of the other elections, whether or not forming part of a multiple election, publish a notice in the Gazette, which may form part of a composite notice, showing the name or names of the Person or persons elected.

(4) Where no candidate is elected in a presidential election a fresh election shall be held within thirty days after the previous election in accordance with Article 138 of the Constitution and the Commission shall for that purpose, issue a notice in the Gazette to that effect.

(6) Where a County Governor, Parliamentary or County Assembly election results in a tie, the Commission shall proceed to conduct fresh elections without notifying the speaker within thirty days, in accordance with the Act and these Regulations.

(7) The Commission shall certify to the clerk of each respective House of Parliament the candidates who have been elected in the parliamentary election.

(8) The Commission shall, after delivery of a written notification of the results of the presidential election to the Chief Justice and the incumbent President as required by Article 138(10)(b) of the Constitution, issue and deliver a certificate in Form 34D set out in the Schedule to the candidate who has been elected President.

[L.N. 72/2017, r. 39.]

#### PART XIV – PRESIDENTIAL FRESH ELECTION

##### **88. Notice of fresh election of president**

(1) Where pursuant to Article 138(5) of the Constitution, no candidate is elected as president, the Commission shall at the time of publishing the results, publish a notice in the Gazette indicating that no candidate has been elected president.

(2) The Commission shall within two days of the notice under sub-regulation (1), publish a notice for a fresh election for president in Form 40 set out in the Schedule.

[L.N. 72/2017, r. 40.]

## **89. Procedure at a fresh election**

These Regulations shall, with the necessary modifications and adaptations, apply to a fresh election under this Part.

## **90. Special voting**

(1) The Commission may make provision for the voting, by election officials, observers, patients admitted in hospital, older members of the society, members of the defence and security forces on duty, prisoners and nomadic pastoralists and other persons who by reason of any special need, including disability, are unable to access a polling station.

(2) The Commission may, from time, to time publish notices on the manner and procedure of the conduct of special voting and such notice shall be read as if part of these Regulations.

### *PART XV – DELETED BY L.N. 72/2017*

**91. Deleted by L.N. 72/2017, r. 41.**

**92. Deleted by L.N. 72/2017, r. 41.**

### **PART XVI – MISCELLANEOUS PROVISIONS**

## **93. Retention and inspection of documents**

(1) All documents relating to an election shall be retained in safe custody by the returning officer for a period of three years after the results of the elections have been declared and shall then, unless the Commission or the court otherwise directs, be disposed of in accordance with procedures prescribed by the Commission subject to the Public Archives and Documentation Service Act (Cap. 19).

(2) Any person may apply to the High Court with notice to all candidates in the election concerned for authority to inspect documents retained under these Regulations, other than ballot papers and their counterfoils.

(3) For the purpose of an inspection under subregulation (2), the returning officer shall unseal the documents concerned in the presence of candidates or agents and the returning officer and candidates or their agents shall keep the documents under their scrutiny until they are resealed by the returning officer after the inspection is completed.

(4) The provisions of this Regulation shall not apply to documents that concern a pending election petition unless there is a court order granting such authority.

## **94. Accreditation of observers**

(1) Pursuant to section 42 of the Act, the Commission may, at any election, accredit any person or organisation to observe the elections.

(2) The Commission shall issue guidelines for election observers, consistent with internationally accepted standards for fair elections, and which shall be binding on election observers upon accreditation by the Commission.

(3) Without prejudice to the generality of subregulation (2), the guidelines issued there under may specify the procedures for the accreditation of election observers.

(4) The Commission may revoke the accreditation it has granted to any election observer where it is satisfied that an election observer is partisan or has violated any requirement of the guidelines referred to in subregulation (2).

(5) No person or organisation may observe any election unless the person or organisation has been accredited by the Commission.

(6) All the accredited election observers shall submit to the commission a written report in accordance with the guidelines issued by the commission in subregulation (2).

**95. Accreditation of the media**

(1) Pursuant to section 41 of the Act, the Commission may at any election, accredit the media to access and cover the electoral process.

(2) The Commission may issue guidelines consistent with internationally accepted standards for fair elections which shall be binding on all media representatives upon accreditation by the Commission.

**96. Collaborations**

(1) The Commission may collaborate with such public and private entities as may be suitable for purposes of ensuring effective conduct of elections and referendum.

(2) The collaboration arrangements in subregulation (1) shall be governed by the terms of a partnership agreement between the Commission and the respective entity.

(3) The agreement shall stipulate the terms and conditions on the engagement and shall conform to, and respect, the provisions of the Constitution, the Act and these Regulations.

**96A. Reference to L.N. 127/2012**

Regulations 94, 95 and 96 shall be read together with the Elections (Voter Education) Regulations, 2012.

[L.N. 72/2017, r. 42.]

**97. Non-attendance by candidates, etc. not to invalidate proceedings**

(1) Where in these Regulations expression is used requiring, authorizing, or implying that, any act is to be done in the presence of the candidates or agents, that expression shall be regarded as reference to the presence of such candidates or agents as may be required or authorized to attend.

(2) The mere non-attendance of any candidate or agents at the time and place as contemplated under subregulation (1) shall not, if any act is otherwise lawfully done, invalidate that act.

**98. Power of Commission to issue directives**

(1) Subject to the Act and these Regulations, the Commission shall have power to, by notice in the *Gazette*, provide for measures to ensure efficient and fair elections and referendum and may issue directives from time to time in that regard.

(2) Where the Commission issues directives under subregulation (1), the Commission shall ensure that such directives are published in such manner as to reach the persons who may be affected or whose compliance or action may be required.

**99. Deleted by L.N. 72/2017, r. 43.****100. Procedure at a referendum**

These Regulations shall, with the necessary modification and adaptations, apply to a referendum held under the Act.

**101. Revocation of L.N. 227/1992**

The Presidential and Parliamentary Election Regulations, 1992, are revoked.

## SCHEDULE

[L.N. 72/2017, r. 44.]

FORM 1

[Reg. 5(6).]

**DECLARATION BY ELECTION OFFICIAL**

I ..... of ID No./Passport No. ..... being a Presiding Officer/Deputy Presiding Officer/Clerk/Agent/Interpreter at ..... Polling Station in ..... Constituency/County during the General elections/by elections to be held on ..... day of ..... 20 ..... do hereby declare as follows:

- (a) That I shall not prompt any voter whom I am empowered by the Elections Regulations to assist;
- (b) That I shall strictly follow the provisions of the election regulations;
- (c) That I shall strictly follow any instructions that may lawfully be given to me relating to these elections.

Signature ..... Date .....

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FORM 2

[Reg. 11(1).]

**NOTICE OF PRESIDENTIAL ELECTION**

An election of the President of the Republic of Kenya is to be held at the forthcoming general election/other than at a general election or a fresh election.

Nomination papers for the presidential election may be delivered by the candidate or his or her supporters to the Independent Electoral and Boundaries Commission, Nairobi, between the hours of eight o'clock in the morning and one o'clock in the afternoon and between the hours of two o'clock and four o'clock in the afternoon on the ..... day of ....., 20 ..... and on the day of ..... 20 .....

Dated the ..... 20 .....

If the presidential election is contested, the poll will take place on the ..... day of ..... 20 .....

Dated the ..... day of ..... 20 .....

.....  
Chairperson,  
*Independent Electoral and Boundaries Commission*

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FORM 3

[Reg.11(2).]

**NOTICE OF VACANCY**

TO: THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

FOR THE ..... CONSTITUENCY/COUNTY\*

WHEREAS a vacancy has arisen in the office of a member of the National Assembly/Senate/County in respect of the above-mentioned constituency/county:

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[Subsidiary]

NOW, THEREFORE, in pursuance of the provisions of section 16(3) of the Elections Act 2011, I command you that, due notice being first given, you do cause election to be held according to law of a member to serve in the National Assembly/Senate for the said constituency/county.

Dated the ..... 20 .....

.....  
*Speaker of the National Assembly/Senate\**

\*delete as appropriate

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FORM 4

[Reg. 11(3).]

**NOTICE OF VACANCY**

TO: THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

FOR THE ..... WARD

WHEREAS a vacancy has arisen in the office of a member of the ..... County assembly in respect of the above-mentioned ward:

NOW, THEREFORE, in pursuance of the provisions of section 19(3) of the Elections Act 2011, I command that due notice being first given, you do cause election to be held according to law of a member to serve in the county assembly for the said ward.

Dated the ..... 20 .....

.....  
*Speaker of the county assembly*

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FORM 5

[Reg. 11(4).]

**NOTICE OF PARLIAMENTARY ELECTION**

An election is to be held for a member to serve in the National Assembly/ Senate for the ..... Constituency/County.

The day for nomination for the parliamentary election will be the ..... day of 20 ..... and nomination papers may be delivered by candidates to the Returning officer between the hours of eight o'clock in the morning and one o'clock in the afternoon and between the hours two o'clock and four o'clock in the afternoon on the ..... day of ..... 20 ..... and on the ..... day of ..... 20 .....

If the parliamentary election is contested the poll will take place on the ..... day of ..... 20 .....

Dated the ..... day of ..... 20 .....

.....  
*Chairperson,  
Independent Electoral and Boundaries Commission*

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FORM 6

[Reg. 11(5).]

**NOTICE OF COUNTY GOVERNOR ELECTION**

An election is to be held of a County Governor to serve in County Assembly for the ..... County.

The day for nomination for the County Governor election will be the ..... day of ..... 20 ..... and nomination papers may be delivered by candidates to the returning officer at ..... between the hours of eight o'clock in the morning and one o'clock in the afternoon and between the hours two o'clock and four o'clock in the afternoon on the ..... day of ..... 20 ..... and on the ..... day of ..... 20 .....

If the county Governor election is contested the poll will take place on the ..... day of ..... 20 .....

Dated the ..... day of ..... 20 .....

.....  
*Chairperson,  
Independent Electoral and Boundaries Commission*

FORM 7

[Reg. 11(6).]

**NOTICE OF COUNTY ASSEMBLY ELECTION**

An election is to be held for a member to serve in County Assembly for the ..... Ward of ..... County.

The day for nomination for the County Assembly Ward Election will be the ..... day of ..... 20 ..... and nomination papers may be delivered by candidates to the returning officer at ..... between the hours of eight o'clock in the morning and one o'clock in the afternoon and between the hours two o'clock and four o'clock in the afternoon on the ..... day of ..... 20 ..... and on the ..... day of ..... 20 .....

If the County Assembly Ward Election is contested the poll will take place on the ..... day of ..... 20 .....

Dated the ..... day of ..... 20 .....

.....  
*Chairperson,  
Independent Electoral and Boundaries Commission*

FORM 8

[Reg. 12(2).]

**ELECTION OF PRESIDENT**

There is to be an election of a President of the Republic of Kenya. Voting in this election will take place on the ..... day of ..... , 20 .....

.....  
*Returning Officer,*

.....  
*Constituency*

[Subsidiary]

FORM 9

[Reg. 12(4)(a).]

**ELECTION OF MEMBER OF PARLIAMENT**

There is to be an election of a member to serve in the National Assembly /Senate for the ..... County/Constituency.

A parliamentary election will be held on the .....day of ..... 20 .....

Each political party wishing to participate in the election must finalize their nomination of candidates before the ..... day of ..... 20 .....

Nomination papers for the election may be delivered to the returning officer between the hours of eight o'clock in the morning and one o'clock on the ..... day of ..... 20 ..... and forms of nomination papers therefore may be obtained at ..... between the hours of nine o'clock in the morning and one o'clock on any week day. The returning officer will prepare a nomination paper for signature at the request of any person who is a registered voter in his constituency.

Dated the ..... day of ..... 20 .....

.....  
*Returning Officer*

FORM 10

[Reg. 12(4)(b).]

**ELECTION OF COUNTY GOVERNOR**

There is to be an election of a County Governor for the ..... County.

A County Governor election will be held on the .....day of ..... 20 .....

Each political party wishing to participate in the election must finalize their nomination of candidates before the ..... , 20 .....

Nomination papers for the election may be delivered to the returning officer at ..... between the hours of eight o'clock in the morning and one o'clock on the .....day of ..... , 20 ..... and forms of nomination papers therefore may be obtained at ..... between the hours of nine o'clock in the morning and one o'clock on any week day. The returning officer will prepare a nomination paper for signature at the request of any person who is a registered voter in his constituency.

Dated the ..... day of ..... 20 .....

.....  
*Returning Officer*

FORM 11

[Reg. 12(4)(c).]

**ELECTION OF COUNTY ASSEMBLY**

There is to be an election of a member to serve in the County Assembly for the ..... County.

A County Assembly election will be held on the ..... day of ..... 20 .....

Each political party wishing to participate in the election must finalize their nomination of candidates before the ..... , 20 .....

Nomination papers for the election may be delivered to the returning officer at ..... between the hours of eight o'clock in the morning and one o'clock on the ..... day of ..... , 20 ..... and forms of nomination papers therefore may be obtained at ..... between the hours of nine o'clock in the morning and one o'clock on any week day. The returning officer will prepare a nomination paper for signature at the request of any person who is a registered voter in his constituency.

Dated the ..... day of ..... 20 .....

.....  
*Returning Officer*

## FORM 11A

[Reg. 13A.]

## PARTY MEMBERSHIP LIST

Party Name: .....  
County: .....  
Constituency: .....  
County Assembly Ward: .....

Party Code: .....  
County Code: .....  
Constituency Code: .....  
CAW Code: .....

**FORM 11B**

[Reg. 13B.]

## **LIST OF ASPIRANTS IN PARTY PRIMARIES**

## **PRESIDENTIAL CANDIDATES**

Party Name: .....

Party Code: .....

Nominations Date: .....

Nominations Venue: .....

---

## [Subsidiary]

## FORM 11C

[Reg. 13B.]

## **LIST OF ASPIRANTS IN PARTY PRIMARIES**

## **SENATE CANDIDATES**

Party Name: .....

Party Code: .....

County: .....

County Code: .....

Nominations Date: .....

## FORM 11D

[Reg. 13B.]

## **LIST OF ASPIRANTS IN PARTY PRIMARIES**

## **WOMAN REPRESENTATIVE CANDIDATES**

Party Name: .....

Party Code: .....

County: .....

County Code: .....

Nominations Date: .....

**FORM 11E**

[Reg. 13B.]

**LIST OF ASPIRANTS IN PARTY PRIMARIES**  
**MEMBER OF NATIONAL ASSEMBLY CANDIDATES**

Party Name: .....  
County: .....  
Constituency: .....  
Nominations Date: .....

Party Code: .....  
County Code: .....  
Constituency Code: .....

## **FORM 11F**

[Reg. 13B.]

## **LIST OF ASPIRANTS IN PARTY PRIMARIES**

### **COUNTY GOVERNOR CANDIDATES**

Party Name: .....  
County: .....  
Nominations Date: .....

Party Code: .....  
County Code: .....

[Subsidiary]

FORM 11G

[Reg. 13B.]

**LIST OF ASPIRANTS IN PARTY PRIMARIES****COUNTY ASSEMBLY WARD CANDIDATES**

Party Name: .....  
 County: .....  
 Constituency: .....  
 County Assembly Ward: .....  
 Nominations Date: .....

Party Code: .....  
 County Code: .....  
 Constituency Code: .....  
 CAW Code: .....

No	Surname	Other Names	ID/Passport Number	Gender	Year of Birth	Type of Disability (if any)
.						
.						
.						
.						
.						
.						
.						

FORM 11H

[Reg. 13C.]

**LIST OF NOMINATED CANDIDATES IN PARTY PRIMARIES****PRESIDENTIAL CANDIDATE**

Party Name: ..... Party Code: .....

No	Surname	Other Names	ID/Passport Number	Gender	Year of Birth	Type of Disability (if any)
.						

FORM 11I

[Reg. 13C.]

**LIST OF NOMINATED CANDIDATES IN PARTY PRIMARIES****SENATE CANDIDATES**

Party Name: ..... Party Code: .....  
 County: ..... County Code: .....

County Code	County Name	No	Surname	Other Names	ID/Passport Number	Gender	Year of Birth	Type of Disability (if any)
.								
.								
.								
.								
.								
.								

FORM 11J

[Reg. 13C.]

## **LIST OF NOMINATED CANDIDATES IN PARTY PRIMARIES**

## **WOMAN REPRESENTATIVE CANDIDATES**

Party Name: .....  
County: .....

Party Code: .....  
County Code: .....

FORM 11K

[Reg. 13C.]

## **LIST OF NOMINATED CANDIDATES IN PARTY PRIMARIES**

## **MEMBER OF NATIONAL ASSEMBLY CANDIDATES**

Party Name: .....  
County: .....  
Constituency: .....

Party Code: .....  
County Code: .....  
Constituency Code: .....

[Subsidiary]

[Reg. 13C.]

## **LIST OF NOMINATED CANDIDATES IN PARTY PRIMARIES**

## COUNTY GOVERNOR CANDIDATES

Party Name: .....  
County: .....

Party Code: .....  
County Code: .....

FORM 11M

[Reg. 13C.]

## **LIST OF NOMINATED CANDIDATES IN PARTY PRIMARIES**

## COUNTY ASSEMBLY WARD CANDIDATES

Party Name: .....

Party Code: .....

County: .....

County Code: .....

**Constituency:** .....

Constituency Code: .....

FORM 11N

[Reg. 15(b).]

**INTENTION TO CONTEST AS AN INDEPENDENT CANDIDATE**

I, ..... ID No./Passport No. ....  
 do hereby make an application to contest as an Independent Candidate in  
 the Election for ..... President/Senate/Woman  
 Representative/Member of National Assembly/Governor/Member of County Assembly  
 in ..... County/Constituency/ County Assembly Ward to be held  
 on the ..... day of ..... 20 .....

## Contacts

Physical address: .....

.....

Tel: .....

Email: .....

Signature: .....

Dated ..... 20 .....

FORM 11P

[Reg. 10(3).]

**SUBMISSION OF PARTICULARS AND SYMBOL BY AN INDEPENDENT CANDIDATE**

I, ..... ID No./Passport No. ....  
 having made an application to contest as an Independent Candidate in the Election  
 for ..... President/Senate/County Woman member  
 to the National Assembly/Member of National Assembly/Governor/Member of county  
 Assembly in ..... County/Constituency/ County Assembly Ward  
 to be held on the ..... day of ..... 20 ..... do hereby submit my  
 symbol for approval by the Commission.

Name of Symbol: .....

Signature: .....

Dated ..... 20 .....

(Attach print and electronic copy of the symbol)

[Subsidiary]

FORM 12

[Regs. 16(1), 17(1) &amp;18(2)(b).]

Coloured  
Passport Size  
Photo

**NOMINATION PAPER FOR PRESIDENTIAL ELECTION****(PARTY SPONSORED OR INDEPENDENT)**

Election of President of the Republic of Kenya to be held on the ..... day of ..... , 20 .....

We, the undersigned being registered as voters, in the constituencies shown below do hereby nominate the under mentioned person as a candidate at the said election.

**Particulars of the Candidate**

	<i>Particulars of Candidate</i>	<i>Particulars of Running Mate</i>
Name in Full		
Occupation		
National Identity Card or Passport No.		
Sex		
Date of Birth		
Physical address		
Postal address		
Political Party		
Party Register No./ Clearance Certificate No. of Independent Candidate		
Telephone contacts	1. 2.	1. 2.

And I, the aforesaid ..... do hereby consent to my nomination as a candidate for election as President of the Republic of Kenya and hereby certify that I am in all respects qualified for nomination as such candidate.

Signature of Candidate: .....

Dated .....

*Proposer:*

Full Names: .....

National Identity Card or Passport No. ....

Constituency: .....

Party      Office      held      in      Party      (for      Party      Sponsored      Candidate  
only) .....

Signature of ..... Date: .....

*Seconder:*

Full Names: .....

National Identity Card or Passport No. .....

Constituency: .....

Party Office held in Party (for Party Sponsored Candidate only) .....

Signature of ..... Date: .....

**SUPPORTERS OF PRESIDENTIAL ELECTION CANDIDATE  
(PARTY SPONSORED OR INDEPENDENT)**

Election of the President of the Republic of Kenya to be held on the ..... day of ..... , 20 .....

We, the undersigned, being registered voters, do hereby support the nomination of ..... as a candidate for election as President of the Republic of Kenya.

No.	Name	I.D. Card No./ PP No.	County	Constituency	Signature/ Thumb Print
1.					
2.					
3.					
4.					

N/B a total of at least 2000 supporters from at least 24 counties must be submitted to the Commission.

**FORM 13**

[Reg. 18(3).]

**STATUTORY DECLARATION FOR PURPOSES OF NOMINATION FOR ELECTION**

I ..... of ID/Passport No. ..... do solemnly and sincerely declare as follows:

1. I do hereby consent to my nomination as a candidate at the election to be held in the Republic of Kenya.

2. I am duly qualified and am not disqualified by law for election.

3. I am qualified under, and have complied with, the Constitution and rules relating to persons wishing to contest as a candidate for..... for elections

And I make this declaration conscientiously believing the same to be true and according to the Oaths and Statutory Declarations Act, (Cap. 15) Laws of Kenya.

Declared at ..... this day of ..... 20 .....

Signature of Declarant .....

Before me

.....  
*Magistrate/Commissioner for Oaths*

\*The declarant names must be written in the order in which he or she wishes them to appear on the nomination statement and the surname must be underlined.

[Subsidiary]

FORM 14

[Reg. 21.]

**CERTIFICATE THAT ONLY ONE PERSON IS  
NOMINATED FOR ELECTION AS PRESIDENT**

I, the Chairperson of the Independent Electoral and Boundaries Commission do hereby certify that the only person who stands validly nominated for the presidential election is—

Name	Place of Residence	ID/Passport No.	Occupation/ Description
.			

And that he/she has therefore been declared elected as President.

Dated this..... 20.....

.....  
*Chairperson*  
*Independent Electoral and Boundaries Commission*

FORM 15

(Regs. 22, 23 &amp; 24 (2)(b).]

Passport Size Photo
.

**NOMINATION PAPER FOR MEMBER OF NATIONAL  
ASSEMBLY /COUNTY WOMAN REPRESENTATIVE**

(PARTY SPONSORED OR INDEPENDENT)

Election of a Member of National Assembly of the .....

Constituency to be held on the .....day of ..... 20 .....

We, the undersigned, being registered voters in the constituency nominate the under mentioned person as a candidate at the National Assembly election.

Particulars of the Candidate:

Name in Full	
Occupation	
National Identity Card or Passport No.	
Sex	
Date of Birth	
Physical Address	
Postal Address	
Political Party	
Party Register No./Clearance Certificate	
No. of Independent Candidate	
Telephone Contact	1. 2.

And I, the aforesaid do hereby consent to my nomination as a candidate for election as

Member of National Assembly of the ..... Constituency and  
hereby certify that I am in all respects qualified for nomination as such candidate.

Signature of Candidate:..... Date: .....

*Proposer:*

Full Names .....

National Identity Card or Passport No. ....

Constituency .....

Party Office held in Party (for Party Sponsored Candidate only).....

Signature of..... Date: .....

*Seconder:*

Full Names .....

National Identity Card or Passport No .....

Constituency .....

Party Office held in Party (for Party Sponsored Candidate only).....

Signature of ..... Date: .....

FORM 15 A

[Reg. 24A.]

Passport Size
Photo
.....

**NOMINATION PAPER FOR COUNTY WOMAN  
REPRESENTATIVE OF THE NATIONAL ASSEMBLY**

**(PARTY SPONSORED OR INDEPENDENT)**

Election of a Member of National Assembly of the ..... County to be held on the ..... Day of ..... 20 .....

We, the undersigned, being registered voters in the County nominate the undermentioned person as a candidate at the National Assembly election.

Particulars of the Candidate:

Name in Full	
Occupation	
National Identity Card or Passport No.	
Sex	
Date of Birth	
Physical Address	
Postal Address	
Political Party	
Party Register No./Clearance Certificate	
No. of Independent Candidate	
Telephone Contact	1. 2.

And I, the aforesaid do hereby consent to my nomination as a candidate for election as Member of National Assembly of the ..... County and hereby certify that I am in all respects qualified for nomination as such candidate.

*Signature of Candidate:* ..... Date: .....

[Subsidiary]

*Proposer:*

Full Names .....

National Identity Card or Passport No: .....

Constituency .....

Party Office held in Party (for Party Sponsored Candidate only) .....

Signature of ..... Date: .....

*Seconder:*

Full Names .....

National Identity Card or Passport No .....

Constituency .....

Party Office held in Party (for Party Sponsored Candidate only) .....

Signature of ..... Date: .....

**SUPPORTERS OF INDEPENDENT CANDIDATE FOR  
ELECTION OF MEMBER OF NATIONAL ASSEMBLY**

We, the undersigned, being registered voters, do hereby support the nomination of ..... as a candidate for election as a Member of National Assembly for the ..... Constituency.

No.	Name	I.D Card No./ Passport No.	County	Constituency	Signature/ Thumb Print
1.					
2.					
3.					
4.					

*N/B: A total of at least 1000 supporters from the constituency must be submitted to the Returning officers for every independent candidate.*

**SUPPORTERS OF INDEPENDENT CANDIDATE FOR ELECTION  
OF COUNTY WOMAN MEMBER TO THE NATIONAL ASSEMBLY**

We, the undersigned, being registered voters, do hereby support the nomination of ..... as a candidate for election as County Woman Member of National Assembly for the ..... County.

No.	Name	I.D Card No./ Passport No.	County	Constituency	Signature/ Thumb Print
1.	.	.			
2.	.	.			
3.	.	.			
4.	.	.			

*N/B: A total of at least 1000 supporters from the county must be submitted to the Returning officers for every independent candidate.*

FORM 16

(Regs. 26, 27 &amp; 28(2)(b).]

Passport Size Photo .
-----------------------------

**NOMINATION PAPER FOR SENATE ELECTION  
(PARTY SPONSORED OR INDEPENDENT)**

Election of a Member of the Senate for the .....

County to be held on the ..... day of ..... 20 .....

We, the undersigned supporters, being registered as voters in the county holding the election do hereby nominate the under mentioned person as a candidate at the Senate election.

Particulars of the Candidate:

Name in Full	
Occupation	
National Identity Card or Passport No.	
Sex	
Date of Birth	
Physical Address	
Postal Address	
Political Party	
Party Register No./Clearance Certificate	
No. of Independent Candidate	
Telephone Contacts	1. 2.

And I, the aforesaid do hereby consent to my nomination as a candidate for election as Senator for the ..... County and hereby certify that I am in all respects qualified for nomination as such candidate

*Signature of Candidate:* ..... *Date:* .....*Proposer:*

Full Names .....

National Identity Card or Passport No .....

Constituency .....

Party Office held in Party (for Party Sponsored Candidate only).....

Signature of ..... Date: .....

*Seconder:*

Full Names .....

National Identity Card or Passport No. ....

Constituency .....

Party Office held in Party (for Party Sponsored Candidate only) .....

Signature of ..... Date: .....

**SUPPORTERS OF INDEPENDENT CANDIDATE FOR SENATE ELECTION**

We, the undersigned, being registered voters, do hereby support the nomination of ..... as a candidate for election as Senator of the ..... County.

No.	Name	I.D Card No./ Passport No.	County	Constituency	Signature/ Thumb Print
1.					
2.					
3.					
4.					

N/B: A total of at least 2,000 supporters from the county for the Senate must be submitted to the Returning officers for every independent candidate.

[Subsidiary]

FORM 17

[Regs. 30, 31 &amp; 32 (2)(b).]

Passport Size Photo
.

**NOMINATION PAPER FOR ELECTION OF COUNTY GOVERNOR**

Election of a County Governor of the ..... County to be held on the ..... day of ..... 20 .....

We, the undersigned supporters, being registered voters in the County Assembly Wards of the County holding the election do hereby nominate the under-mentioned person as a candidate at the said election.

## Particulars of the Candidate

	<i>Particulars of Candidate</i>	<i>Particulars of Running Mate</i>
Name in Full		
Occupation		
National Identity Card or Passport No.		
Sex		
Date of Birth		
Physical Address		
Postal Address		
Political Party		
Party Register No./Clearance Certificate		
No. of Independent Candidate		
Telephone Contacts	1. 2.	1. 2.

And I, the aforesaid do hereby consent to my nomination as a candidate for election as County Governor of the ..... County and hereby certify that I am in all respects qualified for nomination as such candidate.

Signature of Candidate: ..... Date: .....

*Proposer:*

Full Names .....

National Identity Card or Passport No .....

Constituency .....

Party Office held in Party (for Party Sponsored Candidate only) .....

Signature of ..... Date: .....

*Seconder:*

Full Names .....

National Identity Card or Passport No .....

Constituency .....

Party Office held in Party (for Party Sponsored Candidate only) .....

Signature of ..... Date: .....

**SUPPORTERS OF INDEPENDENT CANDIDATE  
FOR ELECTION OF COUNTY GOVERNOR**

We, the undersigned, being registered voters, do hereby support the nomination of ..... as a candidate for election as County Governor of the ..... County.

No.	Name	I.D Card No./ Passport No.	County	Constituency	Signature/ Thumb Print
1.					
2.					
3.					
4.					

*N/B: A total of at least 500 supporters from wards concerned must be submitted to the Returning officers for every independent candidate.*

FORM 18

[Regs. 34,35 &amp; 36 (2)(b).]

Passport Size Photo .
-----------------------------

**NOMINATION PAPER FOR ELECTION OF MEMBER OF COUNTY ASSEMBLY**

Election of a Member of County Assembly for ..... Ward in ..... County to be held on the ..... day of ..... 20 .....

We, the undersigned supporters, being registered as voters, in the ..... County Assembly Ward of ..... County holding the election do hereby nominate the under mentioned person as a candidate at the said election.

Particulars of Candidate:

Name in Full	
Occupation	
National Identity Card or Passport No.	
Sex	
Date of Birth	
Physical Address	
Postal Address	
Political Party	
Party Register No./Clearance Certificate	
No. of Independent Candidate	
Telephone Contacts	1. 2.

And I, the aforesaid do hereby consent to my nomination as a candidate for election as County Assembly member of the ..... County Assembly ward of ..... County and hereby certify that I am in all respects qualified for nomination as such candidate.

Signature of Candidate: ..... Date: .....

*Proposer:*

Full Names .....

National Identity Card or Passport No .....

Constituency .....

Party Office held in Party (for Party Sponsored Candidate only).....

Signature of ..... Date: .....

[Subsidiary]

**Seconder:**

Full Names .....  
 National Identity Card or Passport No .....  
 Constituency .....  
 Party Office held in Party (for Party Sponsored Candidate only).....  
 Signature of..... Date:.....

**SUPPORTERS OF INDEPENDENT CANDIDATE FOR  
ELECTION OF MEMBER OF COUNTY ASSEMBLY**

We, the undersigned, being registered voters, do hereby support the nomination of ..... as a candidate for election as Member of County Assembly Ward for the ..... Ward in .....

No.	Name	I.D Card No./ Passport No.	County	Constituency	County Assembly Ward	Signature/ Thumb Print
1.						
2.						
3.						
4.						

*N/B: A total of at least 500 supporters from the County Assembly ward must be submitted to the Returning officer for every independent candidate.*

---

**FORM 19**

[Reg. 41).]

**STATUTORY DECLARATION FOR PURPOSES OF NOMINATION  
FOR PARLIAMENTARY AND COUNTY ELECTIONS**

I ..... of ID No/Passport No. ..... do solemnly and sincerely declare as follows:-

1. I do hereby consent to my nomination as a candidate at the election to be held in the ..... County/Constituency/County Assembly Ward.
2. I am duly qualified and am not disqualified by law for the election.
3. I am qualified under, and have complied with, the Constitution and rules relating to persons wishing to contest as a candidate for ..... elections.

And I make this declaration conscientiously believing the same to be true and according to the Oaths and Statutory Declarations Act (Cap. 15) Laws of Kenya

Declared at ..... this ..... day ..... 20 ....

Signature of Declarant .....

Before me

.....  
*Magistrate/Commissioner for Oaths*

Dated: ..... of ..... 20 .....

\* The declarant names must be written in the order in which he or she wishes them to appear on the nomination statement and the surname must be underlined.

---

## FORM 20

[Reg. 51(1).]

**CERTIFICATE OF NOMINATION FOR PRESIDENTIAL ELECTION**

I, the Chairperson of the Independent Electoral and Boundaries Commission do hereby certify that ..... of ID No./Passport No./Passport No..... is validly nominated for the Presidential election to be held on..... day of ..... 20 ..... in the Republic of Kenya.

Dated this ..... day of ..... 20 .....

.....  
*Chairperson*  
*Independent Electoral and Boundaries Commission*

## FORM 21

[Reg. 51(2).]

**CERTIFICATE OF NOMINATION FOR PARLIAMENTARY/COUNTY ELECTIONS**

I ..... the Returning Officer for ..... County/ Constituency/County Assembly Ward\*, do hereby certify that ..... of ID No./Passport No. ..... is validly nominated for the National Assembly/Senate/ County Governor/County Assembly election\* to be held on ..... day of ..... 20 ..... in ..... County/ Constituency/County Assembly Ward\*.

Dated this ..... day of ..... 20 .....

Signature: .....

.....  
*Returning Officer*

\*delete as appropriate

## FORM 22

[Reg. 51(3).]

**CERTIFICATE THAT NO PERSON NOMINATED**

I ..... the Returning Officer for ..... County/ Constituency/County Assembly Ward\*, do hereby certify that no person is validly nominated for the National Assembly/Senate/County Governor/County Assembly election\* to be held on ..... day of ..... 20 ..... in County/Constituency/County Assembly Ward\*.

Signature: .....

\*delete as appropriate

.....  
*Returning Officer*

[Subsidiary]

FORM 23

[Reg. 51(4)(b).]

**CERTIFICATE THAT ONLY ONE PERSON NOMINATED FOR ELECTION**

I ..... the Returning Officer for ..... County/ Constituency/ County Assembly ward, \*do hereby certify that the only one person who is validly nominated for the National Assembly/Senate/County Governor/County Assembly election\* is:

Name	Place of Residence	ID/Passport Number	Occupation/ Description

Dated this ..... day of ..... 20 .....

Signature: .....

.....  
*Returning Officer*

\*delete as appropriate

FORM 24

[Reg. 51(6).]

**STATEMENT OF PERSONS NOMINATED FOR  
PARLIAMENTARY AND COUNTY ELECTIONS**

I ..... the Returning Officer for ..... County/ Constituency/County Assembly Ward, \*do hereby declare that the following persons have been and now stand nominated for the County / Constituency / County Assembly Ward election\* to be held on ..... day of ..... 20 .....

## Particulars of Candidates

No.	Full Name of Candidate	ID/PP No.	Party Sponsored or Independent Candidate	Symbol	Proposer and Seconder	Occupation	Contact
					1.		
					2.		
					1.		
					2.		

The voters belonging to the voters areas specified hereunder may vote only at the polling station specified and the days and hours for polling at those polling stations shall be as specified Herein:

County Code	County	Constituency Code	Constituency	Ward Code	Ward Name	Polling Station Code	Polling Stations	Day and Hours of Polling

The Tallying Centre shall be as specified hereunder:

County Code	County	Tallying Centre	Location
Venue			

[Subsidiary]

Constituency Code	Constituency	Tallying Centre Venue	Location
.	.	.	.
.	.	.	.

Dated this ..... day of ..... 20 .....

*Returning Officer*

\*delete as appropriate

## FORM 24A

[Reg. 52(1).]

**NOTICE OF WITHDRAWAL OF CANDIDATURE AFTER NOMINATION**

To the Chairperson Independent Electoral and Boundaries Commission (Presidential  
or

To the Returning Officer ..... County/Constituency/ County Assembly  
Ward

I, ..... ID No./Passport No. ..... having been duly  
nominated by the Commission on the ..... day of ..... 20 ..... as a  
candidate to contest in the Election for ..... President/Senate/Woman  
Representative/Member of National Assembly/Governor/Member of County Assembly  
in ..... County/Constituency/County Assembly Ward to be held on  
the ..... day of ..... 20 ..... do hereby withdraw my candidature.

Signature: .....

Dated ..... 20 .....

Remarks by RO

.....  
.....  
Name: ..... (*Returning Officer*)

ID No: .....

Signature: .....

Date: ..... 20 .....

Stamp

\*delete as appropriate

[Subsidiary]

FORM 24B

[Reg. 54(2).]

**POLITICAL PARTY LIST FOR ALLOCATION OF SPECIAL SEATS**

Name of Political Party .....

No.	Name	ID/PP No	Date of Birth	Sex	Dis ability (Y/N)	Type of Dis ability	Elective Position	Occupation	Phone Number	Colored Photo size (on White Back-ground with name and signatures on the back)	Passport
.	.	.	.	.	.	.	.	.	.	.	.
.	.	.	.	.	.	.	.	.	.	.	.
.	.	.	.	.	.	.	.	.	.	.	.
.	.	.	.	.	.	.	.	.	.	.	.

FORM 25

[Reg. 68(1)(a).]

**BALLOT PAPER Counterfoil**

S/No. ....

PRESIDENTIAL ELECTION, 20 .....

IN THE ..... CONSTITUENCY  
..... Polling Station

S/No .....

..... Constituency.  
..... Polling Station**INSTRUCTIONS TO VOTER:**

1. Mark the paper by placing a mark against the name of the candidate and the symbol of the party you wish to elect.
2. Place a mark against only one candidate.
3. Make no other mark whatsoever on the paper.
4. Fold the paper through the centre, from left to right, so as to conceal your vote. Then put the ballot into the ballot box.

**MAAGIZO KWA MPIGA KURA:**

1. Weka alama kwenye nafasi iliotengwa kwa jina la mgombeaji au picha ya chama ungependa kuchagua.
2. Weka alama kwa mgombeaji mmoja tu
3. Usiweke alama yeoyote nyingine kwenye karatasi ya kura
4. Kunja karatasi katikati kutoka kushoto kwenda kulia ili kuficha kura yako halafu tumbukiza kwenye sanduku.

Voter's Mark/Alama ya kura Tick (✓) cross (x) Thumb print ( )

Party/Candidates Symbol	Presidential Candidate Photo and Name	Deputy Presidential Name	Voter's Mark/Alama ya kura
.	.	.	.

FORM 26

(Reg. 68(1)(b).)

**BALLOT PAPER**

Counterfoil

S/No. ....

NATIONAL ASSEMBLY ELECTION IN THE, 20 .....

IN THE ..... CONSTITUENCY

..... Polling Station

S/No. ....

..... Constituency.

..... Polling Station

INSTRUCTIONS TO VOTER:	MAAGIZO KWA MPIGA KURA:
.	.
1. Mark the paper by placing a mark against the name of the candidate and the symbol of the party you wish to elect.	1. Weka alama kwenye nafasi iliotengwa kwa jina la mgombeaji au picha ya chama ungependa kuchagua.
2. Place a mark against only one candidate.	2. Weka alama kwa mgombeaji mmoja tu
3. Make no other mark whatsoever on the paper.	3. Usiweke alama yeyote nyingine kwenye karatasi ya kura
4. Fold the paper through the centre, from left to right, so as to conceal your vote. Then put the ballot into the ballot box.	4. Kunja karatasi katikati kutoka kushoto kwenda kulia ili kuficha kura yako halafu tumbukiza kwenye sanduku.

Voter's Mark/Alama ya kura Tick (✓) cross (x) Thumb print ( )

Party/Candidates Symbol	Candidate Photo and Name	Voter's Mark/Alama ya kura
.		
.		
.		

FORM 27

(Reg. 68(1)(c).)

**BALLOT PAPER**

Counterfoil

S/No. ....

COUNTY WOMAN REPRESENTATIVE TO THE NATIONAL ASSEMBLY ELECTION, 20 .....

IN THE ..... CONSTITUENCY

..... Polling Station

S/No. ....

..... Constituency.

..... Polling Station

[Subsidiary]

INSTRUCTIONS TO VOTER:	MAAGIZO KWA MPIGA KURA:
1. Mark the paper by placing a mark against the name of the candidate and the symbol of the party you wish to elect.	1. Weka alama kwenye nafasi iliotengwa kwa jina la mgombeaji au picha ya chama ungependa kuchagua.
2. Place a mark against only one candidate.	2. Weka alama kwa mgombeaji mmoja tu
3. Make no other mark whatsoever on the paper.	3. Usiweke alama yeyote nyingine kwenye karatasi ya kura
4. Fold the paper through the centre, from left to right, so as to conceal your vote. Then put the ballot into the ballot box.	4. Kunja karatasi katikati kutoka kushoto kwenda kulia ili kuficha kura yako halafu tumbukiza kwenye sanduku.

Voter's Mark/Alama ya kura Tick (✓) cross (x) Thumb print ( )

Party/Candidates Symbol	Candidate Photo and Name	Voter's Mark/Alama ya kura
.		.
.		
.		

## FORM 28

(Reg. 68(1)(d))

**BALLOT PAPERS**

Counter foil

S/No. ....

SENATE ELECTION, 20 .....

IN THE ..... CONSTITUENCY  
..... polling StationS/No .....  
..... Constituency.  
..... Polling Station

INSTRUCTIONS TO VOTER:	MAAGIZO KWA MPIGA KURA:
1. Mark the paper by placing a mark against the name of the candidate and the symbol of the party you wish to elect.	1. Weka alama kwenye nafasi iliotengwa kwa jina la mgombeaji au picha ya chama ungependa kuchagua.
2. Place a mark against only one candidate.	2. Weka alama kwa mgombeaji mmoja tu.
3. Make no other mark whatsoever on the paper.	3. Usiweke alama yeyote nyingine kwenye karatasi ya kura.
4. Fold the paper through the centre, from left to right, so as to conceal your vote. Then put the ballot into the ballot box.	4. Kunja karatasi katikati kutoka kushoto kwenda kulia ili kuficha kura yako halafu tumbukiza kwenye sanduku.

Voter's Mark/Alama ya kura Tick (✓) cross (x) Thumb print. ( )

Party/Candidates Symbol	Candidate Photo and Name	Voter's Mark/Alama ya kura
.		.
.		

FORM 29

(Reg. 68(1)(e).]

**BALLOT PAPER**

Counter foil

S/No. ....  
 COUNTY GOVERNOR ELECTION, 20 .....  
 IN THE ..... CONSTITUENCY  
 ..... Polling Station

S/No. ....  
 ..... Constituency  
 ..... Polling Station

<b>INSTRUCTIONS TO VOTER:</b>	<b>MAAGIZO KWA MPIGA KURA:</b>
-------------------------------	--------------------------------

- |  |   |
|--|---|
| 1. Mark the paper by placing a mark against the name of the candidate and the symbol of the party you wish to elect.           | 1. Weka alama kwenye nafasi iliotengwa kwa jina la mgombeaji au picha ya chama ungependa kuchagua.            |
| 2. Place a mark against only one candidate.  | 2. Weka alama kwa mgombeaji mmoja tu.   |
| 3. Make no other mark whatsoever on the paper.   | 3. Usiweke alama yeoyote nyingine kwenye karatasi ya kura.  |
| 4. Fold the paper through the centre, from left to right, so as to conceal your vote. Then put the ballot into the ballot box. | 4. Kunja karatasi katikati kutoka kushoto kwenda kulia ili kuficha kura yako halafu tumbukiza kwenye sanduku. |

Voter's Mark/Alama ya kura Tick (✓) cross (X) Thumb print. ( )

Party/Candidates Symbol	Candidate Photo and Name	Voter's Mark/Alama ya kura
.		

FORM 30

(Reg. 68(1)(f).]

**BALLOT PAPER**

Counter foil

S/No. ....  
 MEMBER OF COUNTY ASSEMBLY ELECTION, 20 .....  
 IN THE ..... WARD  
 ..... Polling Station

S/No. ....  
 ..... Constituency  
 ..... Polling Station

<b>INSTRUCTIONS TO VOTER:</b>	<b>MAAGIZO KWA MPIGA KURA:</b>
-------------------------------	--------------------------------

- |  |   |
|--|---|
| 1. Mark the paper by placing a mark against the name of the candidate and the symbol of the party you wish to elect.           | 1. Weka alama kwenye nafasi iliotengwa kwa jina la mgombeaji au picha ya chama ungependa kuchagua.            |
| 2. Place a mark against only one candidate.  | 2. Weka alama kwa mgombeaji mmoja tu.   |
| 3. Make no other mark whatsoever on the paper.   | 3. Usiweke alama yeoyote nyingine kwenye karatasi ya kura.  |
| 4. Fold the paper through the centre, from left to right, so as to conceal your vote. Then put the ballot into the ballot box. | 4. Kunja karatasi katikati kutoka kushoto kwenda kulia ili kuficha kura yako halafu tumbukiza kwenye sanduku. |

Voter's Mark/Alama ya kura Tick (✓) cross (X) Thumb print. ( )

Party/Candidates Symbol	Candidate Photo and Name	Voter's Mark/Alama ya kura
.		

[Subsidiary]

FORM 31

(Reg. 68(1)(f))

**BALLOT PAPER**

Counter foil

S/No. ....

REFERENDUM ELECTION IN THE ..... CONSTITUENCY, 20 .....

..... Polling Station

S/No. ....

..... Constituency.

..... Polling Station

INSTRUCTIONS TO VOTER:	MAAGIZO KWA MPIGA KURA:
1. Mark the paper by placing a mark against the name of the candidate and the symbol of the party you wish to elect.	1. Weka alama kwenye nafasi iliotengwa kwa jina la mgombeaji au picha ya chama ungependa kuchagua.
2. Place a mark against only one candidate.	2. Weka alama kwa mgombeaji mmoja tu.
3. Make no other mark whatsoever on the paper.	3. Usiweke alama ye yote nyingine kwenye karatasi ya kura.
4. Fold the paper through the centre, from left to right, so as to conceal your vote. Then put the ballot into the ballot box.	4. Kunja karatasi katikati kutoka kushoto kwenda kulia ili kuficha kura yako halafu tumbukiza kwenye sanduku.

Voter's Mark/Alama ya kura Tick (✓) cross (X) Thumb print. ( )

Answer/Jibu	Symbol/Alama	Voter's Mark/Alama ya kura
.		
.		

FORM 32

[Reg. 72(5)(a).]

**DECLARATION OF SECRECY MADE BY A PERSON ASSISTING A VOTER**

I ..... of ID No./Passport No. ..... Tel No. ..... P.O. Box ..... do declare that at these elections I shall assist the voter in strict obedience to the following requirements, namely: —

1. That I shall not communicate to any person the name or identity of the candidate for whom the voter I am assisting is about to vote or has voted for.
2. That I shall mark the vote of the voter I am assisting for the candidate of the voter's choice and for no other person.
3. That I shall maintain and aid in maintaining the secrecy of the voting in this polling station.

Signature of the person assisting the voter .....

For Official Use

Declared before the Presiding/Deputy Presiding Officer for

..... Poling Station in ..... Constituency

This ..... Day of ..... 20 .....

*Signature of Presiding/Deputy Presiding Officer:*

Stamp

FORM 32A

[Reg. 69(1)(e)(ii).]

**VOTER IDENTIFICATION & VERIFICATION FORM**

County: ..... County Code: .....  
 Constituency: ..... Constituency Code: .....  
 County Assembly Ward: ..... CAW Code: .....  
 Polling Centre: ..... Code: .....  
 Polling Station: .....

This is to confirm that the voter whose particulars are indicated below was not identified by the electronic voter identification device but was identified in the print out of the register of voters in respect of the above Polling Station.

## Particulars of Voter

Surname:	
Other Names:	
Gender:	
ID/Passport No.	

## Witnesses

No.	Name of Candidate or Agent	ID/Passport No.	Party Name/Tel. Contact Independent Candidate	Signature	Date
1.					
2.					
3.					

Name of the Presiding Officer: .....

Name of Voter .....

ID Number: .....

ID No. /Thumbprint .....

Signature: .....

Signature .....

Date: .....

Date .....

Stamp

FORM 33

[Reg. 76(3).]

**CANDIDATE VOTE TALLY SHEET**

Name of Polling Station	Code:	
Name of Constituency	Code	
Candidate Name		
Party Sponsored or Independent		

## Candidate Vote Tally at the Polling Station

Mark every vote counted close the box as follows total for each row is 50

	Total=
	Total votes=

[Subsidiary]

FORM 34A

[Reg. 79(2)(a).]

**PRESIDENTIAL ELECTION RESULTS AT THE POLLING STATION**

S/Number .....

Name of Polling Station ..... Code .....

Ward ..... Code .....

Constituency ..... Code .....

County ..... Code .....

Number of votes cast in favour of each candidate:

Name of Candidate	No. of Valid Votes Obtained
.	
.	
.	
Total number of valid votes cast	

## Polling Station Counts

1. Total Number of Registered Voters in the Polling Station;	
2. Total Number of Rejected Ballot Papers;	
3. Total Number of Rejection Objected To Ballot Papers;	
4. Total Number of Disputed Votes;	
5. Total Number of Valid Votes Cast;	

## Decision(s) on disputed votes if any

Serial Number of Ballot Paper(s) with disputed vote	Name of Candidate assigned the vote
.	
.	
.	

## Declaration

We, the undersigned, being present when the results of the count were announced, do hereby declare that the results shown above are true and accurate count of the ballots in ..... Polling Station ..... Constituency.

Presiding Officer ..... Signature ..... Date .....

Deputy Presiding Officer: ..... Signature ..... Date .....

## Agents or Candidates (if present)

No.	Name of Candidate or Agent	ID/Passport No.	Party Name/ Independent Candidate	Tel. Contact	Signature	Date
1.						
2.						
3.						

## Reasons for Refusal to Sign (if any)

.....

.....

## Presiding Officer's Comments:

.....

.....

## FORM 34B

[Reg. 87(1)(a).]

**COLLATION OF PRESIDENTIAL ELECTION RESULTS AT THE  
CONSTITUENCY TALLYING CENTRE**

S/Number .....

Constituency ..... Code .....

County ..... Code .....

Polling Station Code	Name of Polling Station	Registered Voters	Candidate 1	Candidate 2	Candidate 3	Total Valid Votes	Rejected Ballots
.							
.							
.							
.							
.							
.							
.							

Agents or Candidates (if present)

No.	Name of Candidate or Agent	ID/Passport No.	Party Name/Tel. Contact <i>Independent Candidate</i>	Signature	Date
1.					
2.					
3.					

Name of the Constituency Returning Officer .....

ID Number .....

Signature: .....

Date: .....

Handing over - Taking Over at the National Presidential Tallying Centre

HANDING OVER	TAKING OVER
Number of FORM 34 A submitted: .....	Number of FORM 34 A received .....
Name of the Constituency Returning Officer: .....	Commission Chairperson: .....
ID Number: .....	ID Number .....
Signature: .....	Signature: .....
Date: .....	Date: .....
Time: .....	Time: .....

[Subsidiary]

FORM 34C

[Reg. 87(3)(b).]

**DECLARATION OF RESULTS FOR ELECTION OF THE PRESIDENT OF  
THE REPUBLIC OF KENYA AT THE NATIONAL TALLYING CENTRE**

S/Number: .....

Name of National Tallying Centre: .....

County Code	County Name	Const. Code	Constituency Name	Polling Station Code:	Polling Station Name	Candidate 1	Candidate 2	Candidate 3	Total Valid Votes	Rejected Ballots
.										
.										
	County Sub-Total									
	% age									
.										
.										
	County Sub-Total									
	% age									
.										
	NATIONAL TOTAL									
	% AGE									

No.	Name of Candidate	Valid Votes in Figures	Percentage of votes cast	Number of Counties the Candidate has attained at least 25% of Total Valid Votes Cast
				.

## Aggregate Results

## Signatures of Candidates or Agents

No.	Name of Candidate or Agent	ID/Passport No.	Party Name/Tel. Contact	Signature	Date
1.					
2.					
3.					

Commission Chairperson: .....

ID Number: .....

Signature: .....

Date: .....

FORM 34D

[Reg. 87(3)(f).]

**CERTIFICATE OF THE PRESIDENT- ELECT OF THE REPUBLIC OF KENYA**

The Chairperson of the Independent Electoral and Boundaries Commission hereby declares that ..... of ID No. .... has been duly elected as the President of the Republic of Kenya under the provisions of Article 138 of the Constitution in the Presidential Election held on ..... day of ..... 20 .....

Chairperson of IEBC: .....

Signature: .....

Dated this ..... Day of ....., 20.....

Stamp

FORM 35A

[Reg. 79(2)(b).]

**MEMBER OF NATIONAL ASSEMBLY ELECTION  
RESULTS AT THE POLLING STATION**

S/Number .....

Name of Polling Station ..... Code .....

Ward ..... Code .....

Constituency..... Code .....

County..... Code .....

Number of votes cast in favour of each candidate:

Name of Candidate	No. of Valid Votes Obtained
.	.
.	.
Total number of Valid Votes cast	

Polling Station Counts:

1. Total Number of Registered Voters in the Polling Station;	
2. Total Number of Rejected Ballot Papers;	
3. Total Number of Rejection Objected to Ballot Papers;	
4. Total Number of Disputed Votes;	
5. Total Number of Valid Votes cast;	

Decision(s) on disputed votes if any

Serial Number of Ballot Paper(s) with disputed vote	Name of Candidate assigned the vote
.	.
.	.

## Declaration

We, the undersigned, being present when the results of the count were announced, do hereby declare that the results shown above are true and accurate count of the ballots in ..... polling station ..... constituency.

Presiding Officer: ..... Signature ..... Date .....

Deputy Presiding Officer: ..... Signature ..... Date .....

Agents or Candidates (if present)

No	Name of Candidate or Agent	ID/Passport No.	Party Name/Tel. Contact Independent Candidate	Signature	Date
1.					
2.					
3.					

[Subsidiary]

Reasons for Refusal to Sign (if any)

.....

.....

Presiding Officer's Comments:

.....

.....

## FORM 35B

[Reg. 83(1)(e).]

**DECLARATION OF MEMBER OF NATIONAL ASSEMBLY ELECTION  
RESULTS AT THE CONSTITUENCY TALLYING CENTRE**

S/Number .....

Name of Constituency: ..... Code: .....

<i>Polling station code</i>	<i>Name of Polling station</i>	<i>Reg. Voters</i>	<i>Candidate 1</i>	<i>Candidate 2</i>	<i>Candidate 3</i>	<i>Total Valid Votes</i>	<i>Rejected Ballots</i>
.							
.							
.							
.							
.							
.							
.							
Total							

## Aggregate Results

No.	Name of Candidate	Valid Votes in Figure	Valid Votes in Words
.			
.			
.			
.			
.			

## Voter Turn Out

Total number of registered voters: .....

Total number of voters who turned out to vote: .....

Percentage of Voter turnout: .....

## Signatures of Candidates or Agents

No	Name of Candidate or Agent	ID/Passport No.	Party Name/Tel. Contact Independent Candidate	Signature	Date
1.					
2.					
3.					

Constituency Returning Officer: .....

ID Number:.....

Signature: .....

Date: .....

STAMP

FORM 35C

[Reg. 83)(1)(g).]

**CERTIFICATE OF ELECTED MEMBER OF NATIONAL ASSEMBLY**

The Constituency Returning Officer hereby declares that ..... of ID No. ..... has been duly elected as the Member of National Assembly for ..... Constituency in the election held on ..... day of ..... 20 .....

Constituency Returning Officer: .....

Signature: .....

Dated this ..... Day of ....., 20 .....

Stamp

---

FORM 36A

[Reg. 79(2)(b).]

**MEMBER OF COUNTY ASSEMBLY ELECTION RESULTS AT THE POLLING STATION**

S/Number .....

Name of Polling Station..... Code .....

Ward ..... Code .....

Constituency..... Code .....

County..... Code .....

Number of votes cast in favour of each candidate:

<i>Name of Candidate</i>	<i>No. of Valid Votes Obtained</i>
.	.
.	.
Total valid votes cast	

Polling Station Counts

1.	Total Number Register Voters in the polling Station	
2.	Total Number Rejected Ballot Papers	
3.	Total Number of Rejected Objected Ballot To Papers	
4.	Total Number of Disputed Votes	
5	Total Number of Valid Votes cast	

Decision(s) on disputed votes if any

Serial Number of Ballot Paper(s) with disputed vote	Name of Candidate assigned the vote
.	
.	
.	

[Subsidiary]

## Declaration

We, the undersigned, being present when the results of the count were announced, do hereby declare that the results shown above are true and accurate count of the ballots in ..... Polling Station ..... Constituency.

Presiding officer: ..... Signature ..... Date .....

Deputy Presiding Officer: ..... Signature ..... Date .....

## Agents or Candidates (if present)

No.	Name of Candidate or Agent	ID/Passport No.	Party Name/Tel. Contact Independent Candidate	Signature	Date
1.					
2.					
3.					

## Reasons for Refusal to Sign (if any)

.....  
.....

## Presiding Officer's Comments:

.....  
.....

## FORM 36B

[Reg. 83(1)(e)]

**DECLARATION OF MEMBER OF COUNTY ASSEMBLY ELECTION  
RESULTS AT THE CONSTITUENCY TALLYING CENTRE**

S/Number .....

Name of Constituency..... Code .....

Name of County Assembly Ward: .....Code .....

Polling station code	Name of Polling station	Reg. Voters	Candidate 1	Candidate 2	Candidate 3	Total Valid Votes	Rejected Ballots
.							
.							
.							
.							
.							
.							
.							
.							
.							
.							
.							
Total							

## Aggregate Results

No.	Name of Candidate	Valid Votes in Figure	Valid Votes in Words
.			
.			
.			
.			

## Voter Turn Out

Total number of registered voters: .....

Total number of voters who turned out to vote: .....

Percentage of Voter turnout:.....

## Signatures of Candidates or Agents

No	Name of Candidate or Agent	ID/Passport No.	Party Name Independent Candidate	Tel. Contact	Signature	Date
1.						
2.						
3.						

Constituency Returning Officer:.....

ID Number:.....

Signature: .....

Date:.....

## FORM 36C

[Reg. 83](1)(g).]

**CERTIFICATE OF ELECTED MEMBER OF COUNTY ASSEMBLY**

The Constituency Returning Officer hereby declares that ..... of ID No. ..... has been duly elected as the Member of County Assembly for ..... Ward of ..... County in the election held on ..... day of ..... 20 .....

Constituency Returning Officer: .....

Signature: .....

Dated this ..... day of ..... , 20.....

Stamp

[Subsidiary]

FORM 37 A

[Reg. 79(2)(b).]

**COUNTY GOVERNOR ELECTION RESULTS AT THE POLLING STATION**

S/Number .....  
 Name of Polling Station: ..... Code .....  
 Ward ..... Code .....  
 Constituency ..... Code .....  
 County ..... Code .....

Number of votes cast in favour of each candidate:

Name of Candidate	No. of Valid Votes Obtained
.	
.	
.	
Total valid votes cast	

**Polling Station Counts**

1. Total Number of Registered Voters in the Polling Station;	
2. Total Number of Rejected Ballot Papers;	
3. Total Number of Rejection Objected To Ballot Papers;	
4. Total Number of Disputed Votes;	
5. Total Number of Valid Votes Cast;	

## Decision(s) on disputed votes if any

Serial Number of Ballot Paper (s) with disputed vote	Name of Candidate assigned the vote
.	
.	
.	

**Declaration**

We, the undersigned, being present when the results of the count were announced, do hereby declare that the results shown above are true and accurate count of the ballots in ..... Polling Station ..... Constituency.

Presiding officer: ..... Signature ..... Date .....

Deputy Presiding Officer: ..... Signature ..... Date .....

## Agents or Candidates (if present)

No.	Name of Candidate or Agent	ID/Passport No.	Party Name/Tel. Contact	Signature	Date
1.			Independent Candidate		
2.					
3.					

## Reasons for refusal to sign (if any)

.....  
.....

## Presiding Officer's Comments:

.....  
.....

FORM 37 B

[Reg. 87(1)(a).]

**COLLATION OF COUNTY GOVERNOR ELECTION  
RESULTS AT THE CONSTITUENCY TALLYING CENTRE**

S/Number .....

Constituency ..... Code .....

County ..... Code .....

Name of constituency Tallying Center

Polling Station Code	Name of Polling Station	Reg. Voters	Candidate 1	Candidate 3	Candidate 3	Total Valid Votes	Rejected Ballots
.							
.							
.							
.							
.							
.							

Signatures of Candidates or Agents

No.	Name of Candidate or Agent	ID/Passport No.	Party Name/Tel. Contact Independent Candidate	Signature	Date
1.					
2.					
3.					

Name of the Constituency Returning Officer: .....

ID Number: .....

Signature: .....

Date: .....

Handing Over — Taking Over at the County Tallying Centre

HANDING OVER	TAKING OVER
Number of FORM 37 A Submitted: .....	Number of FORM 37 A received: .....
Name of the Constituency Returning Officer: .....	County Returning Officer: .....
ID Number: .....	ID Number: .....
Signature: .....	Signature: .....
Date: .....	Date: .....
Time: .....	Time: .....

[Subsidiary]

## FORM 37 C

[Reg. 87(2)(b).]

**DECLARATION OF THE COUNTY GOVERNOR ELECTION  
RESULTS AT THE COUNTY TALLYING CENTRE**

S/Number .....

County ..... Code .....

Name of County Tallying Centre .....

Constituency Code	Constituency Name	Polling Station Code	Name of Polling Station	Name of Candidate	Name of Candidate	Name of Candidate	Votes Cast	Rejected Votes	Valid Votes
.	.	.	.	.	.	.	.	.	.
.	.	.	.	.	.	.	.	.	.
Constituency Sub-Total									
.	.	.	.	.	.	.	.	.	.
.	.	.	.	.	.	.	.	.	.
Constituency Sub-Total									
.	.	.	.	.	.	.	.	.	.
.	.	.	.	.	.	.	.	.	.
County Total									

## Aggregate Results

No.	Name of Candidate	Valid Votes in Figure	Valid Votes in Words
.	.	.	.
.	.	.	.
.	.	.	.
.	.	.	.
.	.	.	.

## Signatures of Agents or/and Candidates

No.	Name of Candidate or Agent	ID/Passport No.	Party Name/Tel. Contact	Signature	Date
1.					
2.					
3.					

County Returning Officer: .....

ID Number: .....

Signature: .....

Date: .....

FORM 37D

[Reg. 87(2)(d).]

**CERTIFICATE OF THE ELECTED COUNTY GOVERNOR**

The County Returning Officer hereby declares that ..... of ID No. .... has been duly elected as the County Governor for ..... County in the election held on ..... day of ..... 20 .....

County Returning Officer: .....

Signature: .....

Dated this..... day of ....., 20 .....

Stamp

FORM 38 A

[Reg. 79(2)(b).]

**SENATE ELECTION RESULTS AT THE POLLING STATION**

S/Number .....

Name of Polling Station: ..... Code .....

Ward ..... Code .....

Constituency ..... Code .....

County ..... Code .....

Number of votes cast in favour of each candidate:

Name of Candidate	No. of Valid Votes Obtained
.	
.	
Total valid votes cast	

Polling Station Counts

1. Total Number of Registered Voters in the Polling Station	
2. Total Number of Rejected Ballot Papers	
3. Total Number of Rejection Objected To Ballot Papers	
4. Total Number of Disputed Votes	
5. Total Number of Valid Votes Cast	

Decision(s) on disputed votes if any

Serial Number of Ballot Paper (s) with disputed vote	Name of Candidate assigned the vote
.	
.	
.	

Declaration

We, the undersigned, being present when the results of the count were announced, do hereby declare that the results shown above are true and accurate count of the ballots in ..... Polling Station ..... Constituency.

Presiding Officer: ..... Signature ..... Date .....

Deputy Presiding Officer: ..... Signature ..... Date .....

[Subsidiary]

Agents or Candidates (if Present)

No.	Name of Candidate or Agent	ID/Passport No.	Party Name/Tel. Contact Independent Candidate	Signature	Date
1.					
2.					
3.					

Reasons for Refusal to Sign (if any)

.....  
 .....  
 .....

Presiding Officer's Comments:

.....  
 .....

---

## FORM 38 B

[Reg. 87(1)(a).]

**COLLATION OF SENATE ELECTION RESULTS  
AT THE CONSTITUENCY TALLYING CENTRE**

S/Number .....

Constituency ..... Code .....

County ..... Code .....

Name of the Constituency Tallying Centre .....

Polling Station Code	Name of polling Station	Reg. Voters	Candidate 1	Candidate 2	Candidate 3	Total Valid Votes	Rejected Ballots
.							
.							
.							
.							

Signatures of Candidates or Agents

No.	Name of Candidate or Agent	ID/Passport No.	Party Name/Tel. Contact Independent Candidate	Signature	Date
1.					
2.					
3.					

Name of the County Returning Officer: .....

ID Number: .....

Signature: .....

Date: .....

## Handing Over — Taking Over at the County Tallying Centre

HANDING OVER	TAKING OVER
Number of FORM 38 A submitted:	Number of FORM 38 A received:
.....	.....
Name of the Constituency Returning Officer:	County Returning Officer:
.....	.....
ID Number: .....	ID Number: .....
Signature: .....	Signature: .....
Date: .....	Date: .....
Time: .....	Time: .....

## FORM 38 C

[Reg. 87(2)(b).]

**DECLARATION OF SENATE ELECTION  
RESULTS AT THE COUNTY TALLYING CENTRE**

S/Number .....

Name of County ..... Code .....

Name of County Tallying Centre .....

Constituency Code	Constituency Name	Polling Station Code	Name of Polling Station	Name of Candidate 1	Name of Candidate 2	Name of Candidate 3	Valid Votes	Rejected Ballots
.								
.								
.								
Constituency Sub-Total								
.								
.								
.								
Constituency Sub-Total								
.								
.								
County Total								

## Voter Turn Out

Total Number of registered voters: .....

Total number of voters who turned out to vote: .....

Percentage of Voter turnout: .....

## Aggregate Results

No.	Name of Candidate	Valid Votes in Figure	Valid Votes in Words
.			
.			
.			
.			

[Subsidiary]

## Signatures of Agents or/and Candidates

No.	Candidates or Candidates' Agents name	Candidates or Candidates' Agents ID Number	Party/ independent candidate	Contact	Candidates or Candidates' Agents signature	Date
1.						
2.						
3.						

County Returning Officer: .....

ID Number: .....

Signature: .....

Date: .....

## FORM 38 D

[Reg. 87(2)(d).]

**CERTIFICATE OF THE ELECTED SENATOR**

The County Returning Officer hereby declares that ..... of ID No. ..... has been duly elected as the Senator for ..... County in the election held on ..... day of ..... 20 .....

County Returning Officer: .....

Signature: .....

Dated this ..... Day of ....., 20 .....

Stamp

## FORM 39 A

[Reg. 79(2)(b).]

**COUNTY WOMAN REPRESENTATIVE TO THE NATIONAL ASSEMBLY ELECTION RESULTS AT THE POLLING STATION**

S/Number .....

Name of Polling Centre: ..... Code .....

Polling Station No: .....

Ward ..... Code .....

Constituency ..... Code .....

County ..... Code .....

Number of votes cast in favour of each candidate:

Name of Candidate	No. of Valid Votes Obtained
.	
.	
.	
.	
Total Valid Votes Cast	

## Polling Station Counts

1.	Total Number of Registered Voters in the Polling Station	
2.	Total Number of Rejected Ballot Papers	
3.	Total Number of Rejection Objected to Ballot Papers	
4.	Total Number of Disputed Votes	
5.	Total Number of Valid Votes Cast	

## Decision(s) on disputed votes if any

Serial Number of Ballot Paper(s) with disputed vote	Name of Candidate assigned the vote
.	
.	
.	

## Declaration

We, the undersigned, being present when the results of the count were announced, do hereby declare that the results shown above are true and accurate count of the ballots in ..... Polling Station ..... Constituency.

Presiding Officer: ..... Signature ..... Date .....

Deputy Presiding Officer: ..... Signature ..... Date .....

## Agents or Candidates (if Present)

No.	Name of Candidate or Agent	ID/Passport No.	Party Name/Tel. Contact Independent Candidate	Signature	Date
1.					
2.					
3.					

## Reasons for Refusal to Sign (if any)

.....  
 .....  
 .....

## Presiding Officer's Comments:

.....  
 .....  
 .....

---

[Subsidiary]

FORM 39 B

[Reg. 87(1)(a).]

**COLLATION OF COUNTY WOMAN REPRESENTATIVE TO THE NATIONAL  
ASSEMBLY ELECTION RESULTS AT THE CONSTITUENCY TALLYING**

S/ Number .....

Constituency ..... Code .....

County ..... Code .....

Name of Constituency Tallying Centre .....

Polling Station Code	Name of Polling Station	Registered Voters	Candidate 1	Candidate 2	Candidate 3	Total Valid Votes	Rejected Ballots
.							
.							
.							
.							
.							
.							

Signatures of Candidates or Agents

No.	Name of Candidate or Agent	ID/Passport No.	Party Name/Tel. Contact <i>Independent Candidate</i>	Signature	Date
1.					
2.					
3.					

Name of the County Returning Officer: .....

ID Number: .....

Signature: .....

Date: .....

Handing Over – Taking Over at the County Tallying Centre

HANDING OVER	TAKING OVER
Number of FORM 39 A submitted: .....	Number of FORM 39 A received .....
Name of the Constituency Returning Officer: County Returning Officer .....	.....
ID Number: ..... Signature: ..... Date: ..... Time: .....	ID Number: ..... Signature: ..... Date: ..... Time: .....

FORM 39 C

[Reg. 87(2)(b).]

**DECLARATION OF COUNTY WOMAN REPRESENTATIVE TO THE NATIONAL  
ASSEMBLY ELECTION RESULTS AT THE COUNTY TALLYING CENTRE**

S/ Number .....

County ..... Code .....

Name of County Tallying Centre ..... Code .....

Constituency Code	Constituency Name	Polling Station Code	Name of Polling Station	Name of Candidate	Name of Candidate	Name of Candidate	Votes Cast	Rejected Votes	Valid Votes
.									
.									
Constituency Sub-Total									
.									
Constituency SubTotal									
.									
.									
County Total									

## Voter Turn Out

Total number of registered voters: .....

Total number of voters who turned out to vote: .....

Percentage of Voter turnout: .....

## Aggregate Results

No.	Name of Candidate	Valid Votes in Figure	Valid Votes in Words
.			
.			
.			
.			

## Signatures of Agents and Candidates

No.	Name of Candidate or Agent	ID/ Passport No.	Party Name/Tel. Contact Independent Candidate	Signature	Date
1.					
2.					
3.					

County Returning Officer: .....

ID Number: .....

Signature: .....

Date: .....

[Subsidiary]

FORM 39 D

[Reg. (87(2)(d).)]

**CERTIFICATE OF ELECTED COUNTY WOMAN  
REPRESENTATIVE TO THE NATIONAL ASSEMBLY**

The County Returning Officer hereby declares that ..... of ID No. .... has been duly elected as the County Woman Member to the National Assembly for ..... County in the election held on ..... day of ..... 20 .....

County Returning Officer: .....

Signature: .....

Dated this ..... Day of ....., 20 .....

Stamp

FORM 40

[Reg. 88(2).]

**NOTICE OF FRESH PRESIDENTIAL ELECTION**

A fresh election of a President of the Republic of Kenya shall be held on ..... and will be contested between the following candidates:

Name	Candidate/ Party Symbol
1.	
2.	

The presidential poll will take place on the ..... day of ..... 20 .....

.....  
*Chairperson.*

FORM 41

[Reg. 78(3).]

**STATEMENT ON REJECTED BALLOT PAPER(S)**

I, ..... ID No. ..... the Presiding Officer for ..... Polling Station do hereby certify that the reasons recorded below for the rejection of the ballot papers were the reasons provided by the hereunder;  
Elective Position: .....

SERIAL NUMBER	REASON(S) FOR REJECTION
.	
.	
.	
.	
.	
.	
.	
.	
.	

Presiding Officer's Name: .....

Signature: .....

Date: .....

(STAMP)

**RULES OF PROCEDURE ON SETTLEMENT DISPUTES**

## ARRANGEMENT OF REGULATIONS

*Regulation*

1. Citation.
2. Interpretation.
3. Object.
4. Application of rules.
5. Right to lodge complaint.
6. Returning officer to be guided by constitution and nomination rules, etc.
7. Disputes arising from registration of persons.
8. Initiation of a complaint.
9. Disputes arising from nomination of candidates.
10. Declining to accept a dispute.
11. Powers of the returning officer.
12. Decision of the Commission.
13. Appeals for review to the Commission.
14. Power of the Commission to delegate.
15. Complaint arising from violation of the electoral code of conduct.
16. Committee to regulate its own procedure.
17. Legal representation.

SCHEDULE —

FORMS

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**RULES OF PROCEDURE ON SETTLEMENT DISPUTES**

[L.N 139/2012.]

**1. Citation**

These rules may be cited as the Rules of Procedure on Settlement of Disputes.

**2. Interpretation**

In these rules, unless the context otherwise requires—

“**Act**” means the Elections Act, 2011;

“**Committee**” means the Electoral Code of Conduct Enforcement Committee established under the Act;

“**dispute**” means a complaint, challenge, claim or contest relating to any stage of the electoral process and includes an objection to the acceptance of the nomination papers of a candidate by the Returning Officer;

“**nomination**” means the submission to the Commission of the name of a candidate in accordance with the Constitution and the Elections Act, 2011;

“**registration officer**” means a person appointed by the Commission for the purpose of preparing a register of voters.

**3. Object**

The object of these rules is to provide a procedure and mechanisms for the expeditious, efficient, lawful, reasonable and procedurally fair settlement of disputes including those contemplated under Article 88(4)(e) of the Constitution and section 74 of the Act.

**4. Application of rules**

(1) These rules shall apply to disputes or complaints arising from—

- (a) registration of persons;
- (b) nomination of candidates;
- (c) violations of the Code of Electoral Conduct; and
- (d) any other election related complaint.

(2) These rules shall not apply to election petitions or disputes and complaints subsequent to the declaration of election results.

**5. Right to lodge complaint**

(1) A candidate for the nomination for a political party ticket for purposes of an election under the Act may file an objection against the submission of the name of any other candidate to the returning officer.

(2) The returning officer upon receipt of the complaint or objection shall consider the application and either—

- (a) uphold the nomination by the political party;
- (b) reject the nomination and inform the political party of the fact of that rejection and in that regard direct that a new nomination be conducted.

## **6. Returning officer to be guided by constitution and nomination rules, etc.**

In determining the question as to whether a candidate has been validly nominated by a political party, the returning officer shall take into account and shall be guided by—

- (a) the constitution and nomination rules of the political party concerned; and
- (b) the provisions of the Constitution, the Elections Act and the Elections Regulations.

## **7. Disputes arising from registration of persons**

(1) Any person objecting to the registration of a voter may file a complaint with the Commission on any of the following grounds—

- (a) that the person has registered in more than one registration centre;
- (b) that the person has been convicted of an election offence at any time material to the registration;
- (c) that the person is not qualified to be registered under any law.

(2) An objection against registration shall be in Form 2 set out in the Schedule.

## **8. Initiation of a complaint**

(1) A party to a dispute may, within twenty four hours of the occurrence of a dispute, notify the Commission and any adverse party of the dispute, in writing.

(2) A complaint shall be filed by delivering to the returning officer or the Commission a duly filled Form 1 in duplicate.

(3) An objection or complaint may be filed by—

- (a) a registered voter or a political party in the electoral area where the dispute arose alleging that a candidate has not been validly nominated;
- (b) a candidate alleging that he or she has been unfairly denied nomination by the party from which he' or she sought to nominated by;
- (c) any person claiming that a candidate who has been nominated as a candidate is not qualified to be so nominated;
- (d) a person aggrieved by an electoral activity.

(4) The complaint shall state—

- (a) full names and address of service of the complainant;
- (b) voter registration number or certificate of political party registration;
- (c) the date, time and location of the occurrence of the act complained of;
- (d) information about the person whose conduct is complained against;
- (e) information as to the identity and contacts of witnesses, if any;
- (f) a concise statement under oath of the ultimate facts constituting his cause or causes of action;
- (g) the relief or redress sought;
- (h) a declaration by the complainant that the representations are true;
- (i) a statement—
  - (i) that there is no other complaint pending;
  - (ii) that there have been no previous complaints in any forum or tribunal between the complainant and the respondent over the same subject matter; and

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[Subsidiary]

- (iii) showing the reasons why the complaint relates to the complainant named in the complaint.

(5) A complaint shall be served on the respondent and the registered political party that nominated the candidate, where applicable.

## **9. Disputes arising from nomination of candidates**

(1) Any person objecting to the nomination of a candidate may file a complaint with the Commission on any of the following grounds—

- (a) that the candidate is not qualified to be elected under any law;
- (b) that the candidate does not have all the qualifications required under any law;
- (c) that the candidate was convicted of an election offence at any time material to the nomination;
- (d) that conduct of the nomination process was invalid;
- (e) that the candidate did not accept his nomination according to the rules promulgated by the Commission;
- (f) any other ground that the Commission deems sufficient provided such ground shall not be frivolous, vexatious or scandalous.

(2) An objection with respect to the nomination of an independent candidate may, in addition to any other ground, be based on any of the following grounds—

- (a) the candidate failed to get the required number of registered voters supporting his candidacy, as specified by the Act;
- (b) the candidate was nominated by a member of a political party;
- (c) the candidate is a member of a political party.

## **10. Declining to accept a dispute**

The returning officer or the Commission acting on appeal may decline to accept a dispute if that dispute—

- (a) does not raise an issue under the constitution or the nomination rules of the party concerned or the Constitution, the Act or the Regulations;
- (b) does not conform with these rules of procedure;
- (c) is trivial, frivolous or vexatious.

## **11. Powers of the returning officer**

The returning officer shall have the authority to decide on any dispute arising from a nomination of a candidate within the electoral area and shall in that regard have the power to—

- (a) summon any person to appear before it, administer an oath for the purpose of receiving testimony; and
- (b) order the production of any document relevant to any dispute arising from nomination of a candidate.

## **12. Decision of the Commission**

The returning officer shall—

- (a) issue a written decision on an application or objection within seven days after the application or objection is made; and
- (b) record the reasons of the decision.

### **13. Appeals for review to the Commission**

A person aggrieved by the decision of a returning officer may appeal such decision to the Commission.

### **14. Power of the Commission to delegate**

(1) Despite the provisions of these rules, the Commission may delegate to the Committee, the power to settle disputes filed under these rules.

(2) The Committee referred to under sub-regulation (1) shall have the powers of a registration officer or a returning officer.

### **15. Complaint arising from violation of the electoral code of conduct**

(1) Any aggrieved person may file a written complaint against any political party participating in an election for violation of the provisions of the electoral code of conduct.

(2) A complaint under sub-regulation (1) shall be accompanied by a statement of the complainant and his witnesses, all of which must be under oath, as well as other documents to support the complaint.

(3) A complaint for under this regulation shall be filed with the Commission.

(4) Based on the decision of the Committee, Commission may impose any of the sanctions provided for under paragraph 7 of the Electoral Code of Conduct.

### **16. Committee to regulate its own procedure**

(1) Subject to the Act and these rules, the Committee shall regulate its own procedure.

(2) The Committee shall have powers to issue administrative guidelines for purposes of expeditious, efficient, lawful, reasonable and procedurally fair settlement of disputes.

### **17. Legal representation**

(1) Every party to a complaint or objection under these rules may appear in person or be represented by an advocate.

(2) A person who is a subject of the complaint or objection shall have the right to present his or her evidence and to cross examine any witnesses against him or her.

(3) The Committee may conduct investigations to enable it arrive at a reasonable decision.

### SCHEDULE

#### FORM 1

(r. 5)

#### INITIATION OF A COMPLAINT

Nominations for the ..... County/ Constituency/Ward

The Complaint of .....

The complainant states that the nomination was held on the ..... day  
of ..... , 20....., when XY and Z were candidates, and X was  
declared as nominated.

Complainant(s) state that the nomination was improper due to (*state the facts and grounds on which  
the complainant(s) rely*).

[Subsidiary]

SCHEDULE, FORM 1—*continued*

Wherefore Complainant(s) pray that it be determined that the said X was not duly nominated and the nomination was void (or as the case may be).

Dated ..... , 20 ..... (Signed) A .....

Dated ..... , 20 ..... (Signed) B .....

## FORM 2

(r. 7(2))

## INITIATION OF A COMPLAINT

Registration in ..... County/Constituency/Ward

The Complaint of .....

Complainant(s) state that the registration was improper due to (*state the facts and grounds on which the complainant(s) rely*).

Wherefore Complainant(s) pray that ..... does not qualify to be registered and that the registration was void (or as the case may be).

Dated ..... , 20 ..... (Signed) A .....

Dated ..... , 20 ..... (Signed) B .....

**ELECTIONS (PARLIAMENTARY AND COUNTY  
ELECTIONS) PETITION RULES, 2013**

[L.N. 44/2013.]

*Revoked by L.N. 54/2013, r. 42.*

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**ELECTIONS (PARLIAMENTARY AND COUNTY  
ELECTIONS) PETITION RULES, 2013**

[L.N. 54/2013.]

*Revoked by L.N. 116/2017, r. 38.*

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**ELECTIONS (TECHNOLOGY) REGULATIONS, 2017**

## ARRANGEMENT OF REGULATIONS

## PART I – PRELIMINARY

*Regulation*

1. Citation and commencement.
2. Interpretation.

## PART II – ACQUISITION, STORAGE AND DEPLOYMENT

3. Assessment.
4. Procurement.
5. Deployment.
6. Maintenance.
7. Disposal of Assets.

## PART III – TESTING AND CERTIFICATION

8. Testing.
9. Transparency.
10. Certification.

## PART IV – CONDUCT OF AN AUDIT

11. Audit of technology.
12. Firm to conduct audit.
13. Audit report.

## PART V – INFORMATION SECURITY AND DATA STORAGE

14. Information security.
15. Data storage and access to information.
16. Request for information.

## PART VI – DATA RETENTION AND DISPOSAL

17. Data retention and archive.

## PART VII – ACCESS TO SOFTWARE SOURCE CODES

18. Accessibility and security.

## PART VIII – TELECOMMUNICATION NETWORK

19. Disclosure of existing agreements.
20. Delivery of services.
21. Telecommunication network service availability.
22. Appropriate infrastructure.
23. Obligations for service providers.

## PART IX – DATA RECOVERY AND OPERATIONS CONTINUITY PLAN

24. Operations continuity plan and testing.
25. Data recovery.
26. Suspension, termination and public notice.
27. Notice by individuals.
28. System support and maintenance agreement.

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[Subsidiary]

PART X – CAPACITY BUILDING AND TRAINING

29. Capacity building programs.
30. Training curriculum and trainers.

PART XI – THE ELECTIONS TECHNOLOGY ADVISORY COMMITTEE (ETAC)

31. Establishment of the Elections Technology Advisory Committee.
32. Mandate and functions of the Committee.
33. Composition of the Committee.
34. Engagement of experts or consultants.
35. Chairperson and Secretariat.
36. Meetings of the Committee.
37. Code of conduct.

PART XII – MISCELLANEOUS PROVISIONS

38. Duty to cooperate.
39. Non-disclosure agreement.
40. Voter education.

FIRST SCHEDULE —

INFORMATION SECURITY AND DATA  
STORAGE

SECOND SCHEDULE —

INFORMATION REQUEST FORM

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## ELECTIONS (TECHNOLOGY) REGULATIONS, 2017

[ L.N. 68/2017.]

### PART I – PRELIMINARY

#### **1. Citation and commencement**

These Regulations may be cited as the Elections (Technology) Regulations, 2017, and shall come into operation on such date as the Commission may by notice in the *Gazette*, appoint.

#### **2. Interpretation**

In these Regulations, unless the context otherwise requires—

**"biometric"** means unique identifiers or attributes including fingerprints, hand geometry, earlobe geometry, retina and iris patterns, voice waves, DNA, and signatures;

**"Commission"** means the Independent Electoral and Boundaries Commission established under Article 88 of the Constitution;

**"Committee"** means the Elections and Technology Advisory Committee as established in regulation 31;

**"controls"** means standard operating procedures, security measures, validation rules, best practices, and other procedures and policies put in place by the Commission to guide and support use of election technology;

**"data"** means an attribute to an entity recorded a format in which can be processed to produce information by equipment in response to instructions given for that purpose, and includes representations of facts in form of quantities, characters, symbols and images, transmitted in the form of electrical signals and stored on magnetic, optical or mechanical recording media or as defined in the Kenya Information and Communication Act, 1998 (No. 2 of 1998);

**"election technology"** means a system that includes a biometric voter registration system, a biometric voter identification system, a system that enables the nomination and registration of candidates and electronic results transmission system; and

**"systems audit"** means an examination of all controls within information technology systems and infrastructure including networks, applications, databases and processes.

### PART II – ACQUISITION, STORAGE AND DEPLOYMENT

#### **3. Assessment**

(1) The Commission shall regularly conduct a requirements analysis to determine the specific requirements to upgrade or supplement existing election technology, or to acquire new election technology with the purpose of enhancing the integrity, efficiency and transparency of the election process.

(2) Based on the requirements analysis conducted under sub regulation (1), the Commission shall prepare a solution design and feasibility report for any required upgrades or acquisitions.

#### **4. Procurement**

(1) Based on the requirements analysis conducted under regulation 3 (1) and the solution design and feasibility report conducted under regulation 3(2), the Commission shall develop specifications for the procurement of new or updated election technology, in accordance with the Public Procurement and Asset Disposal Act, 2015 (No. 33 of 2015) and its regulations.

(2) The specifications developed under sub-regulation (1) shall ensure that the election technology is accessible to and inclusive of all citizens, including persons with disabilities and persons with special needs, to participate in the election process.

**5. Deployment**

(1) Following the completion of the procurement process, the Commission shall initiate the deployment and implementation of the election technology according to the specifications and an approved deployment plan to be developed by the Commission.

(2) The deployment plan under sub regulation (1) may include installation and configuration of the election technology, description of activities, timelines and responsible persons.

**6. Maintenance**

The Commission shall carry out regular inspections and servicing of the election technology, as well as establish a support and maintenance contract with a service level agreement to ensure the serviceability, reliability and availability of the election technology.

**7. Disposal of Assets**

The Commission shall comply with the Public Procurement and Asset Disposal Act, 2015 (No. 33 of 2015) and its regulations during the disposal of election technology assets.

**PART III – TESTING AND CERTIFICATION****8. Testing**

The Commission shall carry out timely end-to-end testing of election technology before deployment for the election process.

**9. Transparency**

(1) The Commission shall issue a public notice specifying the date, time and place of the testing and invite stakeholders to attend.

- (2) The Commission shall publish the information required under sub-regulation (1)—
- (a) on its official website;
  - (b) through electronic and print media of national circulation;
  - (c) by posting the notice outside of the Commission's offices; and
  - (d) assign any other easily accessible mechanism.

**10. Certification**

(1) After the conduct of the necessary testing, the Commission shall prepare a report to certify that the election technology meets the user requirements and specifications developed under regulation 4, and that it is accessible.

(2) The Commission shall request assurance by a professional reputable firm to certify that the election technology meets user requirements and specifications developed under regulation 4.

**PART IV – CONDUCT OF AN AUDIT****11. Audit of technology**

The Commission shall conduct annual audits of the election technology, or as may be required, to—

- (a) guarantee data integrity;
- (b) ensure that the technology functions effectively as specified; and
- (c) ensure that the internal controls of the technology are effective.

**12. Firm to conduct audit**

- (1) The Commission shall engage a professional reputable firm to conduct a systems audit of the election technology annually.
- (2) The Commission shall conduct the systems audit to evaluate the confidentiality, integrity and availability of the election technology by assessing—
  - (a) the security access to the system;
  - (b) the vulnerability of the system configurations;
  - (c) the accuracy and the completeness of the data; and
  - (d) any other mechanisms that may be determined by the Commission.

(3) Where the Commission engages a professional reputable firm under sub regulation (1), the firm shall present its audit findings to the Commission, which findings shall be incorporated into a report as set out in regulation 13.

**13. Audit report**

The Commission shall prepare an audit report which shall include—

- (a) a statement on the principles set out in regulation 12 (2); and
- (b) recommendations to reduce or eliminate any risks that could affect the functioning of the election technology.

**PART V—INFORMATION SECURITY AND DATA STORAGE****14. Information security**

- (1) The Commission shall put in place mechanisms to ensure data availability, accuracy, integrity, and confidentiality as set out in the First Schedule.
- (2) For the purpose of sub regulation (1), the Commission shall adopt tools to detect, prevent and protect against attacks and compromise of the election technology.

**15. Data storage and access to information**

- (1) The Commission shall store and classify data in accordance with the principles set out in the Access to Information Act, 2016 (No. 31 of 2016).
- (2) An application to access information shall be in writing in English or Kiswahili and shall be made in the Form set out in the Second Schedule providing details and sufficient particulars for the public officer or any other official to understand what information is being requested.
- (3) Where an applicant is unable to make a written request for access to information in accordance with sub-regulation (2), because of illiteracy or disability, the information officer shall take the necessary steps to ensure that the applicant makes a request in the manner that meets their needs.
- (4) The information officer shall reduce to writing, the request made under sub-regulation (3) in the Form set out in the Second Schedule and the information officer shall then furnish the applicant with a copy of the written request.

**16. Request for information**

A person may request for information from the Commission, in accordance with section 27 of the Independent Elections and Boundaries Commission Act, 2011 (No. 9 of 2011).

**PART VI—DATA RETENTION AND DISPOSAL****17. Data retention and archive**

All electronic data relating to an election shall be retained in safe custody by the Commission for a period of three years after the results of the elections have been declared, and shall, unless the Commission or the court otherwise directs, be archived in accordance with procedures prescribed by the Commission subject to the Public Archives and Documentation Service Act (Cap. 19) and the Kenya Information and Communications Act, 1998 (No. 2 of 1998).

**PART VII – ACCESS TO SOFTWARE SOURCE CODES****18. Accessibility and security**

(1) The access to the source codes shall, for proprietary software, be in accordance with the Industrial Property Act, 2001 (No. 3 of 2001) and section 44 (3) of the Act (No. 24 of 2011).

(2) The Commission shall ensure access to open source codes in accordance with procedures prescribed by the Commission under regulation 15.

**PART VIII – TELECOMMUNICATION NETWORK****19. Disclosure of existing agreements**

(1) The Commission shall publish on its official website details of the telecommunication network service providers to be used during an election.

(2) A telecommunication network service provider or a member of a consortium of telecommunication network service providers who intends to provide services to the Commission pursuant to sub regulation (1) shall disclose to the Commission any existing agreements with political parties, agents, or candidates before engagement for telecommunication services in an election.

**20. Delivery of services**

A telecommunication network service provider shall be under obligation to provide and deliver services as may be requested by the Commission.

**21. Telecommunication network service availability**

(1) The Commission shall identify and communicate in a timely manner to all stakeholders the network service available at different polling stations.

(2) In areas where there is no telecommunication network, the Commission shall inform the stakeholders and publish this information in a timely manner.

(3) In order to enhance network availability during the election period, the Commission may engage the services of a consortium of telecommunication network service providers.

(4) Where the Commission engages a consortium telecommunication network service providers in the manner specified in sub regulation (3), the Commission shall require the consortium to use internal roaming services.

**22. Appropriate infrastructure**

The Commission in collaboration with a telecommunication net work service provider or providers shall put in place the appropriate telecommunication network infrastructure to facilitate the use of election technology for voter validation and results transmission and shall publish the network coverage at least forty-five days before the date of a general election.

**23. Obligations for service providers**

The telecommunication network service providers shall ensure the security, traceability and availability of the network during the election period or during any other period as may be required by the Commission.

## PART IX —DATA RECOVERY AND OPERATIONS CONTINUITY PLAN

**24. Operations continuity plan and testing**

- (1) The Commission shall establish an operations continuity plan, deleting both operational and technical processes, procedures and tools.
- (2) The operations continuity plan established under sub regulation (1) shall provide mitigation and contingency measures, including preparedness, prevention, response and recovery measures for potential failures of technology.
- (3) The Commission shall test the operations continuity plan in a timely manner to ensure that all operational procedures are working as intended.

**25. Data recovery**

- (1) The Commission shall—
  - (a) maintain an external data recovery site for all electoral information systems;
  - (b) establish such data recovery processes as may be necessary to ensure quick and efficient systems and data recovery in the event of election technology malfunctions;
  - (c) maintain such physical documentation records to enable reconstruction of the information in the event of data loss during transmission;
  - (d) ensure that such other failover technologies or procedures are in place to ensure operations continuity; and
  - (e) communicate failover technologies or procedures to stakeholders.

**26. Suspension, termination and public notice**

- (1) The Commission shall suspend or terminate the use of election technology if the reliability of a system cannot be assured according to the requirements of the Act and these Regulations.
- (2) Before suspending or terminating the use of election technology under sub-regulation (1)—
  - (a) the clerk at the polling station shall inform the presiding officer of the failure of the technology;
  - (b) the presiding officer at the polling station shall retry the system to confirm the failure of the technology;
  - (c) the presiding officer at the polling station shall document the incident on a incident report in the polling station diary which shall be signed by all the agents;
  - (d) the presiding officer shall notify the returning officer of the failure and submit a copy of the incident report;
  - (e) the returning officer shall inform the director in charge of information communication and technology of the incident and the director shall investigate the incident and advise on the suspension or termination of the use of the election technology;
  - (f) the returning officer shall approve the request for suspension of the use of technology based on the advice under paragraph (e) and invoke the complementary mechanism.
- (3) Where the Commission suspends or terminates the use of the election technology, the Commission shall immediately notify the public and stakeholders of the suspension and of the measures put in place to restart the, or of any failover technologies or procedures to be used according to the operations continuity plan.
- (4) Where the Commission has made a decision to suspend the voting where there is failure of the election technology the Commission shall extend the hours of polling at the Polling Station where polling has been interrupted by the amount of time which has been lost.

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[Subsidiary]

(5) The Commission shall publish a notice, through electronic or print media of national circulation, or any other easily accessible medium, to notify the public of the suspension or termination or of failover technologies or procedures to be used according to the operations continuity plan.

(6) The Commission shall inform the returning officer of the decision accordingly.

## **27. Notice by individuals**

(1) Any person or telecommunication network service provider who is or becomes aware of any election technology vulnerability, failure or challenge shall immediately notify the Commission in writing or any other means available.

(2) Where a person or telecommunication network service provider is not able to make a notification in writing, the Commission shall prepare a written record of the notification.

## **28. System support and maintenance agreement**

The Commission shall ensure that adequate and continuous service level support agreements with a telecommunication network service provider or providers are established for the effective and sustainable use of election technology.

## PART X – CAPACITY BUILDING AND TRAINING

### **29. Capacity building**

The Commission shall implement a continuous and comprehensive training program on election technology for its staff.

### **30. Training curriculum and trainers**

(1) The training on election technology shall utilize a comprehensive training curriculum approved by the Commission,

(2) The Commission shall ensure that the curriculum specified in sub-regulation (1) includes both practical training as well as theoretical aspects for a period prescribed by the Commission.

(3) The technical training under sub regulation (2) shall be conducted by—

- (a) qualified personnel on the subject matter; and
- (b) service providers and vendors of such election technology.

## PART XI — THE ELECTIONS TECHNOLOGY ADVISORY COMMITTEE

### **31. Establishment of the Committee**

The Committee established under section 44 (8) of the Elections Act, 2011 shall be known as the Elections Technology Advisory Committee.

### **32. Mandate and functions of the committee**

(1) The Committee shall advise the Commission on adoption and implementation of election technology which may include—

- (a) the development of policies for the progressive use of election technology in the electoral process;
- (b) the participation of stakeholders in the implementation and deployment of election technology; and
- (c) the development of an operations continuity plan, as set out in regulation 24.

(2) The Committee shall—

- (a) regularly engage with stakeholders in order to sensitize them on the progress of adoption and use of election technology in the electoral process; and
- (b) receive regular updates on the status of election technology.

### **33. Composition of the Committee**

- (1) The Committee shall be composed of—
- (a) at least three members of the Commission and designated staff of the commission;
  - (b) the Registrar of Political Parties;
  - (c) a representative of the—
    - (i) Majority Party in Parliament;
    - (ii) Minority Party in Parliament;
    - (iii) Political Parties Liaison Committee; and
    - (iv) Information Communication Technology professional bodies.

### **34. Engagement of experts or consultants**

The Commission may engage the services of experts or consultants in respect of any of the functions of the Committee.

### **35. Chairperson and secretariat**

The Commission shall chair the Committee's meetings and provide secretariat services.

### **36. Meetings**

(1) The Committee shall hold meetings in such place, time and manner as the Commission may consider necessary for the discharge of its functions under these Regulations.

(2) The Committee shall meet not more than four times in a year.

(3) Decisions and recommendations from the meetings of the committee shall be recorded and made public on the Commission's website.

### **37. Code of Conduct**

The members of the Committee shall subscribe to the code of conduct for staff set out in the Independent Electoral and Boundaries Commission Act, 2011 (No. 9 of 2011), with any necessary modifications

## PART XII — MISCELLANEOUS PROVISIONS

### **38. Duty to cooperate**

Every public officer, public or private entity or political party has a duty—

- (a) to co-operate with the Commission in its activities relating to election technology; and
- (b) not to hinder the Commission from carrying out its functions.

### **39. Non-disclosure agreement**

A member of the Committee established under regulation 31 shall safeguard information relating to the election technology that comes into their possession and protect it from improper or inadvertent disclosure.

### **40. Voter education**

Pursuant to section 4 (g) of Independent Electoral and Boundaries Commission Act, 2011 (No. 9 of 2011), the Commission shall carry out voter education related to election technology.

## FIRST SCHEDULE

## INFORMATION SECURITY AND DATA STORAGE

[Rule 14.]

1. The Commission shall put in place the mechanisms outlined below to ensure data availability, accuracy, integrity, and confidentiality.
2. These mechanisms may be reviewed from time to time as the Commission may determine.

<i>SN</i>	<i>Domain</i>	<i>Guiding Principles</i>
1.	Network	The commission shall protect its data from external risks using intrusion detection and prevention mechanisms, which shall include but not limited to firewalls, this allows only authorized access to the Commission's network. The network and security experts in the Commission shall monitor network activities and report any exceptions to the Commission.
2.	Data Centre Facility	Access to the data Centre facility shall be restricted to only authorized personnel. Access shall be controlled through use of modern access control system and access control register.
3.	Database Management Systems	The Electoral systems and Databases shall be protected from internal and external attacks by implementing security controls as outlined in the policies and procedures manuals of the Commission. Scheduled backups shall be undertaken to ensure prompt recovery in the event of disaster.
4.	Websites and online Systems	The commission's internet facing systems shall be protected against external interference by ensuring that the communication between web servers and web browsers is secured using standard security technologies including but not limited to digital certificates. The information exchange shall be concealed from unauthorized users.
5.	ICT Governance	The Commission shall enforce relevant ICT Policies, standards and procedures in the management of information security. Policies, standards and procedures shall be reviewed annually to comply with international best practices and industry trends

SECOND SCHEDULE  
INFORMATION REQUEST FORM  
[Rule 15.]

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REQUEST FOR DETAILS

First name .		Last name .	
Personal ID No. .		Nationality .	
Telephone No .		Organization .	
Email Address .		Signature	

INFORMATION REQUESTED

Information Category .	
Purpose .	

APPROVAL FROM IEBC

APPROVED BY

Name .		Designation .	
Date .		Signature	

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**ELECTIONS (PARTY PRIMARIES AND  
PARTY LISTS) REGULATIONS, 2017**

## ARRANGEMENT OF REGULATIONS

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24. Conduct of Party primaries.
25. Commission to submit party primary results to the Election Board.

## PART IV – MISCELLANEOUS

26. Commission to reject party list if it does not conform to law.
27. Dispute resolution.
28. Electoral malpractices.

SCHEDULE —

FORMS

**ELECTIONS (PARTY PRIMARIES AND  
PARTY LISTS) REGULATIONS, 2017**

[L.N. 69/2017.]

**PART I – PRELIMINARY****1. Citation**

These Regulations may be cited as the Elections (Party Primaries and Party Lists) Regulations, 2017 and shall come into operation upon publication in the *Gazette*.

**2. Interpretation**

In these Regulations, unless the context otherwise requires—

“Act” means the Elections Act, 2011;

“Commission” means the Independent Electoral and Boundaries Commission established under Article 88 of the Constitution;

“Election Board” means the political party organ in charge of party primaries and party nomination of party lists;

“party list” means a list prepared in accordance with these Regulations for purposes of filling the seats specified under Articles 97 (1)(c), 98 (1)(b), (c), (d), and 177 (1)(b) and (c) of the Constitution;

“party primary” means the process through which a political party elects or selects its candidates for an election but does not include a party list;

“party nomination of party lists” means the process through which a political party elects or selects its candidates for party lists;

“Registrar of Political Parties” has the meaning assigned to it under the Political Parties Act (No. 11 of 2011) and

“special interest groups” includes—

- (a) women;
- (b) persons with disabilities;
- (c) youth;
- (d) ethnic and other minorities; and
- (e) marginalized communities.

**3. Application**

These Regulations shall apply to party primaries and party nomination of party lists.

**4. Guiding principles**

The conduct of party primaries and party nomination of party lists shall—

- (a) be democratic, free and fair;
- (b) provide equal opportunities for all eligible candidates;
- (c) not discriminate against any eligible candidate;
- (d) be inclusive and participatory;
- (e) be open, transparent and accountable;
- (f) be credible; and
- (g) be peaceful.

**5. Access to information**

Every registered member of a political party has the right to access any information held by that political party relating to—

- (a) the party's nomination rules and procedures of the political party;
- (b) the members of the party's Election Board;
- (c) the criteria relied on by the party to nominate the party list members;
- (d) the register of members of the party; and
- (e) the party's constitution or similar document.

## **6. Political party nomination rules and procedures**

- (1) Every political party shall, upon submission of the nomination rules and procedures to the Commission pursuant to section 27 of the Act—
  - (a) make them available and accessible to the members of the party with specific considerations to members with disabilities;
  - (b) place a copy at the party's head office and branch offices; and
  - (c) post them on the party's website.
- (2) The nomination rules and procedures under sub-regulation (1) shall provide for—
  - (a) the procedure to be employed in party primary and nomination of party lists for identifying aspiring candidates to stand for election in every electoral area;
  - (b) a mechanism for ensuring that every aspiring candidate meets the requirements of the law to stand for the respective position; and
  - (c) the conduct of party primaries and nomination of party lists.
- (3) The nomination rules and procedures shall prescribe—
  - (a) the criteria, procedures and circumstances under which non-competitive nomination methods, including direct nominations and consensus may be employed; and
  - (b) the structure and mandate of the party's Election Board.
- (4) Upon submission of the party nomination rules and procedures, the Commission shall verify that the rules conform to the constitution of the political party, the Act and these Regulations.
- (5) Where the Commission determines that the party nomination rules and procedures do not conform to the requirements of the constitution of the political party, the Act and these Regulations, the Commission may require the political party to review and amend the party nomination rules and procedures so that they conform to the constitution of the political party, the Act and these Regulations.

## **7. Parties' nomination Code of Conduct**

- (1) Every political party shall prepare and communicate to its members a party nomination code of conduct at least thirty days before the conduct of party primaries or nomination of the party list, whichever is the earlier.
- (2) Every political party shall require an aspiring candidate to sign and ascribe to the party's nomination code of conduct set out in Form 1 of the Schedule.

## PART II – PARTY PRIMARY AND PARTY NOMINATION OF THE PARTY LIST CONDUCTED BY THE POLITICAL PARTY

## **8. Parties' Election Board**

- (1) Every political party shall appoint a national Election Board and may appoint county Election Boards in respect of every county where the party is offering candidates for election.
- (2) The mandate and scope of operation of the election boards shall, in addition to the functions set out under regulation 10, be as stipulated in the nomination rules and procedures of the political party.
- (3) An Election Board shall comprise of not more than seven and not less than three members including one person to represent special interest groups.

[Subsidiary]

**9. Qualification of a member of a party's Election Board**

(1) A person is qualified to be appointed as a member of a party's Election Board if that person—

- (a) is a member of the political party;
- (b) is eligible to vote at an election;
- (c) has not been convicted of an election offence; and
- (d) satisfies the requirements of Chapter Six of the Constitution on leadership and integrity.

(2) A political party shall—

- (a) lay out the composition and the term of office of members of Election Boards;
- (b) have rules, procedures and criteria for identifying and appointing the members of the Election Boards; and
- (c) ensure that no more than two-thirds of the members of the Election Boards are of the same gender.

**10. Functions of Election Boards**

(1) An Election Board shall be responsible for conducting or supervising party primaries and party nomination of party lists and any other related activities for purposes of selection of candidates to participate in an election.

(2) The Election Board shall notify members of the party of the date by which applications must be received, the date, time and venue of the party primary.

(3) The nomination officials appointed by an Election Board shall conduct the party primary, tally the votes and present the results to an Election Board.

(4) An Election Board shall declare the results in Form 2 set out in the Schedule and shall require the aspiring candidates or their agents to be present to sign the Form as acceptance of the process and the result.

(5) Where an aspiring candidate or an agent fails to sign the Form after having been offered an opportunity to do so, the failure to sign shall not affect the validity of the result.

(6) The aspiring candidate or agent shall be given an opportunity to write down on the Form 1 set out in the Schedule reasons for refusal to sign the Form.

**11. Removal of a member of a party's Election Board**

A person may be removed as a member of a party's Election Board if that person—

- (a) resigns from the party;
- (b) defects from the party;
- (c) violates the party's constitution, nomination rules or the party nomination code of conduct;
- (d) has declared interest in a particular nomination;
- (e) is physically or mentally incapacitated;
- (f) is convicted of an election offence or a criminal offence which carries a sentence of more than six months of imprisonment without the option of a fine; or
- (g) has been found by a court to have violated the provisions of Chapter Six of the Constitution.

## **12. Vacancy in a party's Election Board**

- (1) A vacancy may arise in an Election Board where a member—
  - (a) resigns in writing;
  - (b) dies; or
  - (c) is removed from the Election Board under Regulation 11.
- (2) The party shall, within seven days after the occurrence of the vacancy under sub regulation (1), fill in the vacancy with a person with similar qualifications.

## **13. Tenure of a party's Election Board**

The members of an Election Board shall, save as the party's constitution may otherwise provide, serve in office until—

- (a) the party has submitted its list of names of the party candidates who have been selected to participate in an election; or
- (b) any disputes arising out of the party primary or party nomination of the party list have been heard and determined,

whichever is later.

## **14. Fees**

- (1) Every political party may, at least two weeks before a party primary or nomination of the party lists, announce the fees to be levied by the party on every aspiring candidate.
- (2) The fees charged by a political party under sub regulation (1)—
  - (a) shall be made known to the party members;
  - (b) may be graduated or waived to take into account special interest groups; and
  - (c) may be different for party primaries and for party nomination of party lists.

## **15. Application for nomination**

- (1) An aspiring candidate shall submit to an Election Board of their party, a duly filled application in Form 3 set out in the Schedule together with—
  - (a) a signed commitment to the political party's constitution, policies and principles;
  - (b) a self-declaration form as prescribed under the Leadership and Integrity Act, 2012 (No. 19 of 2012);
  - (c) copies of the person's national identity card or valid passport;
  - (d) copies of the candidate's academic qualifications from the relevant institutions;
  - (e) evidence of registration as a member of the party; and
  - (f) a receipt or other evidence of payment of nomination fees.
- (2) Where an aspiring candidate intends to be nominated on the ground that the candidate is a person with disability, the candidate shall, in addition to the requirements specified under sub regulation (1), submit an application in Form 4 set out in the Schedule which shall be certified by the National Council for Persons with Disabilities.
- (3) A person who wishes to be nominated by a political party to represent the youth shall be a person who has attained the age of eighteen years but has not attained the age of thirty five years and such person shall provide documentary proof of his or her age.

## **16. Conduct of a party primary**

- (1) A party primary shall be conducted in accordance with the nomination rules and procedures of the party and the candidate who obtains the highest number of votes shall be declared the party nominee for the position.

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[Subsidiary]

(2) Where only one aspiring candidate applies to be nominated in any elective position, no party primary shall be conducted.

(3) An Election Board shall in writing certify and declare the aspiring candidate under sub regulation (2) as the party nominee.

(4) Upon conclusion of the party primary, the authorized party officials shall certify the list of nominees and submit it to the Commission.

(5) Upon receipt of the list by the Commission, the list shall not be altered.

## **17. Notices**

(1) Where the political party is required to issue a notice to its members regarding any exercise in the conduct of a party primary or nomination of party list, the party shall—

- (a) notify its members at least seven days before the date of the exercise; and
- (b) publish the notice in its website.

(2) A notice issued by a political party under sub regulation (1) shall state—

- (a) the date and venue of the exercise;
- (b) the persons eligible to participate in the exercise;
- (c) the party official who shall be responsible for the exercise;
- (d) the duration of the exercise;
- (e) where any aggrieved party may file any grievances regarding the exercise;
- (f) the party official who shall hear and determine any appeal in relation to the exercise;
- (g) the fees, if any, that should be paid;
- (h) the date by which eligible persons must perform any act in relation to the exercise; and
- (i) any other relevant detail pertaining to the exercise.

## **18. Statutory declaration for conduct of party primaries**

(1) Every political party shall, at the time of submission of nominees to the Commission, file a statutory declaration signed by the person authorized to certify that candidates to the effect that the political party has complied with the nomination rules and procedures of the party in the conduct of the party primary.

(2) The statutory declaration under sub-regulation (1) shall be in Form 5 set out in the Schedule.

## **19. Role of agents of nomination candidates**

(1) An aspiring candidate in a party primary or an applicant for nomination to a party list may appoint an agent to represent his or her interests during the exercise.

(2) An agent shall be appointed in writing by the candidate and shall—

- (a) be a registered member of the political party;
- (b) be issued with an appointment letter by the aspiring candidate identifying him or her as the agent of that candidate; and
- (c) have access to information relating to the party primary.

(3) An agent may represent one candidate at a time but where candidates so agree, he or she may represent more than one candidate, provided that the candidates are not vying for the same elective seat.

## **20. Party lists**

(1) A party list shall contain the names of all the persons who would stand elected if the party were to be entitled to all the seats available under Articles 97(1) (c), 98(1) (b), (c), (d) and 177(1) (b) and (c) and shall alternate between male and female candidates.

(2) A party list submitted under sub regulation (1) shall ensure fair representation to take into consideration the principles of Article 81(b) and Article 100 of the Constitution.

## **21. Statutory declaration for conduct of party nomination to party lists**

(1) The person authorized by the political party to certify that candidates have been nominated shall submit to the Commission the list of nominees and the party list together with a declaration in Form 6 set out in the Schedule, stating that the party's nominations and preparation of party lists have complied with the Constitution, the Act and party nomination rules and procedures of the political party in the conduct of the party nomination to party lists.

(2) Where, after scrutiny of the lists, the Commission is of the opinion that a party list does not conform to the requirements of Articles 97(1) (c), 98 (1) (b), (c), (d), and 177(1) (b) and (c) of the Constitution, the Act or these Regulations, the Commission shall require the political party to review and amend the party list so that it conforms to the requirements of the law and guidelines by the Commission.

## PART III – PARTY PRIMARIES CONDUCTED BY THE COMMISSION

### **22. Application of Part**

This Part applies where a political party requests the Commission to conduct and supervise a party primary in accordance with Article 88 of the Constitution.

### **23. Political party to be responsible for the preparatory work**

(1) A political party that requests the Commission to supervise its party primary shall be responsible for the preparatory work including—

- (a) notifying the members of the date, time and venue for the party primary;
- (b) inviting, receiving and processing applications from aspiring candidates;
- (c) preparing a list of members eligible to vote in each party primary from the party membership list submitted to the Commission in accordance to section 28 of the Act.
- (d) preparing the list of aspiring candidates in the party primary;
- (e) designing and production of ballot papers in accordance with the specification of the commission; and
- (f) doing anything else required to be done in preparation of the party primary.

(2) The Commission's role in party primary shall be limited to the supervision, conduct, announcement and declaration of the results of the party primary on the day set aside for the primary and shall not participate in the preparation of party lists save as authorised under the law.

### **24. Conduct of Party primaries**

(1) The party primary under regulation 23 shall be conducted—

- (a) on a date to be agreed between the party and the Commission; or
- (b) where the Commission receives multiple requests, the procedure stipulated under section 31(2E) of the Act shall apply.

(2) The Commission shall issue every eligible voter with a ballot on verification—

- (a) of a voters identity through the production of a national identity card or a passport;

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[Subsidiary]

- (b) that the voter is a registered member of the party; and
- (c) that the voter has not voted in that party primary.

(3) A party primary conducted and supervised by the Commission shall be—

- (a) through a secret ballot; and
- (b) determined by a majority of valid votes cast by the eligible voters.

(4) A voter who inadvertently spoils a ballot paper may, with the approval of the returning officer and on satisfaction of the returning officer of the inadvertence, be supplied with another ballot paper and the spoilt ballot paper shall be immediately cancelled and the counterfoil thereof marked accordingly.

(5) The Commission shall promptly tally the votes for each candidate after the close of the voting during a party primary.

(6) The Commission shall determine whether or not a ballot is rejected.

(7) The Commission shall publicly announce and declare the candidate who has obtained the highest number of valid votes to be duly nominated and shall issue a certificate to the duly nominated candidate.

(8) In the event of a tie among the top candidates, the Commission shall hold a fresh party primary and the candidates in that party primary shall be only the candidates who garnered the highest number of votes.

## **25. Commission to submit party primary results to the Election Board**

(1) On announcement and declaration of the results of the party primary, the Commission shall submit the results of the party primary to the Election Board of the party.

(2) The Election Board shall certify the list of nominees and the party authorized official shall formally submit the list to the Commission.

## PART IV – MISCELLANEOUS

### **26. Commission to reject party list if it does not conform to law**

(1) The Commission shall reject a party list or a name on the party list submitted by a political party where—

- (a) the party list does not conform to the requirements of the Constitution, the Act or these Regulations; or
- (b) the period for submitting revised party lists has lapsed.

(2) Where the Commission rejects a party list or a nominee on the party list, it shall require the political party to resubmit the party list or nominee within such period as the Commission may specify.

(3) A political party resubmitting a party list under sub regulation (2) shall resubmit a declaration under Regulation 18 to the effect that the political party has complied with the nomination rules and procedures of the party relating to the nomination of the names contained in the list.

(4) In the event that a political party fails to resubmit the party list or a name on the party list after it has been rejected under sub-regulation (1), the party shall not be considered in the allocation of seats.

(5) A person who has been nominated on a party list may decline the nomination by informing the political party and the Commission in writing, and the Commission shall replace that name with the next name of the same gender on the party list.

## **27. Dispute resolution**

- (1) Every political party shall establish an internal dispute resolution mechanism in relation to the party primaries and party list.
- (2) The dispute resolution mechanism of a party shall be independent of the party leadership and other party institutions.
- (3) The decisions of the dispute resolution mechanism shall be made—
  - (a) after hearing all parties;
  - (b) after taking into account all the relevant documents relating to the dispute;
  - (c) by applying the rules of natural justice;
  - (d) where the mechanism involves a panel, a panel comprising of an odd number of members where the decision is by majority of the members of the panel; and
  - (e) in writing.

(4) The dispute resolution mechanism of a party shall hear and determine all nomination disputes not later than ninety days before the date of general election.

## **28. Electoral malpractices**

The contravention of any of the provisions of the Election Offences Act, 2016 or the breach of the Electoral Code of Conduct shall constitute electoral malpractice in relation to a party primary and party nomination of party lists.

## SCHEDULE

### **FORM 1**

[Rule 7(2).]

#### **SUBSCRIPTION TO THE PARTY'S NOMINATION CODE OF CONDUCT**

I ..... of ID / Passport No. ..... do solemnly and sincerely declare as follows:—

1. I do hereby subscribe to the party's nomination code of conduct.
2. I declare I will protect, uphold and follow all requirements and provisions in the nomination code of conduct.
3. I promise to do my uttermost to promote and enforce the requirements and provisions in the nomination code of conduct within and among the members of my nomination campaign team.
4. I promise to do my uttermost to promote and whenever possible enforce the requirements and provisions in the nomination code of conduct within and among my supporters.

And I make this declaration conscientiously believing in values and principles guiding us in our political party.

Declared at ..... this ..... day of ..... 20 .....

Signature of Declarant .....

[Subsidiary]

**FORM 2**

[Rule 10(4).]

**DECLARATION OF RESULTS IN PARTY PRIMARY**

..... (name of party)

..... (name of ward/constituency/county)

..... (name of position/seat)

<i>Polling station code</i>	<i>Name of Polling station</i>	<i>Aspiring Candidate 1</i>	<i>Aspiring Candidate 2</i>	<i>Aspiring Candidate 3</i>	<i>Aspiring Candidate 4</i>	<i>Total Valid Votes</i>	<i>Rejected Ballots</i>
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.							
.							
<b>Total</b>							

## Aggregated Results

<i>No.</i>	<i>Name of Aspiring Candidate</i>	<i>Valid Votes in Figure</i>	<i>Valid Votes in Words</i>
01			
02			
03			
04			
05			
06			
07			

## Signatures of Aspiring Candidates or Agents

<i>No.</i>	<i>Name of Aspiring Candidate or Agent</i>	<i>ID/Passport No.</i>	<i>Tel. Contact</i>	<i>Signature</i>	<i>Date</i>
1					
2					
3					
4					
5					
6					
7					
8					
9					

Ward / Constituency / County Returning Officer: .....

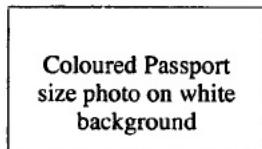
ID Number: .....

Signature: .....

Date: .....

**FORM 3**

[Rule 15(1).]

**APPLICATION FOR NOMINATION BY A POLITICAL PARTY**

APPLICATION FOR ..... (name of party)

NOMINATION FOR ..... (name of position /party list)

**Particulars of the Aspiring Candidate**

	<i>Particulars of Aspiring Candidate</i>
Name in Full	
Occupation	
National Identity Card or Passport No.	
Sex	
Date of Birth	
Physical address	
Postal address	
County	
Constituency	
Ward	
Voters Card Number	
Party membership number	
Telephone contacts	1. 2.

If the application is for party nomination on a party list.

Name of party list	
Ethnic Community of the aspiring candidate (only for national lists)	
Category of Special Interest Group	
Women	
Youth	
Person with Disability (type of disability)	
Ethnic minority	
Marginalized community	
Represent workers (only for 12 members list for National Assembly)	

And I the aforementioned ..... do hereby apply to the party nominee for ..... (position/party list) and hereby certify that I am in all respects qualified for nomination as such candidate.

Signatures of Aspiring Candidate .....

Dated the .....

[Subsidiary]

**FORM 4**

[Rule 15(2).]

**DECLARATION CERTIFYING DISABILITY**

I ..... of ..... (name of institution) do certify that ..... (name of the aspiring candidate seeking nomination representing person with disability) holding ..... ID/Passport number is a person living with disability, more specifically ..... (type of disability) for the last ..... (no. of years/months).

I make this declaration conscientiously as I sign this form.

Declared at ..... this ..... day of ..... 20 .....

Signature of Deponent—

Name .....  
 Profession .....  
 Workstation .....  
 ID / Passport No .....  
 Phone number .....  
 Signature .....

---

**FORM 5**

[Rule 18(2).]

**STATUTORY DECLARATION OF COMPLIANCE IN PARTY PRIMARY**

I / we, the authorized person(s), do solemnly and sincerely certify that in the party primary process in which—

..... (name of nominee)  
 ..... ID/Passport number was declared the winner and the party nominee for ..... (position) the party primary was conducted in accordance with all relevant party laws, rules and regulations related to party nominations.

And I/we make this declaration conscientiously believing in values and principles guiding us in our political party.

Declared at ..... this ..... day of ..... 20 .....

Signature of Declarant(s)—

1. Name .....  
 ID / Passport No .....  
 Signature .....

2. Name .....  
 ID / Passport No .....  
 Signature .....

---

**FORM 6**

[Rule 21(1).]

**STATUTORY DECLARATION OF COMPLIANCE  
IN PARTY NOMINATION OF PARTY LIST**

I/we, the authorized person(s), do solemnly and sincerely certify that in the nomination process in which party candidates was nominated on

..... (name of party list)  
the party nomination process was conducted in accordance with all relevant party laws, rules and regulations related to party nominations.

And I / we make this declaration conscientiously believing in values and principles guiding us in our political party.

Declared at ..... this ..... day of ..... 20 .....

Signature of Deponent(s) –

1. Name .....

ID / Passport No. ....

Signature .....

2. Name .....

ID / Passport No. ....

Signature .....

---



**ELECTIONS (VOTER EDUCATION) REGULATIONS, 2017**

## ARRANGEMENT OF REGULATIONS

## PART I – PRELIMINARY

*Regulation*

1. Citation.
2. Interpretation.
3. Objective.

## PART II – PROVISION OF VOTER EDUCATION

4. Role of the Commission in provision of voter education.
5. Voter education curriculum and education materials.
6. Constituency election coordinators.
7. Remuneration.

## PART III – VOTER EDUCATORS

8. Voter educators.
9. Manner of carrying out the tasks of voter educators.
10. Qualifications and other requirements.
11. Code of Conduct for voter education providers.

## PART IV – ACCREDITATION OF VOTER EDUCATION PROVIDERS

12. Application for accreditation.
13. Accreditation criteria.
14. Certificate of accreditation.
15. Inspection of register.
16. Accredited persons and organizations to sign Code of Conduct.
17. Commission may revoke accreditation.
18. Monitoring and evaluation of voter education.
19. Impartiality and conduct of voter education.
20. Submission of information.
21. Conduct of voter education.
22. Revocation of L.N. No. 127 of 2012.

## SCHEDEULE —

## FORMS

**ELECTIONS (VOTER EDUCATION) REGULATIONS, 2017**

[L.N. 70/2017.]

**PART I – PRELIMINARY****1. Citation**

These Regulations may be cited as the Elections (Voter Education) Regulations, 2017 and shall come into operation upon publication in the *Gazette*.

**2. Interpretation**

In these Regulations, unless the context otherwise requires—

**“constituency elections coordinator”** means an officer appointed by the Commission who is in charge of administration and coordination of the functions of the Commission at a constituency and may act as a registration officer or a returning officer during elections;

**“curriculum”** means the voter education curriculum developed by the Commission under regulation 5 and includes support materials approved by the Commission;

**“voter education”** means all forms of information or communication whose purpose is to educate members of the public including citizens residing outside Kenya on their rights and responsibilities in the electoral process;

**“voter educator”** means a person engaged by the Commission or by a voter education provider to carry out voter education under these Regulations; and

**“voter education provider”** means an organization accredited by the Commission to conduct voter education under these Regulations.

**3. Objective**

The objective of these Regulations is to—

- (a) implement Article 88 (4) (g) of the Constitution;
- (b) create an environment for objective and effective voter education for all Kenyans;
- (c) ensure efficient coordination of voter education for purposes of harmonizing the content of the voter education material;
- (d) provide a framework for monitoring and evaluation of voter education programmes; and
- (e) promote effective and efficient use of resources set aside for voter education in Kenya.

**PART II – PROVISION OF VOTER EDUCATION****4. Role of the Commission in provision of voter education**

The Commission shall be responsible for—

- (a) the formulation and review of policy and strategies for voter education;
- (b) the development and review of the voter education curriculum;
- (c) the accreditation and maintenance of a register of voter education providers;
- (d) the carrying out of continuous voter education programmes;
- (e) the development and dissemination of voter education materials;
- (f) the collaboration with stakeholders and partners in voter education; and
- (g) the monitoring and evaluating the voter education programmes.

**5. Voter education curriculum and education materials**

- (1) The Commission shall develop a voter education curriculum and support materials.
- (2) The voter education curriculum specified under sub regulation (1) shall cover all processes outlined in the electoral cycle.
- (3) The Commission may disseminate the voter education curriculum and support materials through mass media, electronic learning, public forums or any other appropriate modes.
- (4) The Commission shall—
  - (a) build the capacity of all the voter education providers to ensure voter education is carried out effectively; and
  - (b) monitor and evaluate the voter education process.
- (5) In the conduct of voter education, the Commission and the voter education providers shall take into account—
  - (a) the national values and principles of governance set out under Article 10 of the Constitution; and
  - (b) the principles of equality and freedom from discrimination;
  - (c) the provisions of Article 100 of the Constitution and shall in particular explain to the voters measures put in place to promote the representation of—
    - (i) women;
    - (ii) persons with disabilities;
    - (iii) youth;
    - (iv) ethnic and other minorities; and
    - (v) marginalized communities.

**6. Constituency election coordinators**

- (1) The Commission shall designate at the constituency level, the constituency elections coordinator who shall—
  - (a) advise on constituency voter education needs and strategies;
  - (b) conduct recruitment, induction, deployment of constituency voter educators;
  - (c) supervise and monitor activities and operations of constituency voter educators and voter education providers;
  - (d) evaluate constituency voter education activities and programs;
  - (e) sensitize and engage partners and stakeholders in the implementation of voter education programs at the constituency level;
  - (f) make periodic reports to the Commission; and
  - (g) undertake any other duty assigned by the Commission.
- (2) A constituency elections coordinator shall be responsible to the Commission for all matters relating to voter education.
- (3) The Commission may appoint one or more assistants to assist the constituency elections coordinator.

**7. Remuneration**

- (1) A voter educator engaged by the Commission may be paid such remuneration as the Commission may determine.
- (2) Where a voter education provider engages a voter educator, the Commission shall not be responsible for the cost and expenses of such voter educator.

**PART III – VOTER EDUCATORS****8. Voter educators**

The Commission may engage voter educators at the ward or other levels in such manner as the Commission may, from time to time, determine.

**9. Manner of carrying out the voter education**

A voter educator appointed under these Regulations shall carry out voter education in accordance with the voter education curriculum and guidelines issued by the Commission, from time to time.

**10. Qualifications of a voter educator**

- (1) A person may qualify as a voter educator if that person—
- (a) holds a post secondary school qualification from an institution recognized in Kenya;
  - (b) has experience in conducting voter education or civic education; and
  - (c) is a resident of the respective ward, constituency or county.

**11. Code of Conduct for voter educators and voter education providers**

Every voter educator and voter education provider shall sign and abide by the Code of Conduct prescribed in Form 5 set out in the Schedule.

**PART IV – ACCREDITATION OF VOTER EDUCATION PROVIDERS****12. Application for accreditation**

- (1) The Commission may publicly advertise and invite applications for accreditation as voter education providers.
- (2) The advertisement under sub regulation (1) shall be through mass media, electronic learning, public forums or any other appropriate modes.
- (3) A State or non-State agency or organisation may apply to the Commission to be accredited to provide voter education.
- (4) An application for accreditation to provide voter education shall be made to the Commission in Form 1 set out in the Schedule.

**13. Accreditation Criteria**

- (1) The Commission may accredit an applicant if that applicant—
- (a) possesses valid registration certificates;
  - (b) has civic education as an objective in the instrument of registration;
  - (c) has a presence in at least one constituency in Kenya;
  - (d) possesses at least six months demonstrable experience in the provision of voter or civic education;
  - (e) demonstrates to the Commission that it has the necessary institutional and resource capacity to carry out voter education; and
  - (f) meets tax compliance requirements as the law may require of organizations of its kind.

#### **14. Certificate of accreditation**

- (1) If the Commission is satisfied that an applicant meets the requirements for accreditation as set out in regulation 13, the Commission shall—
- (a) enter the name and particulars of the applicant in the register of voter education providers in the manner prescribed in Form 2 set out in the Schedule; and
  - (b) issue a certificate of accreditation in the name of the applicant stating the period of validity and any other conditions of accreditation as the Commission may determine.

(2) The certificate issued under sub regulation (1) (b) shall be in the manner prescribed in Form 3 set out in the Schedule.

#### **15. Inspection of the register**

A person may apply to inspect the register of voter education providers by applying to the Commission in the manner prescribed in Form 4 set out in the Schedule.

#### **16. Accredited persons and organizations to sign Code of Conduct**

All voter educators and persons engaged by voter education providers shall sign and abide by the Code of Conduct in the manner prescribed in Form 5 as set out in the Schedule.

#### **17. Commission may revoke accreditation**

- (1) Where a voter education provider contravenes the Code of Conduct the Commission may—
- (a) issue a formal warning;
  - (b) suspend the accreditation of the voter education provider for a period to be determined; or
  - (c) revoke the accreditation of the voter education provider.
- (2) Where the Commission revokes the accreditation of a voter education provider, the Commission—
- (a) shall delete the name of the voter education provider from the register; and
  - (b) may not accredit the organization for any future voter education.

#### **18. Monitoring and evaluation of voter education**

The Commission may carry out an assessment of a voter education exercise carried out by a voter education provider and advise on the same.

#### **19. Impartiality and conduct of voter education providers**

A voter education provider shall—

- (a) be impartial and independent of any political party or candidate contesting an election;
- (b) be competent to carry out voter education;
- (c) subscribe to the Code of Conduct prescribed under regulation 16;
- (d) provide voter education in accordance with the curriculum developed by the Commission;
- (e) promote cohesion and integration; and
- (f) enhance participation in elections and promote free and fair elections.

**20. Submission of information**

(1) The Commission may, at such intervals as it may determine require a voter education provider to submit a report concerning the conduct of voter education under these Regulations.

(2) A voter education provider shall prepare and submit to the Commission a report on voter education which shall contain the following information—

- (a) activities carried out in the area covered;
- (b) appropriate statistical information or data; and
- (c) any other relevant information.

(3) The Commission may suspend or revoke an accreditation certificate of a voter education provider who fails to comply with the requirement of this regulation.

**PART V—CONDUCT OF VOTER EDUCATION****21. Conduct of voter education**

(1) The conduct of voter education shall in its design, message and implementation be impartial and non-partisan.

(2) The Commission shall use various methods to deliver voter education information and messages through electronic and print media engagement, stakeholder forums, dissemination of information and education materials or outdoor outreach programs.

(3) The Commission may use one or a combination of the methods specified under sub regulation (2) including transcribing information into compatible formats to facilitate outreach to all special interest groups.

**22. Revocation of L.N. No. 127 of 2012**

The Elections (Voter Education) Regulations, 2012 (L.N. 127/2012) are revoked.

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## SCHEDULE

**FORM 1**

[Rule 12(4).]

**APPLICATION FOR ACCREDITATION FORM**

1. Name of Organisation (Attach certified copy of Registration certificate) .....
2. Address: (postal and physical including city/street/building) .....
3. Telephone: .....
4. Principal Officers: (Attach certified copies of National ID/Passport)
  - (a) Name of President/Chairperson .....
  - (b) Name of Secretary General/Executive Director/Country Director: .....
5. Person authorized by the organization to liaise with the Commission
 

Name: .....

Position: .....

Address: .....

Telephone: .....

Email: .....
6. Set out statement of objectives of the organisation .....
7. Estimated number of members that the group plans to deploy for voter education:  
.....
8. Source of Funds (Attach bank statement for the previous three months) .....
9. Person submitting this application:
 

Name: .....

Email: .....

Telephone: .....

Signature: .....

Date: .....

official stamp

10. Designation: .....

11. Telephone, email, etc.: .....

I/We solemnly swear( or affirm) and certify, under penalty of false declaration under the Oaths and Statutory declaration Act( Cap. 15 of the Laws of Kenya), that all the foregoing statements in this declaration are true and correct to the best of my/our knowledge

Dated at ..... this ..... day of ..... 20 .....

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[Subsidiary]

**FORM 2**

[Rule 14(1)(a).]

**REGISTER OF VOTER EDUCATION PROVIDERS**

1. Registration Number .....
2. Name of Organisation .....
3. Principal place of business .....
4. Postal address .....
5. Other places of business .....
6. Nature of business .....
7. Date of Registration .....

**PARTNERS OR PROPRIETORS DETAILS**

Name	Contact (Postal address/ telephone/email)	Nationality
1.		
2.		
3.		
4.		

**STATUTORY DECLARATION***(To be made by Person authorised by the organization to liaise with the Commission)*

I ..... of ..... do solemnly and sincerely declare that the particulars set out herein are true and correct and I make this declaration conscientiously believing the same to be true and according to the Oaths and Statutory Declarations Act (Cap. 159) of the Laws of Kenya.

Declared at this ..... day of ..... 20 .....

Before me

.....  
(Signature)

.....  
(Magistrate or Commissioner for Oaths)

**FORM 3**

[Rule 14(2).]

**ACCREDITATION CERTIFICATE****INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION****Certificate of Accreditation as a Voter Education Provider**

This is to certify that ..... (Name of Organisation) has been accredited as a voter education provider in ..... (Electoral area) ..... for the period commencing ..... up to .....

Issued this day ..... of ..... 20 .....

Seal of Independent Electoral and Boundaries Commission.

Name ..... Chief Executive Officer/Secretary

Signature ..... Independent Electoral and boundaries Commission

**FORM 4**

[Rule 15.]

**APPLICATION TO INSPECT THE REGISTER OF VOTER EDUCATION PROVIDERS**

I ..... do hereby apply to inspect the register of voter education providers.

I undertake to pay any fees that may be prescribed by the Commission.

Name .....

Constituency .....

Sign .....

Date .....

Dated the ..... 20 .....

**FORM 5**

[Rules 11 &amp; 16.]

**THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION****CODE OF CONDUCT OF VOTER EDUCATORS  
AND VOTER EDUCATION PROVIDERS**

1. The principal duty of the a voter educator and a voter education provider is to promote awareness among the population of Kenya in general and the voting population in particular on the need for all citizens of Kenya of voting age to register and vote in the elections or referenda.
2. (1) A voter educator and a voter education provider is a friend of every voter.  
 (2) A voter educator and a voter education provider shall endeavour to provide appropriate information, insight and advice to every voter on issues relating to the registration, elections and the referendum.  
 (3) A voter educator and voter education provider shall however not use his or her position as a voter educator to influence any voter to vote for any particular candidate or political party.
3. A voter educator and a voter education provider shall—
  - (a) conduct voter education in accordance with the curriculum prepared and approved by the Commission;
  - (b) conduct voter education impartially and without the advocacy or influence from any person or group;
  - (c) refrain from engaging in or supporting any activity that would discredit the work or image of the Commission;
  - (d) not in any way actively subvert the attainment of the Commission's statutory mandate and the conduct of the electoral process;
  - (e) not in any way solicit for funds in the name of the Commission;
  - (f) refuse any gift, favour, hospitality or any inducement that would influence or appear to influence the discharge of his or her duties;
  - (g) carry out voter education without intimidation, coercion, threats, duress or undue influence;
  - (h) be sensitive to the needs of people with disabilities, women, youth and other marginalized groups when providing voter education;

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[Subsidiary]

- (i) give due consideration to special and appropriate circumstances regarding accessibility, language and methodology in the provision of voter education;
  - (j) avoid actual or apparent conflicts of interest in the provision of voter education;
  - (k) refrain from disclosing any confidential information acquired in the course of their work unless otherwise authorized by the Commission;
  - (l) perform his or her duty in accordance with such other rules, regulations, standards as the Commission may set from time to time; and
  - (m) endeavour to use every means at his or her disposal to encourage every Kenyan who is eligible to register as voter to exercise his or her constitutional right to register and vote in elections and referenda.
4. A voter educator and a voter education provider who does not abide by this code of conduct shall be liable to such penalty Commission may deem fit, including termination of the contract and revocation of the right to conduct voter education for voter registration, elections and a referendum.

**STATEMENT OF ACCEPTANCE OF CODE OF CONDUCT**

I ..... do hereby accept to serve as a voter educator

I accept to be bound by the above code of conduct and with such Regulations that may be made from time by the Commission for the purpose of giving effect to the code of conduct at all times during my term of service as a voter education provider.

I undertake to relinquish my duty as a voter educator/voter education provider if required to do so, for good cause, by the Commission.

Name .....

Constituency .....

Sign .....

Date .....

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**ELECTIONS (PARLIAMENTARY AND COUNTY  
ELECTIONS) PETITIONS RULES, 2017****ARRANGEMENT OF RULES*****Rules*****PART I – PRELIMINARY**

1. Citation.
2. Interpretation.

**PART II – APPLICATION AND OBJECTIVES OF RULES**

3. Application.
4. Objective of these Rules.
5. Compliance with these Rules.

**PART III – CONSTITUTION OF AN ELECTION COURT**

6. Constitution of an election court.

**PART IV – PRESENTATION AND COMMENCEMENT OF PETITIONS**

7. Manner of filing of petition.
8. Contents and form of a petition.
9. Commission to be respondent in every petition.
10. Service on respondents.
11. Response to petition.
12. Affidavits generally.
13. Deposit of security for costs.

**PART V – CASE MANAGEMENT**

14. List of petitions.
15. Pre-trial conferencing and interlocutory applications.
16. Storage of ballot boxes and other materials.
17. Consolidation of petitions.
18. Time and place of hearing.
19. Extension and reduction of time.
20. Conduct of a hearing.
21. Withdrawal of petition.
22. Notice of intention to withdraw an election petition.
23. Notice for hearing of an application to withdraw an election petition.
24. Substitution of a petitioner.
25. Death of petitioner.
26. Application to be substituted as petitioner upon death of petitioner.
27. Death, resignation of, or notice not to oppose by elected person.

**PART VI – SCRUTINY AND RECOUNT**

28. Recount of votes or examination of tallying.
29. Scrutiny of votes.

**PART VII – COSTS AND DEPOSITS**

30. Costs.
31. Taxation and recovery of costs.
32. Fees.
33. Return of money deposited.

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[Subsidiary]

PART VIII – APPEALS

34. Appeals from Resident Magistrate's Court.
35. Appeals from the High Court.

PART IX – MISCELLANEOUS

36. Power of election court to issue administrative orders.
37. Practice directions by Chief Justice.
38. Revocation of L.N. No 54 of 2013.

FIRST SCHEDULE — FORMS

SECOND SCHEDULE — FEES

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## ELECTIONS (PARLIAMENTARY AND COUNTY ELECTIONS) PETITIONS RULES, 2017

[L.N. 116/2017, L.N. 117/2017.]

### PART I – PRELIMINARY

#### **1. Citation**

These Rules may be cited as the Elections (Parliamentary and County Elections) Petitions Rules, 2017.

#### **2. Interpretation**

In these Rules, unless the context otherwise requires—

“**Act**” means the Elections Act, 2011 (No. 24 of 2011);

“**Commission**” means the Independent Electoral and Boundaries Commission established under Article 88 of the Constitution;

“**election court**” means the High Court in the exercise of the jurisdiction conferred upon it by Article 165 (3)(a) of the Constitution or the Resident Magistrate’s Court designated by the Chief Justice in accordance with section 75 of the Act;

“**direct service**” means personal service or service on a duly authorized agent;

“**document**” includes an electronic document;

“**electronic document**” means any text, graphic or spreadsheet generated and stored in any electronic media content that is intended to be used in either electronic form or as printed output but does not include computer programs or system files;

“**petitioner**” means a person who files a petition to the election court under the Constitution or under the Act in accordance with these Rules;

“**Registrar**” means—

- (a) the Registrar of the High Court; or
- (b) an executive officer, where the petition is filed in a magistrate’s court; and

“**respondent**” in relation to a petition, means—

- (a) the person whose election is complained of;
- (b) the returning officer;
- (c) the Commission; and
- (d) any other person whose conduct is complained of in relation to an election.

### PART II – APPLICATION AND OBJECTIVES OF RULES

#### **3. Application**

These Rules shall apply to petitions in respect of—

- (a) the election of members of Parliament;
- (b) the election of county governors; and
- (c) the election of members of county assemblies.

#### **4. Objective of these Rules**

(1) The objective of these Rules is to facilitate the just, expeditious, proportionate and affordable resolution of elections petitions.

(2) An election court shall, in the exercise of its powers under the Constitution and the Act, or in the interpretation of any of the provisions in these Rules, seek to give effect to the objective specified in sub-rule (1).

## **5. Compliance with these Rules**

(1) The effect of any failure to comply with these Rules shall be determined at the Court's discretion in accordance with the provisions of Article 159 (2)(d) of the Constitution.

(2) A party to a petition or an advocate for the party shall assist an election court to further the objective of these Rules and, for that purpose, to participate in the processes of the election court and to comply with the directions and orders of the election court.

## PART III – CONSTITUTION OF AN ELECTION COURT

### **6. Constitution of an election court**

- (1) An election court shall be properly constituted to hear and determine—
  - (a) a petition in respect of an election of a member of Parliament or to the office of governor, if it is composed of one High Court Judge; or
  - (b) a petition in respect of an election of a member of a county assembly, if it is composed of a Resident Magistrate designated by the Chief Justice under section 75 of the Act.
- (2) The Chief Justice may—
  - (a) in consultation with the Principal Judge of the High Court, designate judges for the purposes of sub-rule (1)(a); and
  - (b) designate magistrates for the purposes of sub-rule (1)(b), as may be required.
- (3) The Chief Justice shall publish the name of the Judges and Magistrates designated under sub-rule (2) in the *Gazette* and in at least one newspaper of national circulation.

## PART IV – PRESENTATION AND COMMENCEMENT OF PETITIONS

### **7. Manner of filing of petition**

An election petition shall be—

- (a) filed by presenting the petition to the Registrar and on the payment of fees prescribed in the Second Schedule; and
- (b) in Form 1 set out in the First Schedule.

### **8. Contents and form of a petition**

- (1) An election petition shall state—
  - (a) the name and address of the petitioner;
  - (b) the date when the election in dispute was conducted;
  - (c) the results of the election, if any, and however declared;
  - (d) the date of the declaration of the results of the election;
  - (e) the grounds on which the petition is presented; and
  - (f) the name and address of the advocate, if any, for the petitioner which shall be the address for service.
- (2) The petition shall be divided into paragraphs, each of which shall be confined to a distinct portion of the subject, and every paragraph shall be numbered consecutively.
- (3) The petition shall conclude with a statement setting out the particulars of the relief sought which may include—
  - (a) a declaration on whether or not the candidate whose election is questioned was validly elected;
  - (b) a declaration of which candidate was validly elected;
  - (c) an order as to whether a fresh election should be held;
  - (d) scrutiny and recounting of the ballots cast at the election in dispute;
  - (e) payment of costs; or

- (f) a determination as to whether or not electoral malpractice of a criminal nature may have occurred.

(4) The petition shall—

- (a) be signed by the petitioner or by a person authorised by the petitioner;
- (b) be supported by an affidavit sworn by the petitioner containing the particulars set out under rule 12; and
- (c) be in such number of copies as would be sufficient for the election court and all respondents named in the petition.

(5) The Registrar shall acknowledge receipt of the petition in Form 2 set out in the First Schedule.

## **9. Commission to be respondent in every petition**

The Commission shall—

- (a) be a respondent in every petition filed under these Rules; and
- (b) be served with a petition filed pursuant to these Rules in the manner provided under Rule 12(2).

## **10. Service on the respondent**

(1) Within fifteen days after the filing of a petition, the petitioner shall serve the petition on the respondent by—

- (a) direct service; or
- (b) an advertisement that is published in a newspaper of national circulation.

(2) Service on the Commission shall be by—

- (a) delivery at the constituency, county or head office of the Commission;
- (b) delivery at such other office as the Commission may notify; or
- (c) an advertisement that is published in a newspaper of national circulation.

(3) Where a petition is served in accordance with sub-rules (1) (b) and (2) (c), the advertisement shall comply with these Rules if the advertisement is—

- (a) in Form 3 set out in the First Schedule;
- (b) of at least font size twelve; and
- (c) captured in dimensions of not less than ten centimetres by ten centimetres.

(4) A person served with a petition shall file and serve upon all the other parties a notice of address for service within five days from the date of such service.

[L.N. 117/2017, r. 2.]

## **11. Response to petition**

(1) Upon being served with a petition in accordance with rule 10, a respondent may oppose the petition by filing a response to an election within seven days.

(2) The response to a petition under sub-rule (1) shall be in Form 4 set out in the First Schedule.

(3) There shall be as many copies of the response filed as there are persons to be served, including a copy for the election court.

(4) Unless otherwise ordered by the election court, every response to a petition shall be served within seven days from the date of filing of that response.

(5) A response to a petition shall respond to each claim made in the petition.

(6) Where the petitioner claims the seat in issue for himself or herself or any other person, the response to a petition shall state the facts upon which the respondent relies to prove that the petitioner was not duly elected in the same manner as if the respondent had presented a petition against the election of that person.

[Subsidiary]

(7) Respondents may file a joint response to a petition.

(8) A respondent who has not filed a response to a petition as required under this rule shall not be allowed to appear or act as a party in the proceedings of the petition.

[L.N. 117/2017, r. 3.]

## **12. Affidavits generally**

(1) A petition shall be supported by an affidavit which shall—

- (a) set out facts and grounds relied on in the petition; and
- (b) be sworn personally by the petitioner or by at least one of the petitioners, if there is more than one petitioner.

(2) An affidavit in support of a petition under sub-rule (1) shall state—

- (a) the name and address of the deponent;
- (b) the date when the election in dispute was conducted;
- (c) the results of the election, if any, however declared;
- (d) the date of the declaration of the results of the election;
- (e) the grounds on which the petition is presented; and
- (f) the name and address of the advocate, if any, acting for the petitioner which shall be the address for service.

(3) Each person who the petitioner intends to call as a witness at the hearing, shall swear an affidavit.

(4) A petitioner shall, at the time of filing the petition, file the affidavits sworn under sub-rule (3).

(5) A response to the petition under rule 11 shall be supported by an affidavit sworn by the respondent.

(6) Each person who the respondent intends to call as a witness at the hearing, shall swear an affidavit.

(7) A respondent shall, at the time of filing the response to a petition, file the affidavits sworn under sub-rule (6).

(8) Except with the leave of the election court and for sufficient cause, a witness shall not give evidence unless an affidavit sworn by the witness is filed as required under these Rules.

(9) The election court may, on its own motion or on the application by any party to the petition, direct a party or witness to file a supplementary affidavit.

(10) An affidavit shall—

- (a) state the substance of the evidence;
- (b) be divided into paragraphs, each of which, as nearly as may be, shall be confined to a distinct portion of the subject, and numbered consecutively; and
- (c) contain a list of exhibits and copies of any documents which the deponent intends to rely on.

(11) Each affidavit shall be served to all parties to the petition.

(12) An affidavit shall form part of the record of the hearing and may be deemed to be the deponent's evidence for the purposes of an examination-in-chief.

(13) Every deponent shall, subject to the election court's direction, be examined-in-chief and cross-examined:

Provided that the parties may, by consent, accept not to cross-examine the deponents but shall have the deponent's evidence admitted as presented in the affidavits.

(14) The Oaths and Statutory Declarations Act (Cap. 15) and Order 19 of the Civil Procedure Rules, 2010 (L. N. No. 151/2010) shall apply to affidavits under these Rules.

### **13. Deposit of security for costs**

- (1) Within ten days of the filing of a petition, a petitioner shall deposit security for the payment of costs in compliance with section 78 (2)(b) and (c) of the Act.
- (2) The security for costs deposited under sub-rule (1) shall—
- (a) be paid to the Registrar;
  - (b) be for the payment of costs, charges or expenses payable by the petitioner; and
  - (c) subject to the directions of an election court, be vested in, and drawn upon from time to time by, the Registrar for the purposes for which security is required.
- (3) The Registrar shall—
- (a) issue a receipt for the deposit under this rule;
  - (b) shall file the duplicate of the receipt issued under paragraph (a) in a record kept by him or her;
  - (c) keep a record of deposits in which shall be entered from time to time the amount of a deposit and the petition to which the deposit relates;
  - (d) allow any person concerned with the petition to examine the record of deposits.

## PART V – CASE MANAGEMENT

### **14. List of petitions**

- (1) Upon receipt of a petition, the Registrar shall enter the names of the—
- (a) petitioner;
  - (b) respondent;
  - (c) petitioner's advocate, if any;
  - (d) respondent's advocate, if any; and
  - (e) the addresses to which notices may be sent, in a register kept by the Registrar for that purpose.
- (2) The register referred to in sub-rule (1) may be inspected at any time during official working hours and shall be affixed for that purpose on a notice board designated "The Elections Act-Election Petitions" at the registry.

### **15. Pre-trial conferencing and interlocutory applications**

- (1) Within seven days after the receipt of the last response to a petition, an election court shall schedule a pre-trial conference with the parties in which the election court shall—
- (a) frame the contested and uncontested issues in the petition;
  - (b) analyse methods for resolving the contested issues;
  - (c) determine interlocutory applications;
  - (d) confirm the number of witnesses the parties intend to call;
  - (e) give an order, where necessary, for furnishing further particulars;
  - (f) give directions for the disposal of the suit or any outstanding issues;
  - (g) give directions as to the place and time of hearing the petition;
  - (h) give directions as to the filing and serving of any further affidavits or the giving of additional evidence;
  - (i) give directions on limiting the volume of any copies of documents that may be required to be filed; or

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[Subsidiary]

- (j) make such other orders as may be necessary to prevent unnecessary expenses.

(2) An election court shall not allow any interlocutory application to be made on conclusion of the pre-trial conference, if the interlocutory application could have, by its nature, been brought before the commencement of the hearing of the petition.

## **16. Storage of ballot boxes and other materials**

(1) On conclusion of the pre-trial conference under rule 15, the election court may give directions on—

- (a) the storage of the election materials including ballot boxes and documents relating to the petition;
- (b) the handling and safety of the election materials; or
- (c) the time for furnishing the election materials to the election court.

(2) In giving directions under sub-rule (1), the election court shall—

- (a) consider the prudent, efficient and economic use of storage and transport facilities;
- (b) consider the maintenance of the integrity of the election materials; and
- (c) ensure that the election materials are not interfered with.

(3) An election court may direct that the Commission maintains the custody of all election materials in relation to a petition.

(4) Only the material relating to a particular petition may be furnished to an election court.

(5) The election court may order that additional seals be placed on the ballot boxes related to the election for which a petition has been lodged.

## **17. Consolidation of petitions**

Where more than one petition is lodged relating to the same election, the election court shall consolidate the petitions, and hear and determine them together.

## **18. Time and place of hearing**

(1) The election court shall, by notice, specify the time and place of the hearing of a petition.

(2) A notice under sub-rule (1) shall be issued not less than seven days before the date fixed for hearing and shall be served to the addresses of each party provided under rule 14 (1)(e).

## **19. Extension and reduction of time**

(1) Where any act or omission is to be done within such time as may be prescribed in these Rules or ordered by an elections court, the election court may, for the purposes of ensuring that injustice is not done to any party, extend or limit the time within which the act or omission shall be done with such conditions as may be necessary even where the period prescribed or ordered by the Court may have expired.

(2) Sub-rule (1) shall not apply in relation to the period within which a petition is required to be filed, heard or determined.

## **20. Conduct of a hearing**

(1) Save in exceptional circumstances, once the hearing of a petition has commenced it shall proceed uninterrupted on a day to day basis until it is determined.

(2) Despite sub-rule (1), the election court may adjourn the hearing of a petition for a period not exceeding five days.

(3) If a judge or magistrate hearing a petition is unable to continue hearing the petition due to illness or any other reason before the petition is determined, the Chief Justice shall appoint another judge or magistrate, as the case may be, to continue the hearing and determine the petition.

(4) Where another judge or magistrate has been appointed under sub-rule (3), the judge or magistrate shall continue with the proceedings from where the previous judge or magistrate had stopped.

## **21. Withdrawal of petition**

(1) A petition shall not be withdrawn without leave of the election court.

(2) The election court may grant leave to withdraw a petition on such terms as to the payment of costs or as the election court may otherwise determine.

(3) An application for leave to withdraw a petition shall—

- (a) be in Form 5 set out in the First Schedule;
- (b) be signed by the petitioner or a person authorised by the petitioner;
- (c) state the grounds for withdrawing the petition; and
- (d) be lodged at the registry.

(4) The parties to a petition shall each file an affidavit, before leave for withdrawal of a petition is determined, addressing the grounds on which the petition is intended to be withdrawn.

(5) Despite sub-rule (4), an election court may, on cause being shown, dispense with the affidavit of a party to the petition if it seems to the election court on special grounds to be fit and just.

(6) Each affidavit filed under sub-rule (4) shall contain the following declaration—

“to the best of the deponent’s knowledge and belief, that no agreement or terms of any kind has been made, and that no undertaking has been entered into, in relation to the withdrawal of the petition”.

(7) Despite sub-rule (6), where a lawful agreement shall have been made with respect to the withdrawal of the petition, the affidavit shall set out the terms of the agreement.

## **22. Notice of intention to withdraw an election petition**

(1) The petitioner shall serve each respondent with a copy of the application to withdraw a petition.

(2) The petitioner shall publish in a newspaper of national circulation a notice of intention to withdraw an election petition in Form 6 set out in the First Schedule and the petitioner.

## **23. Notice for hearing of an application to withdraw an election petition**

(1) The Registrar shall issue a notice for hearing an application to withdraw an election petition in Form 7 set out in the First Schedule, to the parties in an election petition.

(2) The notice issued under sub-rule (1) shall specify the time and place for the hearing of the application for the withdrawal of the petition under rule 21.

## **24. Substitution of a petitioner**

(1) At the hearing of the application for the withdrawal of a petition, a person who is qualified to be a petitioner in respect of the election to which the petition relates may apply to the election court to be substituted as the petitioner in place of the petitioner who has applied to withdraw the petition.

(2) The election court may grant the application to substitute the applicant under sub-rule (1) as the petitioner.

(3) The election court may direct that the security deposited on behalf of the original petitioner shall remain as security for any costs that may be incurred by the substituted

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[Subsidiary]

petitioner, and that to the extent of the sum deposited as security, the original petitioner may be liable to pay the costs of the substituted petitioner.

(4) If the election court does not make an order under sub-rule (3), security of the same amount as would be required of a new petitioner and subject to the same conditions imposed on the original petitioner, the substituted petitioner shall pay, within three days after the order of substitution, the security before proceeding with the petition.

(5) Subject to sub-rules (3) and (4), a substituted petitioner shall stand in the same position, to the extent possible, and shall be subject to the same liabilities as the original petitioner.

(6) Where there is more than one petitioner, an application to withdraw a petition shall be made with the consent of all the other petitioners.

## **25. Death of petitioner**

(1) A petition shall not abate merely by reason of the death of a sole petitioner or of one of the petitioners of several petitioners.

(2) In case of the death of a sole petitioner or of one of the petitioners where there are several petitioners, the intended substitution of a new petitioner shall be notified to the election court within seven days of the notification of the death.

## **26. Application to be substituted as petitioner upon death of petitioner**

(1) Upon the death of a petitioner, a party or person interested to be substituted as the petitioner shall give a notice of death of the petitioner or of the survivor of several petitioners in the manner provided under rule 25.

(2) An application for an order to be substituted as a petitioner shall be made within seven days from the day of the notice issued under sub-rule (1).

(3) The election court may substitute as a petitioner any applicant who is desirous of being substituted and on whose behalf security of the same amount is given as required in the case of a new petition.

## **27. Death, resignation of, or notice not to oppose by elected person**

(1) If, before the hearing of a petition, the person whose election is being contested—

- (a) dies or vacates the seat; or
- (b) gives notice in writing to the Registrar that he or she does not intend to oppose the petition, the petition shall abate.

(2) The Registrar shall publish in the *Gazette* a notice stating that the person whose election is being contested has—

- (a) died;
- (b) vacated his or her seat; or
- (c) given notice in writing that he or she does not intend to oppose the petition.

(3) A person who may have been a petitioner in respect of the election to which the petition relates, may apply to the election court to be admitted as a respondent to oppose the petition within ten days after the notice under sub-rule (2) has been published in the *Gazette* or within such other period as the election court may allow.

(4) A notice under sub-rule (1) (b) shall—

- (a) be in writing;
- (b) be signed by the person whose election is being contested;
- (c) be filed at the office of the Registrar; and
- (d) be filed not less than six days before the day appointed for the hearing of the petition and shall exclude the day of publishing the notice.

## PART VI – SCRUTINY AND RECOUNT

**28. Recount of votes or examination of tallying**

A petitioner may apply to an elections court for an order to—

- (a) recount the votes; or
- (b) examine the tallying, if the only issue for determination in the petition is the count or tallying of votes received by the candidates.

**29. Scrutiny of votes**

(1) The parties to the proceedings may apply for scrutiny of the votes for purposes of establishing the validity of the votes cast.

(2) On an application under sub-rule (1), an election court may, if it is satisfied that there is sufficient reason, order for scrutiny or recount of the votes.

(3) The scrutiny or recount of votes ordered under sub-rule (2) shall be carried out under the direct supervision of the Registrar or Magistrate and shall be subject to the directions the election court gives.

(4) The scrutiny or recount of votes in accordance with sub-rule (2) shall be confined to the polling stations in which the results are disputed and may include the examination of—

- (a) the written statements made by the returning officers under the Act;
- (b) the printed copy of the Register of voters used during the elections sealed in a tamper proof envelope;
- (c) the copies of the results of each polling station in which the results of the election are in dispute;
- (d) the written complaints of the candidates and their representatives;
- (e) the packets of spoilt ballots;
- (f) the marked copy register;
- (g) the packets of counterfoils of used ballot papers;
- (h) the packets of counted ballot papers;
- (i) the packets of rejected ballot papers;
- (j) the polling day diary; and
- (k) the statements showing the number of rejected ballot papers.

(5) For purposes of sub-rule (4) (b), every returning officer shall upon declaration of the results, seal the printed copy of the Register of Voters used at that election in a tamper proof envelop and such envelop shall be stored by the Commission subject to the elections court directions under rule 16.

## PART VII – COSTS AND DEPOSITS

**30. Costs**

(1) The election court may, at the conclusion of a petition, make an order specifying—

- (a) the total amount of costs payable;
- (b) the maximum amount of costs payable;
- (c) the person who shall pay the costs under paragraph (a) or (b); and
- (d) the person to whom the costs payable under paragraphs (a) and (b) shall be paid.

(2) When making an order under sub-rule (1), the election court may—

- (a) disallow any prayer for costs which may, in the opinion of the election court, have been caused by vexatious conduct, unfounded allegations or unfounded objections, on the part of either the petitioner or the respondent; and

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[Subsidiary]

- (b) impose the burden of payment on the party who may have caused an unnecessary expense, whether that party is successful or not, in order to discourage any such expense.
- (3) The abatement of a petition shall not affect the liability of the petitioner or of any other person to the payment of previously incurred costs.

### **31. Taxation and recovery of costs**

- (1) A Registrar shall tax the costs of a petition on the order of the election court in the same manner as costs are taxed in civil proceedings in accordance with the Advocates Act (Cap. 16).
- (2) An order of the Registrar under sub-rule (1) shall be confirmed by the relevant election court.
- (3) An election court may direct that the whole or any part of any money deposited by way of security shall be applied in the payment of taxed costs.

### **32. Fees**

There shall be paid, in respect of all proceedings under these Rules, the fees prescribed in the Second Schedule.

### **33. Return of money deposited**

- (1) The money deposited under rule 13 shall, when it is no longer needed for payment of costs, charges or expenses be returned or disposed of as the election court may, by order, determine to be just.
- (2) An order under sub-rule (1) may be made upon an application by a party to the petition and proof that all just claims have been satisfied or sufficiently provided for as the election court may require.
- (3) The order may direct the payment of the money either to the party in whose name it is deposited or to any person entitled to receive it.
- (4) On the conclusion of a petition, the election court shall issue notice to the parties to show cause why the security for costs should not be disposed of.

## PART VIII – APPEALS

### **34. Appeals from Resident Magistrate's Court**

- (1) An appeal from a Resident Magistrate's Court under section 75 (1A) of the Act shall be in the form of a memorandum of appeal and shall be signed in the same manner as a petition.
- (2) The memorandum of appeal under sub-rule (1) shall concisely set out under distinct heads the grounds of appeal without any argument or narrative from the judgment appealed from and the grounds shall be numbered consecutively.
- (3) The memorandum of appeal under sub-rule (1) shall be filed at the nearest High Court registry within thirty days from the date of the judgment.
- (4) The appellant shall, upon filing the memorandum of appeal in accordance with sub-rule (3), pay the fees prescribed in the Second Schedule.
- (5) The appellant shall, within seven days of the filing of the memorandum of appeal in accordance with sub-rule (3), serve the memorandum of appeal on all parties directly affected by the appeal.
- (6) The appellant shall, within twenty-one days of the filing of the memorandum of appeal in accordance to sub-rule(3), file a record of appeal which shall contain the following documents—
  - (a) the memorandum of appeal;
  - (b) pleadings of the petition;

- (c) typed and certified copies of the proceedings;
- (d) all affidavits, evidence and documents entered in evidence before the magistrate; and
- (e) a signed and certified copy of the judgment appealed from and a certified copy of the decree.

(7) On the filing of the memorandum of appeal in accordance with sub-rule (3), the registrar of the court to which the appeal is preferred shall, within seven days, send a notice of appeal to the election court from whose decree the appeal is preferred.

(8) The election court from which an appeal is preferred shall, upon receiving a notice under sub-rule (7), send the proceedings and all relevant documents relating to the petition to the High Court to which the appeal is preferred.

(9) The High Court to which the appeal is preferred shall, within thirty days of lodging the memorandum of appeal in accordance with sub-rule (5), fix a date for—

- (a) the giving of directions including directions as to the manner in which evidence and exhibits may be presented; and
- (b) the hearing of the appeal.

(10) The High Court to which the appeal is preferred may confirm, vary or reverse in whole or in part, the decision of the court from which the appeal is preferred and shall have the same powers and perform the same duties as are conferred and imposed on the court exercising original jurisdiction.

(11) An appeal filed under sub-rule (1) shall be heard and determined within three months of the date of lodging the appeal.

### **35. Appeals from the High Court**

An appeal from the judgment and decree of the High Court in a petition concerning the membership of the National Assembly, Senate or office of county Governor shall be heard and determined under the Court of Appeal Rules, 2010 (L. N. 152/2010).

## PART IX – MISCELLANEOUS

### **36. Power of an election court to issue administrative orders**

Despite any provision in these Rules, the election court may, at any time before or during the hearing, issue any orders of an administrative nature, including—

- (a) an order to require written submissions; and
- (b) an order prescribing the timelines for certain actions.

### **37. Practice directions by Chief Justice**

The Chief Justice may issue practice directions for the better carrying out of the provisions of these Rules.

### **38. Revocation of L. N. No. 54 of 2013**

The Elections (Parliamentary and County Elections) Petition Rules, 2013 (L.N. 54/2013) are revoked.

[Subsidiary]

## FIRST SCHEDULE

## FORMS

**FORM 1**

[Rule 7(b).]

IN THE HIGH COURT OF KENYA/IN THE RESIDENT MAGISTRATES COURT  
AT .....

THE ELECTIONS ACT, 2011

ELECTIONS (PARLIAMENTARY AND COUNTY ELECTIONS) PETITION RULES, 2017

ELECTION PETITION NUMBER ..... OF 20 .....

**ELECTION PETITION**

Election for the ..... (*state whether Governor/Senator/member of National Assembly/member of Senate/member of county assembly of* ..... (*state the respective county/constituency/ward*))

The Petition of ..... (*State name of Petitioner*)

Your Petitioner state that the election was held on the ..... day of .....,  
20 ....., when ..... (*insert names of candidates*) were  
candidates, and the returning officer has returned ..... (*insert name of candidate declared as winner*) as being duly elected.

And your Petitioner say that .....  
(*state the facts and grounds on which the Petitioner relies*).

Wherefore your Petitioner prays that it be determined that the said ..... (*insert name of candidate declared as winner*) was not duly elected and the election was void (or as the case may be).

Dated ..... , 20 .....

.....  
*Petitioner*

**FORM 2**

[Rule 8(5).]

IN THE HIGH COURT OF KENYA/IN THE RESIDENT MAGISTRATES COURT  
AT .....

THE ELECTIONS ACT, 2011

ELECTIONS (PARLIAMENTARY AND COUNTY ELECTIONS) PETITION RULES, 2017

ELECTION PETITION NUMBER ..... OF 20 .....

**ACKNOWLEDGEMENT OF RECEIPT OF AN ELECTION PETITION**

Received on the ..... day of ..... 20..... at the Registry  
of the High/Resident Magistrates Court, a petition concerning the election  
of ..... for ..... purporting to be signed by  
..... (*insert the names of Petitioners*).

.....  
*Registrar*

**FORM 3**

[Rule 10 (3)(a).]

IN THE HIGH COURT OF KENYA/IN THE RESIDENT MAGISTRATES COURT  
AT .....

THE ELECTIONS ACT, 2011

ELECTIONS (PARLIAMENTARY AND COUNTY ELECTIONS) PETITION RULES, 2017

ELECTION PETITION NUMBER ..... OF 20 .....

**SERVICE OF ELECTION PETITION BY ADVERTISEMENT**

To: .....

of: .....

Take notice that an Election Petition in regard to ..... County/Constituency/  
County Assembly Ward has been filed in the ..... Court at ..... in Election  
Petition No. ..... of 20 ....., in which you are named as a Respondent.

Service of the summons on you will be by means of this advertisement.  
A copy of the summons and the petition may be obtained from the court  
at ..... (*insert postal address of registry*)

And further take notice that, unless you enter an appearance within ..... days, the  
petition will be heard in your absence.

Dated ....., 20 .....

.....  
*Petitioner***FORM 4**

[Rule 11 (2).]

IN THE HIGH COURT OF KENYA/IN THE RESIDENT MAGISTRATES COURT  
AT .....

THE ELECTIONS ACT, 2011

ELECTIONS (PARLIAMENTARY AND COUNTY ELECTIONS) PETITION RULES, 2017

ELECTION PETITION NUMBER ..... OF 20 .....

**RESPONSE TO AN ELECTION PETITION**

Election for the .....

(state whether Governor/Senator/member of National Assembly/member of Senate/  
member of county assembly) of ..... state the respective  
county/constituency/ward)

The Response of ..... (*state name of Respondent*)

In response to the petition, the Respondent states that .....  
(state the facts or grounds on which the Respondent relies).

Wherefore your Respondent prays that it be determined that the  
said ..... (*name of candidate*) was duly elected and  
the election was valid (or as the case may be).

Dated ....., 20 .....

.....  
*Respondent*

[Subsidiary]

**FORM 5**

[Rule 21 (3)(a).]

IN THE HIGH COURT OF KENYA/IN THE RESIDENT MAGISTRATES COURT  
 AT .....

THE ELECTIONS ACT, 2011

ELECTIONS (PARLIAMENTARY AND COUNTY ELECTIONS) PETITION RULES, 2017

ELECTION PETITION NUMBER ..... OF 20 .....

**APPLICATION TO WITHDRAW AN ELECTION PETITION**

The petition of ..... presented the ..... day of .....  
 ..... , 20 .....

The Petitioner applies for leave to withdraw the petition upon the following grounds (*state grounds*).

The Petitioner prays that a day may be appointed for hearing this application.

Dated ..... , 20 .....

.....  
*Petitioner*

**FORM 6**

[Rule 22(2).]

IN THE HIGH COURT OF KENYA/IN THE RESIDENT MAGISTRATES COURT  
 AT .....

THE ELECTIONS ACT, 2011

ELECTIONS (PARLIAMENTARY AND COUNTY ELECTIONS) PETITION RULES, 2017

ELECTION PETITION NUMBER ..... OF 20 .....

**INTENTION TO WITHDRAW AN ELECTION PETITION**

In the election petition for the ..... County/  
 Constituency/Ward/ in which ..... is the Petitioner and  
 ..... is the Respondent.

Notice is hereby given that the above Petitioner did on the ..... day of .....  
 ..... , 20 ..... lodge at the office of the Registrar an application for leave to withdraw the  
 election petition, which application the following is a copy- (*attach copy*).

Take notice that any person who might have been a Petitioner in respect of the said election  
 may, within seven days after the date of this notice, give notice in writing to the Registrar of  
 the intention on the hearing of the application to be substituted as a Petitioner.

Dated ..... , 20 .....

.....  
*Registrar*

**FORM 7**

[Rule 23(1).]

IN THE HIGH COURT OF KENYA/IN THE RESIDENT MAGISTRATES COURT  
 AT .....

THE ELECTIONS ACT, 2011

ELECTIONS (PARLIAMENTARY AND COUNTY ELECTIONS) PETITION RULES, 2017

ELECTION PETITION NUMBER ..... OF 20 .....

**HEARING OF AN APPLICATION TO WITHDRAW AN ELECTION PETITION**

In the election petition for the ..... County/Constituency/Ward  
 in which ..... is the Petitioner and .....  
 is the Respondent.

Notice is hereby given that the above Petitioner did on the .....day of .....  
 ...., 20 ..... lodge at the office of the Registrar an application for leave to withdraw the  
 election petition.

And take notice that the application to withdraw the petition shall be heard on the .....  
 day of ..... 20 ..... at the .....Registry of the High/Resident  
 Magistrates Court .....

Dated ..... 20 .....

.....  
*Registrar*

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**SECOND SCHEDULE**

**FEES**

[Rules 32 &amp; 34(4).]

.	Ksh.
Filing of a Petition in the High Court	30,000
Filing of a Petition in the Magistrates' Court	15,000
Lodging a Memorandum of Appeal	15,000

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Independent  
Electoral  
and Boundaries  
Commission  
(No. 9 of 2011)



**THE REPUBLIC OF KENYA**

**LAWS OF KENYA**

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**INDEPENDENT ELECTORAL AND  
BOUNDARIES COMMISSION ACT**

**NO. 9 OF 2011**

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**NO. 9 OF 2011****INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION ACT****ARRANGEMENT OF SECTIONS****PART I – PRELIMINARY***Section*

1. Short title.
2. Interpretation.
3. Object and purpose of the Act.

**PART II – ADMINISTRATION**

4. Functions of the Commission.
5. Composition and appointment of the Commission.
6. Qualifications for appointment as chairperson or member of the Commission.
7. Term of office.
- 7A. Vacancy in the office of chairperson and members.
- 7B. Absence of chairperson.
8. Conduct of business and affairs of the Commission.
9. Oath of office.
10. Secretary to Commission.
- 10A. Vacancy of office of secretary.
11. Employees of the Commission.
- 11A. Relationship between the Commissioners and Secretariat.
12. Units of the Commission.
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**NO. 9 OF 2011****INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION ACT**

[*Date of assent: 5th July, 2011.*]

[*Date of commencement: 5th July, 2011.*]

**An Act of Parliament to make provision for the appointment and effective operation of the Independent Electoral and Boundaries Commission established by Article 88 of the Constitution, and for connected purposes**

[Act No. 9 of 2011, Act No. 12 of 2012, Act No. 36 of 2016, Act No. 1 of 2017, Act No. 34 of 2017.]

**PART 1 — PRELIMINARY****1. Short title**

This Act may be cited as the Independent Electoral and Boundaries Commission Act, 2011.

**2. Interpretation**

(1) In this Act, unless the context otherwise requires—

**“Cabinet Secretary”** means the Cabinet Secretary appointed under Article 152 of the Constitution;

**“chairperson”** means the chairperson of the Commission appointed in accordance with Article 250(2) of the Constitution or the vice-chairperson or a member of the Commission when discharging the functions of the chairperson;

**“Commission”** means the Independent Electoral and Boundaries Commission established by Article 88 of the Constitution;

**“first review”** means the review conducted by the former Boundaries Commission taking into account any outstanding work of that Commission and issues arising from that review;

**“former Boundaries Commission”** means the Interim Independent Boundaries Review Commission established under section 41B of the former Constitution;

**“former Constitution”** means the Constitution in force immediately before the 27th of August, 2010;

**“Fund”** means the Independent Electoral and Boundaries Commission Fund established by section 18;

**“issues arising”** means the issues specified in paragraph 1 of the Fifth Schedule;

**“member”** means a member of the Commission and includes the chairperson;

**“Parliamentary Committee”** means the relevant Departmental Committee of the National Assembly responsible for matters relating to the Commission;

**“principal office”** means the headquarters of the Commission;

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**“Registrar of Persons”** means the office in charge of identification, registration and issuance of identity cards to all Kenyan citizens;

**“Salaries and Remuneration Commission”** means the Salaries and Remuneration Commission established under Article 230(1) of the Constitution;

**“secretary”** means the secretary to the Commission appointed under Article 250(12) of the Constitution;

**“vice-chairperson”** means the vice-chairperson of the Commission elected under Article 250(10) of the Constitution.

(2) Despite subsection (1), until after the first election under the Constitution, references in this Act to the expression “Cabinet Secretary” shall be construed to mean “Minister”.

[Act No. 34 of 2017, s. 2.]

### **3. Object and purpose of the Act**

The object and purpose of this Act is to—

- (a) provide for the operations, powers, responsibilities and functions of the Commission to supervise elections and referenda at County and National government levels;
- (b) provide a legal framework for the identification and appointment of the chairperson, members and the secretary of the Commission pursuant to Article 88(1), (2) and (3) and 250(2) of the Constitution;
- (c) provide for the manner of the exercise of the powers, responsibilities and functions of the Commission pursuant to Article 88(5) of the Constitution;
- (d) establish mechanisms for the Commission to facilitate consultations with interested parties pursuant to Article 89(7) of the Constitution; and
- (e) *deleted by Act No. 1 of 2017, s. 27.*

[Act No. 36 of 2016, s. 29, Act No. 1 of 2017, s. 27.]

## **PART II – ADMINISTRATION**

### **4. Functions of the Commission**

As provided for by Article 88(4) of the Constitution, the Commission is responsible for conducting or supervising referenda and elections to any elective body or office established by the Constitution, and any other elections as prescribed by an Act of Parliament and, in particular, for—

- (a) the continuous registration of citizens as voters;
- (b) the regular revision of the voters’ roll;
- (c) the delimitation of constituencies and wards in accordance with the Constitution;
- (d) the regulation of the process by which parties nominate candidates for elections;
- (e) the settlement of electoral disputes, including disputes relating to or arising from nominations, but excluding election petitions and disputes subsequent to the declaration of election results;

- (f) the registration of candidates for election;
- (g) voter education;
- (h) the facilitation of the observation, monitoring and evaluation of elections;
- (i) the regulation of the amount of money that may be spent by or on behalf of a candidate or party in respect of any election;
- (j) the development and enforcement of a code of conduct for candidates and parties contesting elections;
- (k) the monitoring of compliance with the legislation required by Article 82(1)(b) of the Constitution relating to nomination of candidates by parties;
- (l) *deleted by Act No. 36 of 2016, s. 30;*
- (m) the use of appropriate technology and approaches in the performance of its functions; and
- (n) such other functions as are provided for by the Constitution or any other written law.

[Act No. 36 of 2016, s. 30.]

## **5. Composition and appointment of the Commission**

- (1) The Commission shall consist of a chairperson and six other members appointed in accordance with Article 250(4) of the Constitution and the provisions of this Act.
- (2) The chairperson and members of the Commission shall be appointed in accordance with the procedure set out in the First Schedule.
- (3) The process of replacement of a chairperson or a member of the Commission shall commence at least six months before the lapse of the term of the chairperson or member of the Commission.
- (4) The procedure set out in the First Schedule shall apply, with the necessary modifications, whenever there is a vacancy in the Commission.

[Act No. 36 of 2016, s. 31.]

## **6. Qualifications for appointment as chairperson or member of the Commission**

- (1) The chairperson of the Commission shall be a person who is qualified to hold the office of judge of the Supreme Court under the Constitution.
- (2) A person is qualified for appointment as a member of the Commission if such person—
  - (a) *deleted by Act No. 36 of 2016, s. 32;*
  - (b) holds a degree from a recognised university;
  - (c) has proven relevant experience in any of the following fields—
    - (i) electoral matters;
    - (ii) management;
    - (iii) finance;
    - (iv) governance;
    - (v) public administration;
    - (vi) law; and

- 
- (d) meets the requirements of Chapter Six of the Constitution.

[Act No. 36 of 2016, s. 32.]

## **7. Term of office**

(1) The members of the Commission shall be appointed for a single term of six years and shall not be eligible for re-appointment.

(2) The members of the Commission shall serve on a full-time basis.

(3) The Commission shall be properly constituted notwithstanding a vacancy in its membership.

## **7A. Vacancy in the office of chairperson and members**

(1) The office of the chairperson or a member of the Commission shall become vacant if the holder—

(a) dies;

(b) resigns from office by notice in writing addressed to the President; or

(c) is removed from office under any of the circumstances specified in Article 251 and Chapter Six of the Constitution.

(2) The President shall publish a notice of a vacancy in the Gazette within seven days of the occurrence of such vacancy.

(3) Whenever a vacancy arises under subsection (1), the recruitment of a new chairperson or member, under this Act, shall commence immediately after the declaration of the vacancy by the President under subsection (2).

(4) Whenever a vacancy occurs in the office of the chairperson, the vice-chairperson shall act as the chairperson and exercise the powers and responsibilities of the chairperson until such a time as the chairperson is appointed.

(5) Where the positions of chairperson and vice-chairperson are vacant, a member elected by members of the Commission shall act as the chairperson and exercise the powers and responsibilities of the chairperson until such a time as the chairperson is appointed.

(6) The provisions of section 6(1) shall not apply to the vice-chairperson or a member acting as chairperson under this section.

[Act No. 36 of 2016, s. 33, Act No. 34 of 2017, s. 3.]

## **7B. Absence of chairperson**

(1) Whenever the chairperson is absent, the vice-chairperson shall assume the duties of the chairperson and exercise the powers and responsibilities of the chairperson.

(2) Whenever the chairperson and the vice-chairperson are absent, members of the Commission shall elect from amongst themselves a member to act as the chairperson and exercise the powers and responsibilities of the chairperson.

(3) The provisions of section 6(1) shall not apply to the vice-chairperson or a member acting as chairperson under this section.

[Act No. 34 of 2017, s. 3A.]

**8. Conduct of business and affairs of the Commission**

The conduct and regulation of the business and affairs of the Commission shall be as provided for in the Second Schedule but subject thereto, the Commission may regulate its own procedure.

**9. Oath of office**

The chairperson and members shall, before assuming office, take and subscribe to the oath or affirmation of office prescribed in the Second Schedule.

**10. Secretary to the Commission**

(1) The Commission shall, through an open, transparent and competitive recruitment process, appoint a suitably qualified person to be the secretary to the Commission.

(2) A person shall be qualified for appointment as the secretary if the person—

- (a) is a citizen of Kenya;
- (b) possesses a degree from a recognised university;
- (c) has had at least five years' proven experience at management level;
- (d) has proven relevant experience in either—
  - (i) electoral matters;
  - (ii) management;
  - (iii) finance;
  - (iv) governance;
  - (v) public administration;
  - (vi) law; or
  - (vii) political science; and
- (e) meets the requirements of Chapter Six of the Constitution.

(3) The secretary shall, before assuming office, take and subscribe to the oath or affirmation of office prescribed in the Third Schedule.

(4) The secretary shall hold office for a term of five years but shall be eligible for re-appointment for one further term of five years.

(5) Where the Commission does not intend to reappoint the secretary, the Commission shall notify the secretary and shall cause the vacancy to be advertised at least three months before the expiry of the incumbent's term.

(6) The secretary shall, in the performance of the functions and duties of office, be responsible, answerable and report to the Commission.

(7) The secretary shall be—

- (a) the chief executive officer of the Commission;
- (b) head of the secretariat;
- (c) the accounting officer of the Commission;
- (d) custodian of all commission's records;
- (e) responsible for—
  - (i) executing decisions of the Commission;

- (ii) assignment of duties and supervision of all employees of the Commission;
- (iii) facilitating, co-ordinating and ensuring execution of Commission's mandate;
- (iv) ensuring staff compliance with public ethics and values; and
- (v) the performance of such other duties as may be assigned by the law and Commission.

(8) The secretary may only be removed from office by the Commission on grounds of—

- (a) inability to perform functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct;
- (c) bankruptcy; or
- (d) incompetence.

(9) Before removal under subsection (8), the secretary shall be—

- (a) informed in writing of the reasons for the intended removal;
- (b) given an opportunity to put in a defence against any such allegations, either in person or through an advocate.

#### **10A. Vacancy of office of secretary**

The office of the secretary shall become vacant if the holder—

- (a) dies;
- (b) resigns from office by notice in writing addressed to the Commission; or
- (c) is removed from office under any of the circumstances set out under section 10.

[Act No. 36 of 2016, s. 34.]

#### **11. Employees of the Commission**

(1) There shall be a secretariat of the Commission which shall be headed by the secretary.

(2) The secretariat shall comprise of—

- (a) such professional, technical and administrative officers and support staff, as may be appointed by the Commission in the discharge of its functions under this Act; and
- (b) such public officers as may be seconded to the Commission upon its request.

(3) The employees of the Commission may be appointed, subject to its approved establishment.

(4) For purposes of this Act, a public officer who is seconded to the Commission under subsection (2)(b), shall be deemed to be an employee of the Commission and shall enjoy the same benefits and shall be required to comply with the Constitution, this Act and any other written law relating to elections and any instruction, orders and directions of the Commission in the same manner as an employee recruited directly by the Commission under this Act.

(5) The Commission shall ensure that in the appointment of employees, not more than two-thirds of the employees of the Commission shall be of the same gender and that the following are also taken into account—

- (a) persons with disabilities; and
- (b) regional and other diversity of the people of Kenya.

#### **11A. Relationship between the Commissioners and Secretariat**

For the effective performance of the functions of the Commission —

- (a) the chairperson and members of the Commission shall perform their functions in accordance with the Constitution and in particular, shall be responsible for the formulation of policy and strategy of the Commission and oversight; and
- (b) the secretariat shall perform the day-to-day administrative functions of the Commission and implement the policies and strategies formulated by the Commission.

[Act No. 36 of 2016, s. 35.]

#### **12. Units of the Commission**

(1) The Commission may create within itself such directorates, field offices, units, divisions or committees and appoint thereto such employees as it may determine.

(2) Every directorate, field office, unit, division or committee created by the Commission shall act in accordance with the mandate approved by the Commission and directives given in writing by the secretary.

#### **13. Legal personality of the Commission**

(1) The Commission shall be a body corporate with perpetual succession and a common seal and shall be capable, in its own name, of—

- (a) acquiring, holding and disposing of movable and immovable property;
- (b) suing and being sued; and
- (c) doing or performing all such acts and things as a body corporate may by law do or perform.

(2) Any legal proceedings for execution of judgments against the Commission shall be subject to the Government Proceedings Act (Cap. 40).

#### **14. Seal of the Commission**

(1) The seal of the Commission shall be such device as may be determined by the Commission and shall be kept by the secretary.

(2) The affixing of the seal shall be authenticated by the chairperson and the secretary or any other person authorised in that behalf by a resolution of the Commission.

(3) Any document purporting to be under the seal of the Commission or issued on behalf of the Commission shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

**15. Protection from personal liability**

Nothing done by a member of the Commission or by any electoral officer shall, if done in good faith for the purpose of executing the powers, functions or duties of the Commission under the Constitution or this Act, render such member or officer personally liable for any action, claim or demand.

**16. Code of conduct**

Members and the employees of the Commission shall subscribe to the code of conduct prescribed under the Fourth Schedule.

**PART III – FINANCIAL PROVISIONS****17. Funds of the Commission**

The funds of the Commission shall consist of—

- (a) monies allocated by Parliament for purposes of the Commission;
- (b) any grants, gifts, donations or other endowments given to the Commission;
- (c) such funds as may vest in or accrue to the Commission in the performance of its functions under this Act or under any other written law.

**18. Independent Electoral and Boundaries Commission Fund**

(1) The funds of the Commission shall be held in a fund to be known as the Independent Electoral and Boundaries Commission Fund which shall be administered, on behalf of the Commission, by the secretary.

(2) There shall be paid from the Fund—

- (a) the salaries, allowances and other remuneration of the employees of the Commission;
- (b) such other remuneration to persons in its service as it may consider appropriate;
- (c) such reasonable travelling and subsistence allowances for the employees and members of any committee of the Commission when engaged in the business of the Commission, and at such rates as may be approved by the Salaries and Remuneration Commission;
- (d) any other operational and other expenses incurred by the Commission in the performance of its functions.

(3) The secretary shall manage the Fund subject to the provisions of all laws and regulations relating to public financial management.

**19. Expenses of the Commission to be a charge on the Consolidated Fund**

The administrative and other expenses of the Commission, including the salaries, allowances, gratuities and pensions of the members and employees of the Commission shall be a charge on the Consolidated Fund.

**20. Remuneration and allowances**

(1) Members of the Commission shall be paid such remuneration or allowances as the Salaries and Remuneration Commission shall determine.

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(2) Pending the establishment of the Salaries and Remuneration Commission, the remuneration and allowances under subsection (1) shall be determined by the Public Service Commission in consultation with the Treasury.

[Act No. 12 of 2012, Sch.]

## **21. Annual estimates**

(1) Before the commencement of each financial year, the secretary with the approval of the Commission, shall cause to be prepared estimates of the revenue and expenditure of the Commission for that year.

(2) The Cabinet Secretary responsible for finance shall present the estimates approved by the Commission for consideration and approval by the National Assembly.

## **22. Financial year of the Commission**

The financial year of the Commission shall be the period of twelve months ending on the thirtieth June in each year.

## **23. Accounts and audit**

(1) The Commission shall cause to be kept all proper books and records of account of the income, expenditure and assets of the Commission.

(2) Within a period of three months after the end of each financial year, the Commission shall submit to the Auditor-General, the accounts of the Commission together with—

- (a) a statement of the income and expenditure of the Commission during that year; and
- (b) a statement of the assets and liabilities of the Commission on the last day of that year.

(3) All accounts kept under this Act shall be audited by the Auditor-General at least once in every financial year.

(4) The Commission shall be entitled, upon application to the Cabinet Secretary responsible for finance, to exemption from duty chargeable under the Stamp Duty Act (Cap. 480) in respect of any instrument executed by or on behalf of, or in favour of the Commission which, but for this section, the Commission would be liable to pay.

(5) The Commission may establish, control, manage, maintain and contribute to pension and provident funds for the benefit of the members and employees of the Commission and may grant pensions and gratuities from any such fund to the said officers upon their resignation, retirement or separation from the service of the Commission or, as the case may be, to the dependants of any such officer upon such officer's death.

## **24. Annual report**

(1) Within three months after the end of each financial year, the Commission shall present its annual report to the President and submit the same to Parliament.

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- (2) The annual report shall in respect of the year to which it relates, contain—
- (a) the financial statements of the Commission;
  - (b) the activities the Commission has undertaken;
  - (ba) progress made in the continuous registration of citizens as voters and the progressive realisation of the right to vote of citizens residing outside Kenya and prisoners; and
  - (c) any other information, the Commission may consider relevant.
- (3) The Commission shall publish and publicize the annual report.

[Act No. 36 of 2016, s. 36, Act No. 1 of 2017, s. 28.]

## PART IV – MISCELLANEOUS PROVISIONS

### **25. General principles**

In fulfilling its mandate, the Commission shall, in accordance with the Constitution, observe the following principles—

- (a) freedom of citizens to exercise their political rights under Article 38 of the Constitution;
- (b) not more than two-thirds of the members of elective public bodies shall be of the same gender;
- (c) fair representation of persons with disabilities and other persons or groups with special needs;
- (d) universal and equal suffrage based on the aspiration for fair representation and equality of votes;
- (e) free and fair elections, which are—
  - (i) by secret ballot;
  - (ii) free from violence, intimidation, improper influence or corruption;
  - (iii) conducted independently;
  - (iv) transparent; and
  - (v) administered in an impartial, neutral, efficient, accurate and accountable manner;
- (f) undertake elections on a regular basis in accordance with the Constitution;
- (g) ethical conduct; and
- (h) fairness.

### **26. Independence of the Commission**

Except as provided in the Constitution, the Commission shall, in the performance of its functions, not be subject to the direction or control of any person or authority but shall observe the principle of public participation and the requirement for consultation with stakeholders.

### **27. Management of information**

- (1) The Commission shall publish and publicise all important information within its mandate affecting the nation.

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- (2) A request for information in the public interest by a citizen—
- (a) shall be addressed to the secretary or such other person as the Commission may for that purpose designate and may be subject to the payment of a reasonable fee in instances where the Commission incurs an expense in providing the information; and
  - (b) may be subject to confidentiality requirements of the Commission.
- (3) Subject to Article 35 of the Constitution, the Commission may decline to give information to an applicant where—
- (a) the request is unreasonable in the circumstances;
  - (b) the information requested is at a deliberative stage by the Commission;
  - (c) failure of payment of the prescribed fee; or
  - (d) the applicant fails to satisfy any confidentiality requirements by the Commission.
- (4) The right of access to information under Article 35 of the Constitution shall be limited to the nature and extent specified under this section.
- (5) Every member and employee of the Commission shall sign a confidentiality agreement.

## **28. Publicity**

The Commission shall, in such manner as it considers appropriate, publish a notice for public information specifying—

- (a) the location of all its offices; and
- (b) its address or addresses, telephone numbers and other means of communication or contact with the Commission.

## **29. Legal advice**

The Commission may request legal advice from the Attorney-General.

## **30. Offences**

(1) A member or employee of the Commission who knowingly subverts the process of free and fair elections or who knowingly obstructs the Commission in the discharge of its functions or otherwise interferes with the functions of the Commission commits an offence and is liable, on conviction, to a term of imprisonment not exceeding three years or to a fine of not more than one million shillings or to both.

(2) A person who is convicted of an offence under subsection (1) shall not be eligible to hold public office for a period of ten years following the conviction.

## **31. Regulations**

(1) The Commission may make regulations for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), such regulations may provide for—

- (a) the appointment, including the power to confirm appointments of persons, to any office in respect of which the Commission is responsible under this Act;

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- (b) the disciplinary control of persons holding or acting in any office in respect of which the Commission is responsible under this Act;
  - (c) the termination of appointments and the removal of persons from any office, in respect of which the Commission is responsible under this Act;
  - (d) the practice and procedure of the Commission in the exercise of its functions under this Act;
  - (e) *deleted by Act No. 36 of 2016, s. 37;*
  - (f) the delegation of the Commission's functions or powers; and
  - (g) any other matter required under the Constitution, this Act or any other written law.
- (3) The purpose and objective for making the rules and regulations under subsection (1) is to enable the Commission to effectively discharge its mandate under the Constitution and this Act.

[Act No. 36 of 2016, s. 37.]

## PART V — SAVINGS AND TRANSITIONAL PROVISIONS

### 32. Interpretation of Part

In this Act, unless the context otherwise requires—

**“Commission”** means the Independent Electoral and Boundaries Commission established by Article 88 of the Constitution;

**“first Commission”** means the Commission first appointed under this Act;

**“former Boundaries Commission”** means the Interim Independent Boundaries Review Commission established under section 41B of the former Constitution;

**“former Constitution”** means the Constitution in force immediately before the 27th of August, 2010;

**“former Electoral Commission”** means the Interim Independent Electoral Commission established under section 41 of the former Constitution;

**“Parliamentary Committee”** means the relevant departmental Committee of the National Assembly responsible for matters relating to the Commission.

### 33. Transition

(1) The former Electoral Commission shall continue in office in terms of section 28(1) and (2) of the Sixth Schedule to the Constitution.

(2) A person who immediately before the commencement of this Act was an officer of the former Electoral Commission may, subject to the provisions of the Constitution, this Act and any other relevant law, be an officer of the Commission.

(3) A person who served as an officer of the former Boundaries Commission may be eligible, subject to the staff establishment of the Commission, for employment by the Commission.

**34. Transfer of assets, etc.**

(1) All property, assets, rights, liabilities, obligations, agreements and other arrangements existing at the commencement of this Act and vested in, acquired, incurred or entered into by or on behalf of the former Electoral Commission or the former Boundaries Commission shall upon the commencement of this Act, be deemed to have vested in or to have been acquired, incurred or entered into by or on behalf of the Commission to the same extent as they were enforceable by or against either of the former Commissions before the commencement of the Act.

(2) Where the transfer of any property transferred to or vested in the Commission under subsection (1) is required by any written law to be registered, the Commission shall, within three months from the commencement of this Act or within such other period as the written law may prescribe, apply to the appropriate registering authority for the registration of the transfer and thereupon the registering authority shall, at no cost to the Commission or any person by way of registration fees, stamp or other duties—

- (a) make such entries in the appropriate register as shall give effect to the transfer;
- (b) where appropriate, issue to the Commission a certificate of title or other statutory evidence of ownership of the property or make such amendments on such certificates or in the appropriate register as may be necessary; and
- (c) make any necessary endorsements on such deeds or other documents as may be presented to such registering authority relating to the title, right or obligation concerned.

**35. Deleted by Act No. 1 of 2017, s. 29.**

**36. Procedure for delimitation of electoral boundaries**

(1) The Commission shall discharge its mandate of the delimitation of boundaries of constituencies and wards in accordance with the Constitution, this Act and any other law.

(2) Subject to the Constitution, matters to be addressed in the delimitation of electoral boundaries are—

- (a) review of the names and boundaries of constituencies;
- (b) review of the number, names and boundaries of wards;
- (c) re-distribution of wards affected by any changes in the boundaries of constituencies; and
- (d) ensuring that the number of inhabitants in each constituency and ward is as nearly as possible, equal to the population quota as provided for by Article 89(5) of the Constitution and that such a process—
  - (i) allows for variation of margin of not more than the limits provided under Article 89 (6) of the Constitution in relation to cities, sparsely populated areas and other areas;
  - (ii) takes into account the provisions of Article 89 (7) (b) of the Constitution that provides for the progressive realization of the requirement that the number of inhabitants in each constituency and ward to be as nearly as possible, equal to the population quota for the purposes of the each review;
  - (iii) is subject to the use of enumerated national census figures.

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- (3) The Commission shall prepare and publish a preliminary report outlining—
- (a) the proposed delimitation of boundaries for constituencies and wards; and
  - (b) the specific geographical; and
  - (c) demographical details relating to such delimitation.
- (4) The Commission shall ensure that the preliminary report is made available to the public for a period of thirty days and invite representations from the public on the proposals contained in the report during that period.
- (5) Upon the expiry of the period provided in subsection (4), the Commission shall, within fourteen days, review the proposed delimitation of boundaries considering the views received and submit the revised preliminary report to the Parliamentary Committee.
- (6) The Parliamentary Committee shall, within fourteen days of receipt of the revised preliminary report, table the report in the National Assembly together with its recommendations.
- (7) The National Assembly shall, within fourteen days of the tabling of the revised preliminary report, consider the report and forward its recommendations to the Commission.
- (8) Within fourteen days of the expiry of the period provided for in subsection (7), the Commission shall upon receipt and considerations of the National Assembly and representations from the public, prepare the final report for publication in the *Gazette*.
- (9) Where the National Assembly fails to make recommendations within the period specified in subsection (7), the Commission shall publish its report in accordance with subsection (8).
- (10) A person who, being responsible for the publication in the *Gazette* of the final report submitted under this subsection fails to publish the report within the time required by the Commission after the report has been submitted to that person, commits an offence and is liable to imprisonment for a term of one year.
- (11) Notwithstanding any other written law, where the final report is not published in accordance with the provisions of subsection (9) the Commission shall, within seven days of the submission of the said report, cause the report to be published in at least two dailies of national circulation and such publication shall have effect as if it were done in the *Gazette*.

[Act No. 1 of 2017, s. 30.]

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## FIRST SCHEDULE

[Section 5, Act No. 12 of 2012, Sch., Act No. 36 of 2016, 38.]

### PROCEDURE FOR APPOINTMENT OF CHAIRPERSON AND MEMBERS OF THE COMMISSION

#### **1. Selection Panel**

- (1) At least six months before the lapse of the term of the chairperson or member of the Commission or within fourteen days of the declaration of a vacancy in the office of the chairperson or member of the Commission under the Constitution or this Act, the President shall appoint a selection panel consisting of such persons

as Parliament shall determine for the purposes of appointment of the chairperson or member of the Commission.

(2) For the purpose of the first appointment of commissioners upon the commencement of section 5, the selection panel shall consist of —

- (a) four persons, being two men and two women, nominated by the Parliamentary Service Commission;
- (b) one person nominated by the Kenya Conference of Catholic Bishops;
- (c) one person nominated by the National Council of Churches of Kenya;
- (d) one person nominated by the Supreme Council of Kenya Muslims, the National Muslim Leaders Forum and the Council of Imams and Preachers of Kenya;
- (e) one person nominated by the Evangelical Alliance of Kenya; and
- (f) one person nominated by the Hindu Council of Kenya.

(3) The respective nominating bodies under sub-paragraphs (2)(b) to (f) shall submit the names of their nominees to the Parliamentary Service Commission for transmission to the President for appointment.

(4) The selection panel shall, at its first sitting, elect a chairperson and vice-chairperson from amongst its number.

(5) Subject to the provisions of this Schedule, the selection panel shall determine its own procedure.

(6) The Parliamentary Service Commission shall provide the secretariat services and facilities required by the selection panel in the performance of its functions.

## **2. Oath or affirmation of office**

The chairperson and members of the selection panel shall, before assuming office, take and subscribe the oath or affirmation of office prescribed in the Third Schedule.

## **3. Selection of nominees**

(1) The selection panel shall, within seven days of its appointment, invite applications from qualified persons and publish the names of all applicants and their qualifications in the *Gazette*, two newspapers of national circulation and on the website of the Parliamentary Service Commission.

(2) The selection panel shall consider the applications, shortlist and interview the applicants.

(3) The interviews under subparagraph (2) shall be conducted in public.

(4) After conducting interviews under subparagraph (2), the selection panel shall select two persons qualified to be appointed as chairperson and nine persons qualified to be appointed as members of the Commission and shall forward the names to the President for nomination of one person for appointment as the chairperson and six persons for appointment as members.

(5) The President shall, within seven days of receipt of the names under subparagraph (4), forward the list of nominees to the National Assembly for approval in accordance with the Public Appointments (Parliamentary Approval) Act.

**4. Appointment by the President**

The President shall, within seven days of receipt of the names approved by the National Assembly, by notice in the *Gazette*, appoint the Chairperson and the members of the Commission.

**5. Gender equity and regional balance**

In short listing, nominating or appointing persons as chairperson and members of the Commission, the selection panel, the National Assembly and the President shall ensure that not more than two-thirds of the members are of the same gender and shall ensure regional balance.

**6. Dissolution of Selection Panel**

The selection panel shall stand dissolved upon the requisite appointments being made under paragraph 4.

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**SECOND SCHEDULE**

[Section 8, Act No. 1 of 2017, Section 4, Act No. 34 of 2017.]

**PROVISIONS AS TO THE CONDUCT OF THE  
BUSINESS AND AFFAIRS OF THE COMMISSION**

1. The Commission shall meet as often as may be necessary for the carrying out of its business but it shall meet at least once every calendar month.
2. A meeting of the Commission shall be held on such date and at such time as the chairperson shall decide.
3. The chairperson shall, on the written application of one-third of the members, convene a special meeting of the Commission.
4. Unless the majority of the total membership of the Commission otherwise agree, at least fourteen days' written notice of every meeting of the Commission shall be given to every member of the Commission.
5. The quorum for the conduct of business at a meeting of the Commission shall be at least half of the existing members of the Commission, provided that the quorum shall not be less than three members.
6. The chairperson shall preside at every meeting of the Commission at which he is present and in the absence of the chairperson at a meeting, the vice-chairperson, shall preside and in the absence of both the chairperson and the vice-chairperson, the members present shall elect one of their number who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.
7. Unless a unanimous decision is reached, a decision on any matter before the Commission shall be by a majority of the members present and voting.
8. Subject to paragraph 5, no proceedings of the Commission shall be invalid by reason only of a vacancy among the members thereof.
9. (1) The secretary shall be the secretary at all meetings of the Commission.

(2) The Commission shall, subject to subparagraph (3), establish a committee for liaison with political parties and may establish committees of its members for any other purpose.

(3) *Deleted by Act No. 1 of 2017, s. 31.*

[Section 8, Act No. 1 of 2017, s. 31.]

**10.** The Commission shall cause minutes of all proceedings of meetings of the Commission to be entered in books for that purpose.

**11.** Except as provided by this Schedule, the Commission may regulate its own procedure.

**12.** (1) If any person is present at a meeting of the Commission or any committee at which any matter is the subject of consideration and in which matter that person or that directly or indirectly interested in a private capacity, that person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not, unless the Commission or committee otherwise directs, take part in any consideration or discussion of, or vote on any question touching such matter.

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

(3) A person who contravenes subsection (1) commits an offence and upon conviction is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding seven years or to both such fine and imprisonment.

(4) A member or employee of the Commission shall not transact any business or trade with the Commission.

### THIRD SCHEDULE

[Section 10(3).]

#### OATH OF OFFICE/SOLEMN AFFIRMATION OF CHAIRPERSON/ MEMBER/SECRETARY OF THE COMMISSION/SELECTION PANEL

I, ..... having been appointed (the chairperson/member of/secretary to) the Independent Electoral and Boundaries Commission/Selection Panel do solemnly (swear/declare and affirm) that I will at all times obey, respect and uphold the Constitution of Kenya and all other laws of the Republic; that I will faithfully and fully, impartially and to the best of my ability, discharge the trust and perform the functions and exercise the powers devolving upon me by virtue of this appointment without fear, favour, bias, affection, ill-will or prejudice.

(So Help me God).

Sworn/declared by the said .....

Before me this ..... day of .....

.....  
*Chief Justice*

## FOURTH SCHEDULE

[Section 16.]

### CODE OF CONDUCT FOR MEMBERS AND EMPLOYEES OF THE COMMISSION

#### **1. Impartiality and independence of members**

(1) Every member and employee of the Commission shall impartially and independently perform the functions of the Commission in good faith and without fear, favour or prejudice, and without influence from—

- (a) any arm of the Government;
- (b) any State officer;
- (c) any public officer;
- (d) any political party;
- (e) candidate participating in an election; or
- (f) any other person, authority or organisation.

(2) The provisions of subparagraph (1) shall apply without prejudice to the principle of public participation and requirement for consultation with all stakeholders.

#### **2. Independence from political or public office**

(1) A member or employee of the Commission shall not, during tenure of office be eligible for—

- (a) appointment or nomination to a political office; or
- (b) appointment to another public office.

(2) A member of the Commission may not—

- (a) whether directly or indirectly, in any manner support or oppose any party or candidate participating in an election or any side participating in a referendum, or any of the issues in contention between parties, candidates or sides;
- (b) make private use of or profit from any confidential information gained as a result of being a member of the Commission; or
- (c) divulge any information to any third party, save in the course of official duty.

#### **3. Disclosure of conflicting interests**

(1) If a member or an employee is directly or indirectly interested in any contract, proposed contract or other matter before the Commission and is present at any meeting of the Commission at which the contract, proposed contract or other matter is the subject of consideration, the member or employee shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions

with respect to the contract or other matter or be counted in the quorum of the meeting during consideration of the matter.

(2) A member or employee whose personal interest conflicts with their official duties shall—

- (a) in writing, declare the personal interests to their supervisor or other appropriate person or body and comply with any directions given to avoid the conflict; and
- (b) refrain from participating in any deliberations with respect to the matter.

#### **4. Professionalism**

A member or employee of the Commission shall—

- (a) perform their duties in a manner that maintains public confidence in the Commission;
- (b) treat the public and colleagues with courtesy and respect;
- (c) discharge all their duties in a professional, timely and efficient manner and in line with the rule of law; and
- (d) respect the rights and freedom of all persons that he may interact with.

#### **5. Improper enrichment**

A member or employee of the Commission shall not—

- (a) use their office or organisation to improperly enrich themselves or others;
- (b) accept or request gifts or favours from any person who may have a commercial interest with the Commission or any other interest that may be affected by the normal business of the Commission; or
- (c) use information that is acquired during the course of their duties or connected to their duties for their benefit or for the benefit of others.

#### **6. Integrity in private affairs**

A member or employee shall conduct their private affairs in a manner that maintains public confidence in the integrity of their office and the Commission as a whole and shall—

- (a) not evade paying taxes;
- (b) not neglect their financial obligations;
- (c) submit an annual declaration of their income, assets and liabilities to the Commission responsible for such declarations from public officers;
- (d) not engage in political activity that may compromise or be seen to compromise the neutrality of their office, or the Commission; and
- (e) not preside over or play a central role in the organisation of a fundraising activity.

#### **7. Sexual harassment**

A member or employee shall not sexually harass a member of the public or colleague. Sexual harassment includes—

- (a) making a request or exerting pressure for sexual activity or favours;
- (b) making intentional or careless physical contact that is sexual in nature; or

- 
- (c) making gestures, jokes or comments, including innuendoes regarding another person's sexuality.

#### **8. Nepotism**

A member or employee shall not practice favouritism on the grounds of tribe, race, kin, culture, sex or acquaintance or otherwise in performance of their duties.

#### **9. Privileged information and security of interests of the State**

A member or employee shall—

- (a) not act for foreigners in a manner detrimental to the security interest of Kenya; and
- (b) safeguard privileged information that comes into their possession and protect it from improper or inadvertent disclosure.

#### **10. Application of the Public Officers Ethics Act**

This Code is in addition to the provisions of the Public Officers Ethics Act and where there is a conflict between the Code and the Act, the provisions of the Act shall prevail.

#### **11. Breach of code**

Any breach of the Code by a member or an officer of the Commission shall be treated as misbehaviour for a member and misconduct for an officer.

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#### FIFTH SCHEDULE

[Section 36, Act No. 12 of 2012, Sch.]

#### PROVISIONS RELATING TO THE FIRST REVIEW

##### **1. Resolution of issues arising from the first review**

The Commission shall resolve all issues arising from the first review relating to the delimitation of boundaries of constituencies and wards and publish its final report within a period of four months of the date of its appointment under this Act.

##### **2. Reference materials**

(1) The Commission shall, in addressing the issues arising out of the first review—

- (a) use as its primary reference material the report of the former Boundaries Commission on the first review as adopted by the National Assembly; and
- (b) use as its secondary reference material the report of the Parliamentary Committee on the report of the former Boundaries Commission on the first review.

(2) The issues arising out of the first review are—

- (a) re-distribution of such wards or administrative units in the affected constituencies as may be appropriate;
- (b) subject to the Constitution, addressing issues of new constituencies falling outside the population quota as provided for by Article 89(6) of the Constitution but at the same time ensuring that such a process shall—

- 
- (i) take into account the provisions of Article 89 (7)(b) of the Constitution that requires progressive efforts and not instant demographic equality of all towards attaining the population quota in each constituency and ward for the purposes of the first review;
  - (ii) not be subject to new definitions of cities, urban areas and sparsely populated areas or to new population figures;
  - (iii) be subject to the use of enumerated national census figures and not projected figures.
  - (c) addressing the issue of progressively advancing towards the population quota in protected constituencies in relation to neighbouring constituencies where appropriate.

### **3. Delimitation of electoral units**

(1) The Commission shall prepare and publish a preliminary report outlining—  
(a) the proposed delimitation of boundaries for constituencies and wards;  
and  
(b) the specific geographical and demographical details relating to such delimitation.

(2) The Commission shall ensure that the preliminary report is made available to the public for a period of twenty-one days and invite representations from the public on the proposals contained in the report during that period.

(3) Upon the expiry of the period provided in subparagraph (2), the Commission shall, within fourteen days, review the proposed delimitation of boundaries considering the views received under that subparagraph and submit the revised preliminary report of proposed boundaries to the Parliamentary Committee.

(4) The Parliamentary Committee shall, within fourteen days of receipt of the revised preliminary report under subparagraph (3), table the revised preliminary report to the National Assembly together with its recommendations.

(5) The National Assembly shall, within seven days of the tabling of the revised preliminary report, consider the revised report and forward its resolutions to the Commission.

(6) Within fourteen days of the expiry of the period provided for in subparagraph (5), the Commission shall, taking into account the resolutions of the National Assembly under subparagraph (5), prepare and submit its final report outlining the matters set out in subparagraph (1)(a) for publication in the *Gazette*.

(7) Where the National Assembly fails to make a resolution within the period specified in subparagraph (5), the Commission shall proceed to publish its report in accordance with subparagraph (6).

(8) Any person who, being responsible for the publication in the *Gazette* of the final report submitted under this paragraph fails to publish the report within the time required by the Commission after the report has been submitted to that person, commits an offence and is liable to imprisonment for a term of one year.

(9) Notwithstanding any other written law, where the final report is not published in accordance with the provisions of subparagraph (6) the Commission shall, within seven days of the submission of the said report, cause the report to be published in at least two dailies of national circulation and such publication shall have effect as if it were done in the *Gazette*.

**4. Review of decision of Commission**

A person may apply to the High Court for review of a decision of the Commission made under the Constitution and this Act.

**5. Application for review**

An application for the review of the decision made under paragraph 4 shall be made within thirty days of the publication of the decision in the *Gazette* and shall be heard and determined within three months of the date on which it is filed.

**6. Sensitisation on the proposed boundaries**

The Commission shall, upon publication of the boundaries referred to in paragraph 3 facilitate sensitisation of the public on the boundaries for a period of thirty days.

**9. Maintenance of records**

The Commission shall ensure that all documents, materials, publications, reports and recommendations arising from the delimitation process are maintained in a form that is accessible and usable by members of the public.

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**NO. 9 OF 2011**

**INDEPENDENT ELECTORAL AND  
BOUNDARIES COMMISSION ACT**

**SUBSIDIARY LEGISLATION**

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*List of Subsidiary Legislation*

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**NATIONAL ASSEMBLY CONSTITUENCIES AND COUNTY  
ASSEMBLY WARDS ORDER**

[L.N. 14/2012.]

1. This Order may be cited as the National Assembly Constituencies and County Assembly Wards Order, 2012.
2. The Parliamentary Constituencies Review Order, as appearing in Legal Notice No. 298 of 1996 is hereby revoked.
3. Pursuant to Article 89(1) of the Constitution, there shall be two hundred and ninety constituencies for the purposes of the election of the members of the National Assembly provided for in Article 97(1)(a).
4. This Order determines the number, names and delimitation of boundaries for constituencies and county assembly wards; and the specific geographical and demographical details relating to such delimitation.
5. The attached Schedule outlines the number and the name of the counties, constituencies and county assembly wards, the population based on the 2009 Kenya National Population and Housing Census, the surface area of the constituencies and county assembly wards in square kilometres and the description of the county assembly wards made up of sub-locations based on the 2009 Kenya National Population and Housing Census,
6. Pursuant to Article 89(9) of the Constitution and Paragraph 3(6) of the Fifth Schedule of the Independent Electoral and Boundaries Commission Act, this Order shall have effect from 7th March, 2012.

[Subsidiary]

## SCHEDULE

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
001	Mombasa	001	Changamwe	147 613	16.00	0001	Port Reitz	31 720	4.00	Comprises Part of Port Reitz Sub-Location Mombasa County
						0002	Kipevu	29 100	2.10	Comprises Part of Chaani Sub-Location of Mombasa County
						0003	Airport	31 721	4.00	Comprises Part of Portreitz Sub-Location of Mombasa County
						0004	Miritini	25 934	3.80	Comprises Miritini Sub-Location of Mombasa County
						0005	Chaanii	29 138	2.10	Comprises Part of Chaani Sub-Location of Mombasa County
001	Mombasa	002	Jomvu	102 566	29.00	0006	Jomvu Kuu	38 776	19.00	Comprises Jomvu Kuu Sub-Location of Mombasa County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0007	Magono	11 013	3.80	Comprises Changamwe Sub-Location of Mombasa County
						0008	Mikindani	52 777	6.20	Comprises Kwa Shee and Birikani Sub-Locations of Mombasa County
001	Mombasa	003	Kisauini	194 065	88.70					
						0009	Miambere	27 573	4.15	Comprises Part of Magongoni Sub-Location of Mombasa County
						0010	Junda	39 432	7.50	Comprises Junda Sub-Location of Mombasa County
						0011	Bamburi	24 918	12.30	Comprises Bamburi Sub-Location of Mombasa County
						0012	Mwakirunge	8 929	42.40	Comprises Mwakirunge and Maunguja Sub-Location of Mombasa County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
001	Mombasa	004	Nyali	185 990	22.88	0016	Frere Town	39 906	4.04	Comprises Part of Kisauini Sub-Location of Mombasa County
						0017	Ziwa La Ngombe	42 187	6.40	Comprises Maweni Sub-Location of Mombasa County
						0018	Mkomani	31 997	4.20	Comprises Part of Kongowea Sub-Location of Mombasa County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
001	Mombasa	005	Likoni	166 008	41.10	0019	Kongowea	31 995	4.20	Comprises Part of Kongowea Sub-Location of Mombasa County
						0020	Kadzandani	39 905	4.04	Comprises Part of Kisauni Sub-Location of Mombasa County
						0021	Mtongwe	28 168	25.50	Comprises Mtongwe Sub-Location of Mombasa County
						0022	Shika Adabu	26 036	6.10	Comprises Vijiweni and Vyemani Sub-Locations of Mombasa County
						0023	Bofu	29 154	1.60	Comprises Bofu Sub-Location of Mombasa County
						0024	Likoni	21 639	1.10	Comprises Likoni Sub-Location of Mombasa County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
001	Mombasa	006	Mvita	143 128	14.80	0025	Timbwani	61 011	6.80	Comprises Timbwani Sub-Location of Mombasa County
						0026	Mji wa Kale/ Makadara	25 875	3.00	Comprises Mji Wa Kale, Makadara and Kizingo Sub-Locations of Mombasa County
						0027	Tudor	32 100	2.60	Comprises Tudor Estate and Tudor IV Sub-Locations of Mombasa County
						0028	Tononoka	27 513	1.50	Comprises Bondeni and Tononoka Sub-Locations of Mombasa County
						0029	Shimanzi/ Ganioni	18 806	5.60	Comprises Ganioni and High Level Sub-Locations of Mombasa County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
002	Kwale	007	Msambweni	124 295	362.60	0030	Majengo	38 834	2.10	Comprises Majengo and Mwembe Tayari Sub-Locations of Mombasa County
						0031	Gombato Bongwe	34 846	55.70	Comprises Gombato and Bongwe Sub-Locations of Kwale County
						0032	Ukunda	38 629	25.10	Comprises Ukunda Sub-Location of Kwale County
						0033	Kinondo	22 857	151.70	Comprises Gazi and Kinondo Sub-Locations of Kwale County
						0034	Ramisi	27 963	130.10	Comprises Vinguiji, Mitalani and Mivumoni Sub-Locations of Kwale County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
002	Kwale	008	Lunga Lunga	164 098	2 864.80	0035	Pongwe/ Kikoneni	51 842	346.00	Comprises Majoreni, Mzizima, Wasini/Mwakiro, Shimoni, Bumbani Funzi, Kingwade and Shirazi Sub-Locations of Kwale County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
002	Kwale	009	Matuga	151 978	1 031.20	0039	Tsimba Golini	34 002	178.70	Comprises Golini, Kundutsi, Mbuguni and Mazumalume Sub-Locations of Kwale County
						0040	Waa	37 783	114.00	Comprises Matuga, Kitivo, Kiteie, Ngombeni, Pungu and Kombani Sub-Locations of Kwale County
						0041	Tiwi	19 409	49.40	Comprises Simkumble and Mkoyo Sub-Locations of Kwale County
						0042	Kubo South	23 466	475.50	Comprises Mangawani, Manyatta, Makobe, Kipambani, Shimba Hills, Majimboni, Boyani, Msilwa, Mwalluvanga,

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
										Shimba Hills National Park and Lukore Sub-Locations of Kwale County
002	Kwale	010	Kinango	209 560	4 011.70	0043	Mkongani	37 318	213.60	Comprises Tiribe, Mtsamviani, Mkomba, Kizibe and Miyafeni Sub-Locations of Kwale County
						0044	Ndavaya	27 816	555.90	Comprises Ndavaya, Mwandimu, Gulanze and Kitonyo Sub-Locations of Kwale County
						0045	Puma	19 860	860.30	Comprises Mazola, Busa and Vigurungani Sub-Locations of Kwale County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0046	Kinango	32 571	305.40	Comprises Kinango, Dumbule, Kibandaongo and Gandini Sub-Locations of Kwale County
						0047	Mackinnon Road	31 128	1105.60	Comprises Vinyunduni, Makamini, Kilibasi, Dupharo and Mackinnon Rd Sub-Locations of Kwale County
						0048	Chengoni/Samburu	32 641	697.50	Comprises Chengoni, Maji ya Chumvi, Silaloni, Kinagoni and Matope Sub-Locations of Kwale County
						0049	Mwavumbo	31 902	277.10	Comprises Matumbi, Mwatate, Kalalani and Mwabila Sub-Locations of Kwale County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0050	Kasemani	33 642	209.90	Comprises Mnzenzi, Mwamduu, Chigato, Mazeras, Mabesheni, Mtaa and Bofu Sub-Locations of Kwale County
003	Kilifi	011	Kilifi North	207 587	404.90					
						0051	Tezo	25 545	79.80	Comprises Ngereinya, Zowerani and Mtondia/Majaoi Sub-Locations of Kilifi County
						0052	Sokoni	35 027	14.40	Comprises Hospital and Sokoni Sub-Locations of Kilifi County
						0053	Kibarani	24 492	81.40	Comprises Konjora, Kibarani and Ezamoyo Sub-Locations of Kilifi County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
						0054	Dabaso	29 603	76.90	Comprises Dabaso, Mida, Mijomboni and Mkenge Sub-Locations of Kilifi County
						0055	Matsangoni	33 563	93.20	Comprises Matsangoni, Roka, Mkongani, Uyombo and Chumani Sub-Locations of Kilifi County
						0056	Watamu	25 982	59.20	Comprises Jimba, Mbaraka Chembe, Watamu and Chembe Kibambamuche of Kilifi County
						0057	Mharani	33 375	125.40	Comprises Mnarani, Takaungu, Mkomanji/Mavueni/Majajani and Kiriba Wangwani Sub-Locations of Kilifi County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
003	Kilifi	012	Kilifi South	171 607	400.60	0058	Junju	31 752	114.60	Comprises Kuruwitu/Kapera/C hodari, Vipingo/Mikoani/G ongoni and Bomani/Junju/Mto mkuu Sub-Locations of Kilifi County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
003	Kilifi	013	Kaloleni	139 302	651.00	0062	Mtепепи	34 643	64.80	Kijipwa, Kidutani/Mawamb a and Kanamai Sub-Locations of Kilifi County
						0063	Mariakani	43 199	128.00	Mitanganini/Mariaka ni, Kawala and Kanzonzo Sub- Locations of Kilifi County
						0064	Kayatfungo	35 040	256.10	Mbala Mweni, Kingoni, Miyani, Tsangatsini, Mrimani and Mnyenzeni Sub- Locations of Kilifi County
						0065	Kaloleni	39 589	88.70	Birini/Mwanleka, Vishakani/Kaloleni, Kinani, Makomboani,

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
003	Kilifi	014	Rabai	113 622	241.20	0067	Mwawesa	15 021	37.20	Comprises Bwagamoyo, Mwamitunga and Mikahani Sub-Locations of Kilifi County
						0068	Ruruma	21 709	45.80	Comprises Jimba, Meij and Miyuni Sub-Locations of Kilifi County
						0069	Jibana	33 748	95.80	Comprises Chiilulu, Tsagwa, Kwale, Nyalani, Pangani/Maereni,

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Km Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
003	Kilifi	015	Ganze	137 664	2 941.60	0070	Rabai'/Kisurutini	43 144	62.40	Comprises Mugumo/Wapatsa/Mazeras, Kaliang ombe/Jimb a, Mwele/Kisurutini and Buni/Chesimani Sub-Locations of Kilifi County
						0071	Dungicha	31 333	401.40	Comprises Ganze, Rare, Nyati, Petanguo, Mweza Migodomani, Mirihini, Mwambani, Magogoni and Dungicha Sub-Locations of Kilifi County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0072	Bamba	37 830	1532.70	Comprises Pazani, Mwakala, Mtsara wa Tsatsu, Mikamini, Mitsemerini, Kidemu, Minagoni, Dangerani, Gede, Goshi, Migijini, Midoina and Karimani Sub-Locations of Kilifi County
						0073	Jaribuni	24 958	310.10	Comprises Mwapula, Marere, Chivara, Vinagoni, Magogoni/Maiolani, Mdangarani, Vyambani, Ngamani, Palakumi and Mariani/Vitsapuni Sub-Locations of Kilifi County
						0074	Sokoke	43 543	697.40	Comprises Ndigiria/Mapotea, Mitedzini, Mirima wa Ndege, Dulukiza, Milore,

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
003	Kilifi	016	Malindi	162 712	627.2	0075	Jilore	17 497	454.90	Marikan/Kakoneni, Mikondoni, Makobeni, Langobaya, Girimacha and Jilore of Kilifi County
						0076	Kakuyuni	17 965	92.00	Comprises Madunguni, Kakuyuni, Paziani, Bura/Magongoloni and Malimo Sub-Locations of Kilifi County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0077	Ganda	32 562	54.70	Comprises Ganda, Msabaha, Mere, Kijiwetanga Sub-Locations of Kilifi County of Kilifi County
						0078	Malindi Town	51 254	9.40	Comprises Central and Barani Sub-Location of Kilifi County Kilifi County
						0079	Sheila	43 434	16.20	Comprises Sheila Sub-Location of Kilifi County
003	Kilifi	017	Magarini	177 241	6979.4	0080	Marafa	16 847	686.90	Comprises Mambasa, Madina and Dakacha Sub-Locations of Kilifi County
						0081	Magarini	40 694	248.90	Comprises Marikebuni, Bomani, Pumwani and Mambrui Sub-Locations of Kilifi County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0082	Gongoni	34 597	232.00	Comprises Shomela, Fundissa, Ngomeni and Gonaoni Sub-Locations of Kilifi County
						0083	Adu	43 005	5427.00	Comprises Kamale, Adu, Kadzandani, Ramada, Marereni, Kisiki Makongeni and Matolani Sub-Locations of Kilifi County
						0084	Garashi	25 781	347.70	Comprises Bura, Kaya, Bate, Mikuyuni, Masindeni, Singwaya, Baricho, Bore, and GanHini Sub-Locations of Kilifi County
						0085	Sabaki	16 317	36.90	Comprises Sabaki Sub-Location of Kilifi County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
004	Tana River	018	Garsen	96 664	12 553.60	0086	Kipini East	19 577	374.30	Comprises Kipini, Kau, Matengeni, Mpeketoni, Kilelengwani and Ozi Sub-Locations of Tana River County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0090	Garsen West	10 716	9159.00	Comprises Garsen, Chira, Assa, Kone and Onja Sub-Locations of Tana River County
						0091	Garsen North	17 501	1585.50	Comprises Baomo, Benderani, Mikamani, Sera, Mnazini and Wema Sub-Locations of Tana River County
Tana River	019	Galole		60 866	9 630.70				0092	Kinakomba
									13 636	1224.00 Comprises Maroni Hara, Werje, Majengo, Masalani, Bububu, Mkomani, Mazuni, Gafuru and Hororesa Sub-Locations of Tana River County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
				0093	Mikinduni	9 568	309.30	Comprises Kalkacha, Lenda, Mikinduni, Bondeni and Handampia Sub-Locations of Tana River County		
				0094	Chevani	24 201	491.40	Comprises Rhoka, Masabubu, Bubu, Ghorei, Lani, Bohoni, Kiarikungu, Chewani, Matanya, Hola, Hoia Mission and Kibuyu Sub-Location of Tana River County		
				0095	Wayu	13 461	7606.00	Comprises Hakoka, Chifiri, Dayate Wayu, Titia and Valdena Sub-Locations of Tana River County		

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
004	Tana River	020	Bura	82 545	13 191.50	0096	Chewele	16 403	2300.40	Comprises Chewele, Wadesa, Nanighi and Dukanotu Sub-Locations of Tana River County
						0097	Hirimani	15 383	3073.40	Comprises Meti, Bisikidera, Halo, Wale Sonrea and Hirimani Sub-Locations of Tana River County
						0098	Bangale	14 105	5268.80	Comprises Dowani, Kamaguru, Boka and Bangale Sub-Locations of Tana River County
						0099	Sala	10 370	668.60	Comprises Mororo, Ziwanii, Maramtu, Sombo and Sala Sub-Locations of Tana River County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
005	Lamu	021	Lamu East	18 841	2 314.80	0101	Faza	13 524	86.10	Comprises Nduau, Kwatini, Kwatongani, Tchundwa, Myabogi, Siyu, Pate, Shanga and Kiwavun Sub-Locations of Lamu County
						0102	Kiunga	4 265	520.00	Rubu/Mwabore, Mkokoni and Kizingitini Sub-Locations of Lamu County
						0103	Basuba Ward	1 052	1708.70	Comprises Mararani, Mangai and Milimani Sub-Locations of Lamu County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
005	Lamu	022	Lamu West	82 698	4 182.90	0104	Shella	3 274	54.70	Comprises Sheila and Manda Sub-Locations of Lamu County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0109	Witu	13 105	975.40	Comprises Pandanguo, Chalamula, Moa and Witu Sub-Locations of Lamu County
						0110	Bahari	15 706	170.80	Comprises Bahari, Tewe, Kiongwe and Central Sub-Locations of Lamu County
006	Taita Taveta	023	Taveta	67 665	3 501.80					
						0111	Chala	18 065	207.40	Comprises Lumi, Mahandakini, Njukini, Chumvini and Chala Sub-Locations of Taita Taveta County
						0112	Mahoo	8 299	51.40	Comprises Mahoo, Malkioriti, Nakruto, Lessesia and Msengoni Sub-Locations of Taita Taveta County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0113	Bomani	11 382	9.50	Comprises Mijini and Njoro Sub-Locations of Taita Taveta County
						0114	Mbogholoni	20 648	169.20	Comprises Mbogholoni, Mrabani, Kitobo, Eldoro and Kimorigo Sub-Locations of Taita Taveta County
						0115	Mata	9 271	3064.30	Comprises Mata, Kimala and Ndilidau Sub-Locations of Taita Taveta County
006	Taita Taveta	024	Wundanyi	56 021	701.20	0116	Wundanyi/ Mbale	19 668	44.10	Comprises Wundanyi, Shigaro, Meni, Mlechi, Choke Mbale Central, Mogho and Sungululu Sub-Locations of Taita Taveta County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0117	Werugha	8 676	27.20	Comprises Werugha, Saghasa, Marumange and Mlondo Sub-Locations of Taita Taveta County
						0118	Wumingu/ Kishushe	14 355	525.10	Comprises Nyache, Paranga, Mgambonyi, Wumingu, Mwarungu and Kishushe Sub-Locations of Taita Taveta County
						0119	Mwanda/ Mgange	13 322	104.80	Comprises Njawili, Kishamba, Mgange- Nyika, Mgange-Dawida, Lushangoni and Mwaroko Sub-Locations of Taita Taveta County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
006	Taita Taveta	025	Mwatate	73 168	9 611.90	0120	Ronge	10 805	132.40 Comprises Ronge Nyika, Kighombo/Marumbenyi, Msau Rahai, Kishau/Kiweto, Ndebonyi/Baghau, Kironge/Mwakaleri and Mengo Sub-Locations of Taita Taveta County
						0121	Mwataite	14 508	343.00 Comprises Mwataite, Mwodambogho and Sembe Sub-Locations of Taita Taveta County
						0122	Bura	20 496	8700.50 Comprises Mwaktau, Godoma, Nyolo, Hole, Mnamu, Mrugghuwa, Saghaighu and Mlighi/Mwashuma Sub-Locations of Taita Taveta County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description	
						0123	Chawia	14 077	396.50	Comprises Chawia, Mwachabo, Wumaru/Sechu and Mruru/Maganga Sub-Locations of Taita Taveta County	
						0124	Wusi/Kishamba	13 282	39.50	Comprises Kishamba, Kaya Hole, Mwachawaza, Wusi and Kidaya/Ngerenyi Sub-Locations of Taita Taveta County	
006	Taita Taveta	026	Voi	87 803	3 269.00			0125	Mbolojo	25 991	113.50 Comprises Mwangea, Mraru and Tausa Sub-Locations of Taita Taveta County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Description
						0126	Sagala	10 816	424.80 Comprises Teri, Talio, Ndara and Kishamba Sub-Locations of Taita Taveta County
						0127	Kaloleni	20 418	77.90 Comprises Kaloleni Sub-Location of Taita Taveta County
						0128	Marungu	9 017	822.60 Comprises Maungu and Miaseniyi Sub-Locations of Taita Taveta County
						0129	Kasigau	13 686	1653.70 Comprises Rukanga, Makwasenyi and Buguta Sub-Locations of Taita Taveta County
						0130	Ngolia	7 875	176.50 Comprises Ghazi, Ndome and Wongonyi Sub-Locations of Tiata Taveta County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
007	Garissa	027	Duijis	100 651	656.10	0131	Waberi	20 617	170.00	Comprises Waberi Sub-Location of Garissa County
						0132	Galbet	26 942	9.10	Comprises Galbet Sub-Location of Garissa County
						0133	Township	22 349	2.30	Comprises Township Sub-Location of Garissa County
						0134	Iftin	30 743	474.70	Comprises Iftin, Bora-Algi and Kora-Kora Sub-Locations of Garissa County
007	Garissa	028	Balambala	93 029	4 901.60	0135	Balambala	20 329	1630.90	Comprises Ohia, Duijis, Ashahadin, Studie and Balambala Sub-Locations of Garissa County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0136	Danyere	24 820	1139.90	Comprises Mudey, Sikley, Danyere, Uriqaad, Libahalow and Dogob Sub-Locations of Garissa County
						0137	Jarajara	7 356	278.40	Comprises Kone and Jarajara Sub-Locations of Garissa County
						0138	Saka	9 885	748.10	Comprises Deley, Kasha and Saka Sub-Locations of Garissa County
						0139	Sankuri	30 639	1104.30	Comprises Alango Arba, Balicha, Shimbir, Sankuri, Raya, Athleley and Medina Sub-Locations of Garissa County
007	Garissa	029	Lagdera	92 636	8 389.80	0140	Modogashe	21 779	3062.00	Comprises Modogashe and Eldera Sub-Locations of Garissa County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0141	Benane	13 133	355.60	Comprises Benane and Tokojo Sub-Locations of Garissa County
						0142	Goreale	10 232	1467.50	Comprises Goreale Sub-Location of Garissa County
						0143	Maalamin	26 693	1322.10	Comprises Maalamin, Dihle and Ilan Sub-Locations of Garissa County
						0144	Sabena	11 021	825.40	Comprises Garufa and Charon Sub-Locations of Garissa County
						0145	Baraki	9 778	1357.20	Comprises Afwein and Baraki Sub-Locations of Garissa County
007	Garissa	030	Dadaab	148 869	6 781.40	0146	Dertu	11 395	1595.70	Comprises Dertu Sub-Location of Garissa County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0147	Dadaab	60 390	160.10	Comprises Dadaab Sub-Location of Garissa County
						0148	Labisgale	43 741	316.40	Comprises Labisgale Sub-Location of Garissa County
						0149	Damajale	9 469	2144.40	Comprises Dagahaley, Kokar and Damajale Sub-Locations of Garissa County
						0150	Liboi	11 440	1180.40	Comprises Kulau, Liboi and Hara Hara Sub-Locations of Garissa County
						0151	Abakale	12 434	1384.40	Comprises Abakale and Kumahumato Sub-Locations of Garissa County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
007	Garissa	031	Fafi	95 212	15 469.40	0152	Bura	5 316	3723.80	Comprises Bura, Masabubu and Garasweno Sub-Locations of Garissa County
						0153	Dekanaria	9 522	1346.70	Comprises Galmagalla, Gubis and Bulagool Sub-Locations of Garissa County
						0154	Jarajila	67 937	3268.90	Comprises Weimerer and Amuma Sub-Locations of Garissa County
						0155	Fafi	5 108	5607.30	Comprises Fafi, Yumbis and Hagar Dera Sub-Locations of Garissa County
						0156	Nanighi	7 329	1522.70	Comprises Kamuthe and Nanighi Sub-Locations of Garissa County

## SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
007	Garissa	032	Ijara	92 663	9 521.90	0157	Hullugho	20 953	3729.40	Comprises Hadī, Hullugho, Garabe, Elkambere and Koranhindi Sub-Locations of Garissa County
						0158	Sangailu	23 280	2218.00	Comprises Sangailu, Handaio, Gediluuri, Mata Arba and Wakabharey Sub-Locations of Garissa County
						0159	Ijara	16 555	2052.20	Comprises Warsame, Ruga, Ijara, Gerille, Sangole, Dolio, Bulla Golol, Bodhai, Bulawacha and Jalish Sub-Locations of Garissa County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
008	Wajir	033	Wajir North	135 505	8 303.80	0160	Masalani	31 875	1522.30	Comprises Abalatiro, Quramadha, Hara, Kotile, Bulla Wande, Munumed Dahir, Masalani, Korisa and Gababa Sub-Locations of Garissa County
						0161	Gurar	20 434	781.20	Comprises Gurar and Sake Gamada Sub-Locations of Wajir County
						0162	Bute	26 737	527.60	Comprises Bute, Ogorji and Adadijore Sub-Locations of Wajir County
						0163	Korondile	20 967	2038.40	Comprises Korondile, Leinsayu and Lakole North Sub-Locations of Wajir County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population Km (Approx.)	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
				0164	Malkagufu	5 886	955.80	Comprises Ingirir and Malkagufu Sub-Locations of Wajir County		
				0165	Batalu	17 334	1970.80	Comprises Buna, Kurow and Batalu Sub-Locations of Wajir County		
				0166	Danaba	30 435	1765.80	Comprises Danaba, Quadama and Ajawa Sub-Locations of Wajir County		
				0167	Godoma	13 712	264.20	Comprises Godoma and Dugow Sub-Locations of Wajir County		
008	Wajir	034	Wajir East	112 572	4 007.80	0168	Wagberi	23 381	39.50	Comprises Wagberi/H.Z Dam Sub-Location of Wajir County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0169	Township	29 349	60.60	Comprises Township, Bulla Hodhan, Ali Moaw and Jogoog Sub-Locations of Wajir County
						0170	Barwago	30 070	39.20	Comprises Got Ade, Makoror and Barwago Sub-Locations of Wajir County
						0171	Khorof/Harar	29 772	3868.50	Comprises Harar/Khorof Harar/Dawayare, Konton/Abakin, Riba Balbala and Wajir Bor Suh-Sub-Locations of Wajir County
008	Wajir	035	Tarba	111 846	8 844.80	0172	Elben	27 014	2184.60	Comprises Burmayo, Mansa, Ogorale and Elben Sub-Locations of Wajir County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	Constituency Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0173	Sarman	26 064	2689.90	Comprises Sarman, Duntow and Dambas Sub-Locations of Wajir County
						0174	Tarbaj	28 819	2251.70	Comprises Tarbaj, Lafaley, Jowhar and Dashera Sub-Locations of Wajir County
						0175	Wargadud	29 949	1718.60	Comprises Ause Moduli, El-Kotulo, Kotulo, Hungai and Wargadud Sub-Locations of Wajir County
008	Wajir	036	Wajir West	91 143	9 010.70		0176	Arbaiahah	21 750	3064.30 Comprises Arbaiahah, Adan Awale, Jagahir and Garse Quttu Sub-Locations of Wajir County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0177	Hadado/Athibonol	19 264	2853.40	Comprises Athibonol, Hadado North, Lolkuta North and Laghbogo North Sub-Locations of Wajir County
						0178	Ademasajide	26 216	1017.30	Comprises Hadado South, Lolkuta South and Adamsajide Sub-Locations of Wajir County
						0179	Ganyure	14 842	1584.50	Comprises Barnishe, Ganyure, Boji Heri and Kukale Sub-Locations of Wajir County
						0180	Wagalla	9 071	491.20	Comprises Wagalla Sub-Location of Wajir
008	Wajir	037	Eldas	80 805	4 077.80	0181	Eldas	19 322	767.30	Comprises Eldas and Kilkiley Sub-Locations of Wajir County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0182	Delia	21 080	708.00	Comprises Delia, Abdiwaqo and Anole Sub-Locations of Wajir County
						0183	Lakoley South/Basir	11 373	1292.10	Comprises Basir and Lakoley South Sub-Locations of Wajir County
						0184	Elnur/Tula Tula	29 030	1310.40	Comprises Tula Tula, Griffu, Elnur, Dodha and Madhow Sub-Locations of Wajir County
008	Wajir	038	Wajir South	130 070	21 595.70	0185	Benane	24 542	6119.70	Comprises Benane, Sala, Serif, Shimbir Bul, Daganaley, Sabule, Arab Low and Finnii Sub-Locations of Wajir County

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[Subsidiary]

## SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0186	Burder	10 618	2779.00	Comprises Korsen, Burder and Gullet Dere Sub-Locations of Wajir County
						0187	Dadaja Bulla	22 257	3052.60	Comprises Salalma, Hambalash, Dif and Dadaja Bulla Sub-Locations of Wajir County
						0188	Habaswein	26 304	2215.30	Comprises Kibilay, Kiwanja Ndege, Habaswein, Dilimanyale, Dulgub, Abakore and Meri Sub-Locations of Wajir County
						0189	Lagboghol South	24 295	4051.50	Comprises Eyril, Leheley, Tesore, Macheza and Lagboghol South Sub-Locations of Wajir County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0190	Ibrahim Ure	22 054	3377.60	Comprises Kulaaley, E-Adow, Ibrahim Ure, Handaki and Gherille Sub-Locations of Wajir County
009	Mandera	039	Mandera West	161 701	4 587.30	0191	Takaba South	42 557	1725.20	Comprises Wangai Dahan, Ductuble and Didkuro Sub-Locations of Mandera County
						0192	Takaba	33 542	435.80	Comprises Takaba and Kubdishan Sub-Locations of Mandera County
						0193	Lagusure	14 837	982.50	Comprises Lagusure Sub-Location of Mandera County
						0194	Dandu	37 494	791.80	Comprises Dandu, El Danaba Kubi Halo and Iresteno Sub-Locations of Mandera County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
009	Mandera	040	Banissa	158 074	3 356.10	0196	Banissa	44 501	617.70	Comprises Banissa and Lulus Sub-Locations of Mandera County
						0197	Derkhale	32 078	584.60	Comprises Derkale and Golio Sub-Locations of Mandera County
						0198	Guba	20 068	560.80	Comprises Guba and Choroko Sub-Locations of Mandera County
						0199	Malkamai	27 602	1303.50	Comprises Malkamai, Hullow and Malka-Rucia Sub-Locations of Mandera County
						0200	Kiliwehiri	33 825	289.50	Comprises Kililwehiri and Eyemole Sub-Locations of Mandera County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
009	Mandera	041	Mandera North	169 675	6 180.70	0201	Ashabito	43 449	1371.90	Comprises Wargadud East, Qurandhow, Sukela Tifra, Ashabito and Ogarwein Sub-Locations of Mandera County
						0202	Guticha	33 658	3082.70	Comprises Shir-Shir, Guticha, Olla and Sarman Sub-Locations of Mandera County
						0203	Marothile	13 550	643.60	Comprises Kajiai and Marothile Sub-Locations of Mandera County
						0204	Rhamu	42 422	147.30	Comprises Jabi-Bar, Girissa, Rhamu and Shantoley Sub-Locations of Mandera County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Description
009	Mandera	042	Mandera South	247 619	5 502.00	0205	Rhamu Dimtu	36 596	935.20 Comprises Yábicho, Mado, Kalicha, Rhamu Dimtu and Garsey Sub-Locations of Mandera County
						0206	Wargadud	30 399	481.20 Comprises Wargadud Town and Eleie Sub-Locations of Mandera County
						0207	Kutulo	70 329	2469.90 Comprises Bore Hole Eleven, El Ramu, Kutulo, Lehele, Garsesala, Dabacity, Bojigarse and Kutayu Sub-Locations of Mandera County
						0208	Elwak South	75 270	454.30 Comprises Elwak Town, El-adi and Elwak South Sub-Locations of Mandera County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0209	Elwak North	27 347	359.80	Comprises Wante, Bulia Aiyia and Dasheng Wante Sub-Locations of Mandera County
						0210	Shimbir Fatuma	44 274	1736.80	Comprises Fincharo, Burmayo North, Burmayo South, Qalanqalesa and Shimbir Fatima Sub-Locations of Mandera County
009	Mandera	043	Mandera East	178 831	2 793.10	0211	Arabia	30 990	1238.00	Comprises Oda/Bamboo, Farey/Duhum, Durwuy, Saito Hindi/Harare, Arabia and Omar Jillow Sub-Locations of Mandera County
						0212	Libethia	39 569	958.50	Comprises Atesa, Liberia/Kuradeer, Gumbisu and Hareri Sub-Locations of Mandera County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0213	Khalatio	20 580	494.20	Comprises Gududiye, Kalaliyo, Lamandid, Darika, Matasafara, Seddijiro, Gingi, Bella, Karow, Garba Qoley, Harire, Hosley/Bida/Kamo I, Elle, Bur Abor/Sharif and Bula Hajj/Figho Sub-Locations of Mandera County
						0214	Neboi	52 612	34.40	Comprises Central, Neboi, Shai Shafei, and Bula Nguvu/Bulla Jamhuria/Bulla Power Sub-Locations of Mandera County
						0215	Township	35 080	68.00	Comprises Bokolo/Barwako, Bulla Mpya, Kamor, Township and Border Point One Sub-Locations of Mandera County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
009	Mandera	044	Lafey	109 856	3 378.50	0216	Sala	5 808	618.10	Comprises Sala Sub-Location of Mandera County
						0217	Fino	16 632	947.10	Comprises Fino and Hareti Tur Sub-Locations of Mandera County
						0218	Lafey	48 659	592.60	Comprises Kamora Liban, Kabo, Damasa and Lafey Sub-Locations of Mandera County
						0219	Waranqara	24 619	957.00	Comprises Gari, Waranqara/Safo, Bambo and Barmile Sub-Locations of Mandera County
						0220	Alungo	14 138	263.70	Comprises Alango Gof Sub-Location of Mandera County

[Subsidiary]

## SCHEDULE—Continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
010	Marsabit	045	Moyale	103 799	9 370.71	0221	Butiye	17 542	341.70	Comprises Butiye, Somare, Goromuda, Tesso Bori and Kate Sub-Locations of Marsabit County
						0222	Sololo	8 300	126.60	Comprises Anona, Woya Godha, Mado Adi and Sololo Sub-Locations of Marsabit County
						0223	Heillu/ Manyatta	21 152	50.70	Comprises Lami, Heillu, Kinisa, Mansile and ManyattaBurji Sub-Locations of Marsabit County
						0224	Golbo	29 161	2374.00	Comprises Godoma/Dikoi/Godoma, Nana, Golla, Odda, Funanyatta, Dir Digma/Guyo/Timo/Dabel, Odda,

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
										Funanyatta and Yabaloio Sub-Locations of Marsabit County
						0225	Moyale Township	12 695	3.71	Comprises Township, Sessi and Ngurumesa Sub-Locations of Marsabit County
						0226	Uran	9 754	3226.90	Comprises Rawana, Banale, Walda, Lataka, Uran, Golole and Karbururi Sub-Locations of Marsabit County
						0227	Obbu	5 195	3247.10	Comprises Bodhoda, Humballo, Garba, Solio Makutano and Damballa Fachana Sub-Locations of Marsabit County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
010	Marsabit	046	North Horr	75 196	35 210.00	0228	Dukana	18 628	6798.00	Comprises Balesa, El-hadi, Dukana and Sabare Sub-Locations of Marsabit County

[Subsidiary]

## SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
010	Marsabit	047	Saku	46 502	2 051.90	0232	Illeret	9 790	4041.50	Comprises Illeret Sub-Location of Marsabit County
						0233	Sagante/Jaidesa	16 758	624.70	Comprises Qachacha, Dirlib Gombo, Jaidesa, Badasa, Leyai, Rukesa, Sagante, Qilta and Ga - Qarsa Sub-Locations of Marsabit County
						0234	Karare	8 960	877.30	Comprises Hula Hula, Ongicho, Karare, Scheme, Kituruni and songa Sub-Locations of Marsabit County
						0235	Marsabit Central	20 784	549.90	Comprises Township/Nabera, Dakabarchiha, MataArba, Majengon/Nyayo, Jirime, Miliima and Marsabit Game Reserve Sub-Locations Marsabit County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
010	Marsabit	048	Laisamis	65 669	20 290.50	0236	Loiyangalani	16 358	4202.50	Comprises Mt.Kulai, Oliturot, Larach, Arapatal, Moite, Gas, Elmolo Bay and Loiyangalani Sub-Locations of Marsabit County
						0237	Kargi/South Horr	9 753	7528.00	Comprises Kurungu, Aige, South Horr, Kurkum, Kargi and Kambiye Sub-Locations of Marsabit County
						0238	Korr Ngurunit	21 305	2780.90	Comprises Hafare, Illaut, Korr, Halisirwa, Ngurunit and Lonyoni Pichau Sub-Locations of Marsabit County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Description
						0239	Logologo	5 144	1893.90 Comprises Logologo, Giudas/Soriatdi and Kamboe Sub-Locations of Marsabit County
						0240	Laisamis	13 109	3885.20 Comprises Laisamis, Koya, Irit, Lontolio, Ndikir and Merille Sub-Locations of Marsabit County
011	049	Isiolo North	100 176	15 517.20		0241	Wabera	17 431	13.00 Comprises Kiwanjani and Wabera Sub-Locations of Isiolo County
						0242	Bulla Pesa	22 722	7.70 Comprises Waso and Bulla Pesa Sub-Locations of Isiolo County
						0243	Chari	4 781	3761.20 Comprises Bisan Biliqo, Kom, Bulesa and Goda Sub-Locations of Isiolo County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0244	Cherab	15 560	8862.20	Comprises Merti North, Merti South, Mataariba, Koribesa, Bulto Bonsa, Duma, Yamicha, Malka Galla and Urura Sub-Locations of Isiolo County
						0245	Ngare Mara	5 520	963.90	Comprises Ngare Mara and Gotu Sub-Locations of Isiolo County
						0246	Burat	18 774	748.00	Comprises Burat, Odha, Isiolo West Sub-Locations of Isiolo County
						0247	Oldo/Nyiro	15 388	1161.20	Comprises Kipsing, Lenguruma, Oldonyiro and Lengopito Sub-Locations of Isiolo County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
011	Isiolo	050	Isiolo South	43 118	9 818.90	0248	Garba Tulla	16 401	3821.40	Comprises Gafarsa, Muchuro, Belgesh, Malkadaka, Garbatula North, Garbatula South and Eskot Sub-Locations of Isiolo County
						0249	Kinna	14 618	2181.10	Comprises Kinna, Bibi/Duse, Rapsu, Korbesa, Kula Mawe and Madoyaka Sub-Locations of Isiolo County
						0250	Sericho	12 099	3816.40	Comprises Sericho, Gubatu, Modogashe North, Modogashe South, Iresaboru, Eldera, Badana Garadida and Quiri Sub-Locations of Isiolo County

## [Subsidiary]

## SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
012	Meru	051	Igembe South	145 301	270.70	0251	Maua	33 368	19.00	Comprises Amaku, Antubetwe Njoune, Kithaene, Kathima, Ankurani, Amwathi, Kalbu and Gitura Sub-Locations of Meru County
						0252	Kiegoi/Antubochiu	32 285	36.70	Comprises Mboone, Ngundune, Itumi, Kinyanka, Buriemaria, Anchenge, Giteretu And Makiri Sub-Locations of Meru County
						0253	Athiru Gaiti	26 731	62.70	Comprises Thurua, Bwethaa, Antubakiru, Anjaru, Lakathi and Thacu Sub-Locations of Meru County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0254	Akachiu	26 668	76.80 Comprises Auki, Amwamba, Nceme, Kirindine, Tiira, Amunju, Ugoti and Marega Sub-Locations of Meru County
012	Meru	052	Igembe Central	182 641	503.50	0255	Kanuni	26 249	75.50 Comprises Kianda, Nkiene, Antuambui, Ikuu, Amung'enti, Athimba, Kunyene and Antuanthama Sub-Locations of Meru County
						0256	Akirang'ondu	31 426	58.90 Comprises Machungulu and Kathelwa Sub-Locations of Meru County
						0257	Athiru Ruijine	44 073	90.40 Comprises Thitha, Baibariu, Kaene and Meru National Park Sub-Locations of Meru County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0258	Igembe East	33 740	63.40	Comprises Kanjoo, Kitheo, Nthamboiro, Nthare, Kaligene, Andala and Kaurine Sub-Locations of Meru County
						0259	Njia	42 759	172.60	Comprises Rungu, Burieruri, Kithare, Thuuru, Itulu, Njia Cia Mwendwa and Kiolo Kia Miniti Sub-Locations of Meru County
						0260	Kangeta	30 643	118.20	Comprises Kalimbene, Laikumukumu, Liliaba, Kangeta, Liburu and Ntutuba Sub-Locations of Meru County
012	Meru	053	Igembe North	154 814	1 164.60			0261	Antuambui	29 231
										202.00
										Comprises Nkanda and Antuambui Sub-Locations of Meru County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0262	Ntunene	19 560	145.10	Comprises Ntunene and Kirindara Sub-Locations of Meru County
						0263	Antubetwe Kiongo	32 204	146.50	Comprises Ndoleli, Karichu, Ruongo, Kiani, Kiromwathi, Miriki and Anjalu Sub-Locations of Meru County
						0264	Naathu	29 555	244.60	Comprises Naathu and Nkandone Sub-Locations of Meru County
						0265	Amwathi	44 264	426.40	Comprises Amwathi I and Amwathi II Sub-Locations of Meru County
012	Meru	054	Tiganla West	135 980	455.10	0266	Athwana	18 127	149.60	Comprises Ntulii, Kibiri, Lachathuri, Kuanzi, Matru and Kandebene Sub-Locations of Meru County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
						0267	Akitii	35 646	74.10	Mweronkanga, Limbine, Maanthi, Karii, Mwili, Kaliati, Ntiba, Kitheo, Mucuine and Twale Sub-Locations Sub-Counties of Meru County
						0268	Kianjai	36 874	126.50	Kiandiu, Ithamare, Miathene, Kianjai, Mutionjuri, Machaku, Naliriri, Mituntu, Kalithiria, Uruu, Thau, Muthiru, Lairangi, Mumui and Rei Sub-Locations of Meru County
						0269	Nkomo	24 361	53.90	Kunene, Limaury, Kilenchune, Ntombo, Kamaroo and Amwari Sub-Locations of Meru County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
012	Meru	055	Tiganla East	157 246	646.30	0270	Mbeu	20 972	51.00	Comprises Kiorimba, Machegene, Kieru, Kibuline, Kimiri and Mbeu Sub-Locations of Meru County
						0271	Thangatha	40 190	89.60	Comprises Gitithu, Kunati, Igarie, Nkandi, Katithini, Nkwila, Chuiriu, Amugaa, Ngutu, Gaithine, Ankamia and Igurun Sub-Location of Meru County
						0272	Mikinduri	33 796	82.00	Comprises Athwana, Akaiga, Kiguru, Marega and Anjuki Sub-Locations of Meru County
						0273	Kiguchwa	19 172	38.50	Comprises Kiguchiwa, Abodii, Micimikuru and Ametho Sub-Locations of Meru County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Km (Approx.)	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
							0274	Muthara	39 028	305.70	Comprises Athing'a, Athania, Kitharene, Ntullii, Lailuba, Irotia, Thubuku, Lanyiruu, Maburwa, Lailubu and Turingii Sub-Locations of Meru County
							0275	Karama	25 060	130.50	Comprises Amethio, Kalothera, Kamberia, Urru, Mbaranga, Gitundu and Antuanduru Sub-Locations of Meru County
012	Meru	056	North Imenti	149 144	292.80		0276	Municipality	27 860	9.20	Comprises Kaaga, Upper Igoki, Tuntu and Townshiu Sub-Locations of Meru County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0277	Ntima East	20 983	9.80	Comprises Gakoromots, Gachanka, Lower Igoki and Muringaombugi Sub-Locations of Meru County
						0278	Ntima West	33 766	103.00	Comprises Kirugua, Magundu, Nchaure, Ngonyi, Gitigu, Mpui, Nthimbiri and Kaino into Sub-Locations of Meru County
						0279	Nyaki West	35 575	47.40	Comprises Kaaga, Mukua, Njoka, Chungari, Runogone, Kithoka, Kirimene, Gankere and Kamhitii Sub-Locations of Meru County
						0280	Nyaki East	30 960	123.40	Comprises Kiamwitari, Rwanyange, Mbue, Kimaitiune,

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
012	Meru	057	Buuri	109 803	961.80	0281	Timau	34 394	154.70	Kambereu, Kaniagi, Ciothirai, Gachua, Mbirkene, Kathita and Kanyuango Sub-Locations of Meru County
						0282	Kisima	29 685	557.00	Comprises Mutarakwa, Marati, Buuri, Ngarendare, Nitrimiti, Subuiga and Mutunyi Maranya Sub-Locations of Meru County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
						0283	Kiuru/Naari	27 299	118.60	Comprises Maitei, Gitimene, Runkuruu, Michogomone, Kithima, Nkando and Kiuru Sub-Locations of Meru County
						0284	Ruir/Rwaraera	18 425	131.50	Comprises Mugae, Kirwito, Kithwene, Mutuuma, Nchoroiboro and Kamutune Sub-Locations of Meru County
012	Meru	058	Cental Imenti	141 768	438.60	0285	Mwanganthia	24 793	94.10	Comprises Nkandone, Igane, Gatiuune, Kaongo, Gaitu and Mbajone Sub-Locations of Meru County
						0286	Abothuguchi Central	33 981	56.20	Comprises Nyeri, Ruguti, Nkuene, Nkuene Ya Kioro, Baragu, Ruiga, Kangi, Mariene,

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
										Mugambone, Kariene, Gitauga, Kirigara, Rwanderi, Kiria, Kiirwa, Kinugu and Karindine sub-Locations of Meru County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Description
									Nkandone, Mbwinjeru, Kianthumbi, Kirima Kia Athi and Mt Kenya Forest Part Sub-Locations of Meru County
						0288	Kiagu	22 243	Comprises Kathwene, Kiamuri, Makandune, Maietu/Kanywee and Kiija Gite Sub-Locations of Meru County
						0289	Kibirichia	24 850	Comprises Kimbo, Gathuine, Kiamiojo, Mburugiti, Ntumburi, Barrier, Mboroga and Mniriva Sub-Locations of Meru County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
012	Meru	059	South Imenti	179 604	393.70	0290	Mitunguu	20 835	73.50	Comprises Kirendene and Ng'onyi Sub-Locations of Meru County

[Subsidiary]

#### SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
013	Tharaka-Nithi	060	Maara	107 125	465.30					
						0296	Mitheru	15 309	33.00	Comprises Ruguta, Gatua, Ndumbini and Karimba Sub-Locations of Tharaka-Nithi County
						0295	Nkuene	45 256	60.70	Comprises Kigane, Mikumbane, Uruku, Ukuu, Baitigitu, Marimba, Taita and fathera Sub-Locations of Meru County
						0294	Abogeta West	30 338	68.70	Comprises Upper Chure, Upper Kiungone and Upper Kithangari Sub-Locations of Meru County
										Kithakanaro, Maraai, Kithatu and Kanyakine Sub-Locations Meru County

[Subsidiary]

## SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0297	Muthambi	19 373	50.70	Comprises Weru, Iriga, Igamurathi, Chamunga, Kamwangu, Kandungu Sub-Locations of Tharaka-Nithi County
						0298	Mwimbi	22 935	104.40	Comprises Kathingithu, Kaare, Magutuni, Iruma, Karii, Kiroo and Thigaa Sub-Locations of Tharaka-Nithi County
						0299	Ganga	17 514	220.50	Comprises Kariakomo, Mugumango, Ndunguri, Kirumi and Mt Kenya Forest Sub-Locations of Tharaka-Nithi County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
013	Tharaka-Nithi	061	Chukai/Igambang'on	128 107	431.20	0300	Chogoria	31 994	56.70	Comprises Kirato, Gantarak, Kianjagi, Chogoria, Gianchuku, Gitombani, Mukwego, Kiriani, Kithare and Munga Sub-Locations of Tharaka - Nithi County
						0301	Mariani	14 123	82.70	Comprises Mariani, Marembo, Rlonthiga, Weru, Kithangani and Karongoni Sub-Locations of Tharaka-Nithi County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0303	Magumoni	36 498	64.10	Kangoro, Kinoru, Kanthiri Rubate, Karamani, Mukuuni, Kanyakini, Kathatwa, Kabuboni, Mwonge, Kagumo, Njuri, Nithambo and Thuita Sub-Locations of Tharaka-Nithi County
						0304	Mugwe	24 185	44.20	Comprises Kirege, Karaani, Gitareni, Kiamucii, Nkuthika, Muiru and Mugirinwa Sub-Locations of Tharaka-Nithi County
						0305	Igambang'ombe	30 160	211.30	Comprises Kanthanje, Mutino, Kamonka, Kamutiria, Kaiuki, Makanyanga, Kamaindi,

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
013	Tharaka-Nithi	062	Tharaka	130 098	1 513.00					IgamDang'ombe, Kiaritha, Kamwimbi, Mbogoni, Igamatundu Sub-Locations of Tharaka-Nithi County
						0306	Gatunga	25 703	649.50	Comprises Kamwathu, Gatunga, Kanjoro, Kamaguna, Twanthalju and Kathangachini Sub-Locations of Tharaka-Nithi County
						0307	Mukothima	24 273	174.50	Comprises Irunduni, Mauthini, Ntoroni, Mukothima, Thitti and Kirundi Sub-Locations of Tharaka-Nithi County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	Constituency Assembly Ward No.	Constituency Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0308	Nkondi	15 574	87.30	Comprises Matakir, Kereria, Nkondi, Rukurini, Tumbura and Mwanyani Sub-Locations of Tharaka-Nithi County
						0309	Chiakariiga	34 679	303.40	Comprises Murinda, Uturini, Kamardini, Kamanyaki, Kirukuma, Matiri, Chiakariiga, Gaceraka, Mwerera, Gakurungu, Nkarini, Tubui, Gakinwe, Kithino and Tunyai Sub-Locations of Tharaka-Nithi County
						0310	Marimanti	29 869	298.30	Comprises Kaguma, Gituma, Rukenya, Kamatungu, Kirangare, Kithigiri, Marimanti, Ibote,

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
014	Embu	063	Manyatta	154 632	228.10	0311	Ruguru-Ngandori	27 925	39.40	Comprises Kithunguriri, Kirari, Kiamwinja, Mukuria, Kairuri, Manyatta, Karjari, Kirigi, Rianjagi and Kamvuu Sub-Locations of Embu County
						0312	Kithimu	18 999	46.60	Comprises Ena West, Kithimu and Kithegi Sub-Locations of Embu County
						0313	Nginda	28 511	43.80	Comprises Nguvuu, Rugumu, Mbuvore, Gicherori, Kibugu and Ngewe Sub-Locations of Embu County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0314	Mbeti North	33 468	52.60	Comprises Itabua, Gaituri, Kamiu and Kiangima Sub-Locations of Embu County
						0315	Kirimari	32 185	23.60	Comprises Njukiri, Dallas, Nthambo, Kathangari and Kithungururu Sub-Locations of Embu County
						0316	Gaturi South	13 544	22.10	Comprises Ena East, Nembare and Gatunduri Sub-Locations of Embu County
014	Embu	064	Runyenjes	142 360	261.50	0317	Gaturi North	24 398	37.40	Comprises Itoguri, Kavuturi, Kevote, Makengi and Kianjuki Sub-Locations of Embu County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0318	Kagaari South	20 426	78.30	Comprises Gichera, Nthangaiya, Kiringa, Kawanjara and Maranga Sub-Locations of Embu County
						0319	Central	23 600	31.40	Comprises Gichiche, Kigaa, Gikuuri, Mburi and Gitare Sub-Locations of Embu County
						0320	Kagaari North	24 952	38.20	Comprises Kianjokoma, Mbui-Njeru, Nduri, Kanja North, Kanja South, Mukurui and Mugui Kamugere Sub-Locations of Embu County
						0321	Kyeni North	21 546	29.20	Comprises Mutu, Rukurii, Njeruri, Kiangungu, Kathari and Iriari Sub-Locations of Embu County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
014	Embu	065	Mbeere South	130 185	1 321.50	0322	Kyeni South	27 438	47.00	Comprises Kathanjuri, Karurumo, Nyagari, Kigumo, Kathunguri, Kasafari and Mukuria Karim Sub-Locations of Embu County
						0323	Mwea	30 117	172.70	Comprises Karaba, Wachoro, Riakanau and Gataeai Sub-Locations of Embu County
						0324	Makima	21 291	342.20	Comprises Makima, Mwea, Mbondoni and Mwea National Reserve Sub-Locations of Embu County
						0325	Mbeei South	29 579	255.20	Comprises Kiamuringa, Gachoka,

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
014	Embu	066	Mbeer North	89 035	744.80	0328	Nthawa	26 725	136.50	Comprises Siakago, Riandi, Gitiburi and Thura Sub-Locations of Embu County
						0327	Kiambere	15 059	287.00	Comprises Kiambere, Nitharawe, Kindaruma and Gacabari Sub-Locations of Embu County
						0326	Mavuria	34 139	264.40	Comprises Mavuria, Kombomunyiri, Kithunthiri, Gacegethiiri, Gichiche, Njigo, Nyangwa and Gikiiro Sub-Locations of Embu County
										Gachuriri, Mbita and Kirima Sub-Locations of Embu County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0329	Muminji	16 728	224.70	Comprises Gangara, Karambari, Mutitu, Nguthi and Kirie Sub-Locations of Embu County
						0330	Evurore	45 582	383.60	Comprises Evurore, Kamarandi, Nthambu, Iraiture, Ngura, Kathera, Kariru and Nguthi Sub-Locations of Embu County
015	Kitui	067	Mwingi North	139 967	4 769.60	0331	Ngomeni	18 447	1619.40	Comprises Kimela, Ndatani, Mita Misyi, Kamusiliu, Kavaani, Kalwa, Kavuti and Ikime Sub-Locations of Kitui County
						0332	Kyuso	40 375	751.50	Comprises Ngaiae, Gai, Itiva - Nzou, Kamuwongo, Kimu, Kimangao,

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
										Maseki, Kiseuni, Mataka, Twimuya, Katuka and Fimnia Sub-Location of Kitui County
						0333	Mumoni	32 171	659.60	Comprises Mukong'a, Ikongo, Kamathithu, Mbarani, Ngungani, Kyandali, Kakuyu, Wangutu, Mutanda, Kaliwa, Musosya, Katia, Tyaa Kamuthale, Kathiani/Ngiuku and Konyu sub-Location of Kitui county
						0334	Tseikuru	35 890	1328.40	Comprises Usueni, Kyenini, Kaningo, Ngereni, Kathiani, Kyandani, Nzitu, Kaivirya, Ngongoni, Kasvathuni, Ngalange and Kitoyoto sub-Location of Kitui county

[Subsidiary]

SCHEDULE E—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
015	Kitui	068	Mwingi West	122 620	1 669.00	0335	Tharaka	13 084	410.70	Gakombe, Gacigongo, Kanyengya, Gatoroni, Kathungu and Kamaindi Sub-Locations of Kitui County
						0336	Kyome/Thaana	22 443	308.00	Comprises Kyome, Yenzuya, Thaana Nzau, Kiuyani, Kasevi, Tkoko, Musuani, Winzyee, Kavaini, Kenya, Kasanga and Kitulani sub-Location of Kitui county
						0337	Ngutani	27 265	209.70	Comprises Muivu, Kakuluo, Nzawa, Nzalae, Ngongoni, Kavoloj, Kikiini, and Nzumi, Sub-Locations of Kitui County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0338	Migwani	28 169	685.10	Comprises Kaliluni, Kyamboo, Migwani, Nzatani, Lalambyu, Nzeluni, Kataiwa, Kwanungu, Kisovo and Itoloni Sub-Locations of Kitui County
						0339	Kiromo/ Kyethani	21 000	358.40	Comprises Kairungu, Mbondoni, Kyethani, Wikithuki, Karura and Kiromo Sub-Locations of Kitui County
						0340	Central	23 743	107.80	Comprises Mwingi, Maithyakan, Kanzanzu, Kalisasi and Kavuvwani Sub-Locations of Kitui County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
015	Kitui	069	Mwingi East	122 361	3 829.50	0341	Kivou	24 886	242.90	Comprises Ithumbi, Kyanika, Kivou, Enziu and Kanzui Sub-Locations of Kitui County
						0342	Nguni	29 313	1758.80	Comprises Mathyakanji, Mwasuma, Kyavuya, Mwatali, Kamutiu, Ukasi, Kalanga and Mbuvu Sub-Locations of Kitui County
						0343	Nuu	27 644	1324.00	Comprises Nyaani, Mwambiu, Ngaani, Malawa, Kyangati, Mwangeni and Ngieni Sub-Locations of Kitui County
						0344	Mui	19 628	369.40	Comprises Yumbu, Itiko, Kitise, Ngiluni, Ngoo and Ngungi Sub-Locations of Kitui County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
015	Kitui	070	Kitui West	102 314	667.20	0345	Waita	20 890	377.30	Comprises Nyaanyaa, Kaititika, Kathoka, Ikusva, Mwambui, Thonoa and Waita Sub-Locations of Kitui County
						0346	Mutonguni Ward	34 140	157.80	Comprises Kakeani, Kangii, Kaimu, Musengo, Mithini Kakumuti and Yalatani Sub Locations of Kitui County
						0347	Kauwi	25 385	245.30	Comprises Kauwi, Kiseveni, Sangala, Mutanda, Kasakini, Katheka, Kyenge, Kisayani, Katutu, Kangungi, Nzalae and Kivani Sub-Locations of Kitui County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0348	Matinyani	24 081	72.10	Comprises Kauma, Maseki, Kyondoni, Kavuvuu, Musosya, Nzakame, Kathuna, Kyambusya, Katheuni, Kalia and Kitumbi Sub Locations of Kitui County
015	Kitui	071	Kitui Rural	104 443	1 560.80			0350	Kisasi	26 759 253.60 Comprises Maliku, Kavisuni, Nguuni, Mosa, Mbasyani,

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
										Mukameni, Ngiluni and Masimbini Sub-Locations of Kitui County
						0351	Mbitini	24 858	131.10	Comprises Mbitini, Katwala, Kitungati, Ngangani and Kanza Sub-Locations of Kitui County
						0352	Kwavonza/Yatta	30 732	757.40	Comprises Kanyoonyoo, Mikuyuni, Makusya, Ilka, Ndunguni, Nyanya, Kawongo/Kathome and Muvithai/Kathembo ni Sub-Locations of Kitui County
						0353	Kanyangi	22 094	418.70	Comprises Kithiani, Kanyongonyo, Mandongoi, Syomunyu, Masimba, Kiseuni and Nzamibia Sub-Locations of Kitui County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
015	Kitui	072	Kitui Central	131 715	636.20	0354	Miambari	22 164	215.10	Comprises Kamandio/Malili, Munganga, Mutula, Nzaya and Usiani Sub-Locations of Kitui County
						0355	Township	26 016	17.90	Comprises Kalundu, Manyengo, Township and Kaveta Sub-Locations of Kitui County
						0356	Kyangwithya West	22 121	142.50	Comprises Itoleka, Mbasyani, Molutu, Tungutu, Ndumoni and Utooni Sub-Locations of Kitui County
						0357	Mulango	28 573	155.70	Comprises Kathungi, Katulani, Kwa-Muli, Kyangunga, Kyambiti, Vii and Wililiye Sub-Locations of Kitui County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
015	Kitui	073	Kitui East	123 239	5 119.10	0358	Kyangwithya East	32 841	105.00	Comprises Mulundi, Misewani, Mutune, Kaveta, Museve and Ivaini Sub-Locations of Kitui County
						0359	Zombe/Mwitika	25 452	580.50	Comprises Matani, Thua, Ngungi(Zombe), Kasunguni, Kila, Katikoni, Kiku, Kavingo and Makongo Sub-Locations of Kitui County
						0360	Nzambani	18 126	64.00	Comprises Kyanika and Maluma Sub-Locations of Kitui County
						0361	Chuluni	22 046	235.20	Comprises Kenze, Ngungi(Chuluni), Ithumula and Kaluya Sub-Locations of Kitui County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0362	Vooi/Kyamatu	23 011	1114.80	Comprises Kasasi, Kiangini, Kyamatu, Nzanzu, Nthunguni, Imale, Muthungue and Kvanoor Sub-Locations of Kitui County
						0363	Endau/Matalani	15 506	2528.00	Comprises Katumbi, Twambui, Malalani, Ndetani, Makuka, Kathua, Yiuks and Syou Sub-Locations of Kitui County
						0364	Mutitu/Kaliku	19 098	596.60	Comprises Musukini, Masasini, Kitoo, Kyaimu, Kawata, Kavutei and Manyoeni Sub-Locations of Kitui County

**SCHEDULE—*continued***

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
0115	Kitui	074	Kitui South	166 050	6 133.70	0365	Ikanga/Kyatune	36 185	491.60	Comprises Nduundune, Kathungu, Ilusya, Kithumula, Kiangwa, Makele, Kyatune, Ngwani, Yongela, Vote and Ndatanini Sub-Locations of Kitui County
						0366	Mutomo	24 450	325.40	Comprises Mwala, Kitoo, Kandae, Kibwea, Uae and Kaweli Sub-Locations of Kitui County
						0367	Mutha	25 138	3477.10	Comprises Ngaani, Kaatene, Kalambani, Issa, Kaliakattune, Ndakanini, Kengo, Kivuni, Kilmani and Kiati Sub-Locations of Kitui County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0368	Ikutha	26 176	433.90	Comprises Ndili, Maaini, Kyoani, Ngawuni, Kiangu, Kasaala, Nzamba, Uini and Ngwate Sub-Locations of Kitui County
						0369	Kanziko	18 664	453.40	Comprises Kituwi, Mwaninganga, Keitunda, Kyanyaa, Kivandini, Simisi, Ekani, Ilamba, Ndili and Mivune Sub-Locations of Kitui County
						0370	Athi	35 437	952.30	Comprises Kituti, Kisii, Kilawa, Maluma, Muambani, Monguni, Kalivu, Katilini and Makae Sub-Locations of Kitui County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
016	Machakos	075	Masinga	125 940	1 402.90	0371	Kivaa	34 092	522.50	Comprises Kaewa, Kivaa, Iiani, Kyondoni, Miangeni, Eendei, Thatha and Kituyoko sub Locations of Machakos County

						0372	Masinga Central	32 963	388.50	Comprises Mukusu, Katulye, Masinga, Musumaa, Musingini, Kangonde, Mikuyuni and Kikumiini Sub-Locations of Machakos County
						0373	Ekalakala	19 013	177.40	Comprises Ekalakala, Nzukini, Itundumuiini and Ikaatini Sub-Locations of Machakos County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0374	Muthesya	17 153	190.00	Comprises Muthesya, Kikule, Kathukini and Milani Sub-Locations of Machakos County
						0375	Ndithini	22 719	124.50	Comprises Mananja, Kasuvilo, Ndithini and Kaitineni Sub-Locations of Machakos County
016	Machakos	076	Yatta	147 579	1 057.30					
						0376	Ndalani	30 256	167.70	Comprises Ndalani, Kivingoni, Kisiki, Mavoloni, Kwa Ndolo Sub-Location of Machakos County
						0377	Matuu	27 145	126.40	Comprises Katulani, Kaluluini, Matuu and Kakuumini Sub-Locations of Machakos County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
						0378	Kithimani	33 714	196.90	Comprises Kambi Ya Ndeke, Kithendu, Kithimani and Mamba Sub-Locations of Machakos County
						0379	Ikome	34 683	331.40	Comprises Kitheuni, Makutano, Mathingau, Kyasioni, Ikome and Kinyata Sub-Locations of Machakos County
						0380	Katangi	21 781	234.90	Comprises Mekilingi, Syokisinga Katanai Sub-Locations of Machakos County
016	Machakos	077	Kangundo	94 367	177.30			0381	Kangundo North	37.30 Comprises Ndunduni, Mbilini, Kikambuani, Kawauni and Kitwii Sub-Locations of Machakos County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0382	Kangundo Central	24 850	31.90	Comprises Maiuni, Isinga, Muisuni and Matetani Sub-Locations of Machakos County
						0383	Kangundo East	21 509	53.00	Comprises Miu, Kaittu, Ngumuti, Iia Itune, Kathome and Kavilinguni Sublocations of Machakos County
						0384	Kangundo West	25 612	55.10	Comprises Kyevaluki, Kakuyuni, Mbusyani, Kawaithei, Mukunike and Kathaana Sub-Locations of Machakos County
016	Machakos	078	Matungulu	124 736	577.50	0385	Tala	26 297	34.10	Comprises Sengani, Kyaume and Katine Sub-Locations of Machakos County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0386	Matungulu North	25 041	168.60	Comprises Uamani, Kiboko, Kayata, Kyanzavi and Kwakumbu Sub-Locations of Machakos County
						0387	Matungulu East	21 725	40.00	Comprises Katheka, Matheini, Kingoti, Kambusu and Mwatali Sub-Locations of Machakos County
						0388	Matungulu West	33 935	246.90	Comprises Komarock, Kithuani, Nguluni, Kwangii, Kithimani, Kalandini, Matuu, Mukengesya, and Mbuni Sub-Locations of Machakos County
						0389	Kyeleni	17 738	87.90	Comprises Kyeleni, Kwosau, Kwale, Nzambani and Kituluni Sub-Locations of Machakos County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
016	Machakos	079	Kathiani	104 217	207.00	0390	Mitaboni	30 055	80.50	Comprises Mitaboni, Kinyau, Miumbuni, Mathunya, Ngini and Thinu Sub-Locations of Machakos County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Description
016	Machakos	080	Mavoko	139 502	843.20	0394	Athi River	51 293	77.80 Comprises Athi River North and Athi River Township Sub-Locations of Machakos County
						0395	Kinanie	17 538	411.90 Comprises Kinanie and Mathatani Sub-Locations of Machakos County
						0396	Muthwani	28 517	316.20 Comprises Muthwani, Katani and Ngelani Sub-Locations of Machakos County
						0397	Syokimau/Mulonao	42 154	37.30 Comprises Syokimau Sub-Location of Machakos County
016	Machakos	081	Machakos Town	199 211	669.70	0398	Kalama	32 055	161.10 Kimutwa, Kaathi, Kyanzasu, Kilitini, Nziumi, Kakayuni,

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
										Kyangala, Kinoi and Konza Sub-Locations of Machakos County
				0399	Mua	25 573	182.20	Comprises Mikuyu, Katelembu, Kyaani, Kitanga, Kyanda, Mua Hills and Katheka Kai Sub-Locations of Machakos County		
						0400	Muttituni	23 736	26.80	Comprises Nzoweni, Ngelani, Kamuthariga, Kivutini, Ndjuu and Mutituni Sub-Locations of Machakos County
						0401	Machakos Central	32 530	22.70	Comprises Upper Kiandani, Mjini, Eastleigh and Misakwani Sub-Locations of Machakos County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0402	Mumbuni North	28 319	30.50	Comprises Kasinga, Mung'ala and Lower Kiandani Sub-Locations of Machakos County
						0403	Muvuti/ Kiima-Kimwe	32 413	37.00	Comprises Muthini, Mwanyani, Katoloni, Kima-Kimwe, Mbiliini, Muyuti and Kvandini Sub-Locations of Machakos County
						0404	Kola	24 585	209.40	Comprises Iuni, Muumandu and Katanga Sub-Locations of Machakos County
016	Machakos	082	Mwala	163 032	1 018.00	0405	Mbiuni	32 142	146.70	Comprises Uaani, Kwamutula, Etikoni, Kabaa, Nyaanya, Mumbuni,

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SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
										Makiliiva, Mbiuni, Muthwani and Kaititu Sub-Locations of Machakos County
						0406	Makutano/Mwala	32 127	177.20	Comprises Kangii, Ngulini, Kyawango, Myanyani, Maweli, Kibau, Kivandani, Kamwala, Manthunthini, Kyamutwii, Kyanganga and Weria Sub-Locations of Machakos County
								0407	160.80	Comprises Mudisini, Juni, Mithini, Mbbaani, Utithini, Embui, Kavumbu, Kithangaini and Mithanga Sub-Locations of Machakos County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0408	Muthetheni	22 805	136.60	Comprises Kalyambeu, Ngamba, Kyawikyo, Kikuluni, Kalamba, Utithini, Nthaani, Kangethe, Kionyweni and Kyethivo Sub-Locations of Kitui County
						0409	Wamunyu	25 664	211.90	Kilembwa, Kaitha, Kambiti, Kyanguliumi, Kwakala, Kyamatula, Nyaaani and Kyawango Sub-Locations of Kitui County
						0410	Kibauni	17 927	184.80	Comprises Kitile, Mukaa, Kamuthwa, Matiani, Ndithini, Ngungi, Itumbule, Kiunduani and Kilala Sub-Locations of Kitui County

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SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
017	Makueni	083	Mbooni	184 624	949.20	0411	Tulimani	35 350	125.80	Comprises Iani, Kalawani, Mavindu, Itetani, Yandue and Mbanya Sub-Locations of Makueni County
						0412	Mbooni	33 774	64.00	Comprises Mutitu, Kyuu, Uthiuni and Nzeveni Sub-Locations of Makueni County
						0413	Kithungo/Kitundu	28 185	77.70	Comprises Kaliani, Uvuu, Ngai, Mataa, Kitundu, Kavumbu and Utangwa Sub-Locations of Makueni County
						0414	Kiteta-Kisau	37 059	175.60	Comprises Muthwani, Ngoni, Mukimwari, Mangani, Kakuswi, Kiambwa, Ndituni and Ngiluni Sub-Locations of Makueni County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
						0415	Waia-Kako	23 082	176.00	Comprises Kako (Kako), Sakai, Usalala, Noduluku and Kako(Waia) Sub-Locations of Makueni County
						0416	Kalawa	27 174	330.10	Comprises Kalawa, Kimeeni, Malunda, Mbukoni, Mangeri, Kavumbu, Kinze, Kathulumbi, Mutembuku, Syotuvali, Thwake, Ndauni, Ittu and Kathongo Sub-Locations of Makueni County
017	Makueni	084	Kilome	87 864	871.30	0417	Kasikeu	38 348	268.40	Comprises Kasikeu, Uvaleni, Wathini, Mumelia, Kiou, Kwale, Lumu, Muani and Sultan-Hamud Sub-Locations of Makueni County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
017	Makueni	085	Kaiti	120 116	422.90			0420	Ukia	Comprises Utaati, Kyuasini, Nzuni, Mukuyuni, Iuani, Kilala, Kaumoni and Nithangu Sub-Locations of Makueni County
017	Makueni	085	Kiima Kiu/Kalanzioni	22 991	272.10					Comprises Kavuko, Kiima Kiu, Maili, Maviyie, Itumbule, Muumandu, Kalanzoni and Ngaamba Sub-Locations of Makueni County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
017	Makueni	086	Makueni	243 219	2 010.20	0421	Kee	26 649	81.60	Comprises Makongo, Ikalyoni, Kivani, Kyamwalye, Kitandi, Nguluni, Kasunguni and Mutulani Sub-Locations of Makueni County
						0422	Kilungu	33 952	73.20	Comprises Kauti, Nduu, Ndiani, Kisekini, Kithangathini, and Kalongo Sub-Locations of Makueni County
						0423	Ilima	21 025	83.90	Ndolo, Wautu, Kyamuoso and Musalaala Sub-Locations of Makueni County
						0424	Wote		25 326	118.90 Comprises Nziu, Una and Kamunyolo Sub-Locations of Makueni County

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## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0425	Muvau/ Kikunini	24 477	231.10	Comprises Kikunini, Kambimawe, Mumbuni, Muvau, Itaa and Kitonyoni Sub- Locations of Makueni County
						0426	Mavindini	23 274	258.60	Comprises Yekanga, Kanthuni, Ivinganzia, Mavindini, Muusini, Kiumoni and Katithi Sub- Locations of Makueni County
						0427	Kitise/Kithuki	22 054	323.20	Comprises Mwania, Kitise, Kimundi, Kithuki and Yinthungu Sub-Locations of Makueni County
						0428	Kathonzweni	31 277	301.00	Comprises Kiangini, Kituluni, Kwa Kavisi, Thavu, Ituka and Kavingoni Sub- Locations of Makueni County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0429	Nguru/Masumba	23 764	349.10	Comprises Kakili, Masumba, Mii, Muthumoni, Kikumiini, Ndunguni, Mukambeu, Masamukye, Nthungui, Mweini, Vololo, Yikivumbu, Makasa, Thithi and Wolya Sub-Locations of Makueni County
						0430	Emaili/Mulala	25 657	115.00	Comprises Iteta, Katune, Maatha, Maliku, Ngetha, Emali, Kwakulu and Tutini Sub-Locations of Makueni County
						0431	Nzau/Kilili/Kalamba	37 042	197.60	Comprises Kathatu, Kilili, Mulenyu, Wee, Kawala, Matiliku, Kalamba, Ikangayya, Kithumba, Mie and Nzeeni Sub-Locations of Makueni County

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SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description	County Assembly Ward Locations of Makueni County
017	Makueni	087	Kibwezi West	116 984	1 623.00	0432	Mbitini	30 348	115.70	Comprises Kithumani, Manooni, Mwambani, Mwanyani, Kavuthu, Masue, Vulueni, Katani, Mutiswa, Mutyambua, Kalini, Kyemundu, Mbileetu, Mwasangombwe and Yumbani Sub-Locations of Makueni County	
						0433	Makindu	42 094	637.60	Comprises Kai, Kiu, Manyatta, Kisingo, Kamboo, Kyale, Kaasuvu, Muili, Ngakaa, Mitendeu, Kalii Sub-Locations of Makueni County	

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0434	Nguumo	28 208	468.90	Comprises Ndovoini, Syumile, Muuni, Kaunguni Part of Chiyulu game reserve Sub-Locations of Makueni County
						0435	Kikumbulyu North	20 314	284.60	Comprises Kathyaka, Nglulu, Ndetani Sub-Locations of Makueni County
						0436	Kikumbulyu South	26 368	231.90	Comprises Mbui nzau, Kalungi, Ngandani, Kinyambu Sub-Locations of Makueni County
017	Makueni	088	Kibwezi East	131 720	2 362.30					
						0437	Masongalem	32 270	481.70	Comprises Masimbam, Ullinzi, Kyanguli, Masongalem, Mukaange Sub-Locations of Makueni County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
						0438	Mitito Andei	34 354	917.60	Comprises Kiteng'el, Kambu, Kathekam, Mtrto Andei, Part of Tsavo West National Park Sub-Locations of Makueni County
						0439	Thange	31 654	407.10	Comprises Utithi, Mikuyum, Thange, Part of Chyulu game reserve Sub-Locations of Makueni County
						0440	Ivingom/ Nzambam	33 442	555.90	Comprises Mang'elete, Muttingum, Part of Chyulu game reserve Sub-Locations of Makueni County
018	Nyandaru a	089	Kinangop	192 379	934.70			0441	Engineer	26 977
										118.80
										Comprises Kahuru/Muruaki and Muruaki Sub-Locations of Nvandarua County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0442	Gathara	26 656	109.90	Comprises Tulaga, Kinja and Gathara Sub-Locations of Nyandarua County
						0443	North Kinangop	20 898	134.70	Comprises Nandarasi and Kitiri Sub-Locations of Nyandarua County
						0444	Murungaru	26 920	164.80	Comprises Murungaru, Mkungi and Mikaro Sub-Locations of Nyandarua County
						0445	Njabim/Kiburu	20 665	98.90	Comprises Njabim and Kiburu Sub-Locations of Nyandarua County
						0446	Nyakio	25 140	146.10	Comprises Mukeo, Karangatha and Rwayyambo Sub-Locations of Nyandarua County
						0447	Githabai	19 485	107.70	Comprises Karati, Koinange, Githabai and Munyaka Sub-Locations of Nyandarua County

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## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
018	Nyandarua	090	Kipipiri	95 338	543.80	0448	Magumu	25 638	53.80	Comprises Bamboo, Gitwe and Matura Sub-Locations of Nyandarua County
						0449	Wanjohi	32 051	199.20	Comprises Wanjohi, Gatondo, Rironi and Ndemi Sub-Locations of Nyandarua County
						0450	Kipipiri	22 991	127.60	Comprises Miharati Malewa and Lereshwa Sub-Locations of Nyandarua County
						0451	Geta	20 259	64.40	Comprises Geta, Makumbi, Kiambogo and Mikeu Sub-Locations of Nyandarua County
						0452	Githioro	20 037	152.60	Comprises Githioro and Kinko Sub-Locations of Nyandarua County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
018	Nyandarua	091	Olkalou	120 282	536.50					
						0453	Karau	25 514	105.20	Comprises Munyeki and Mawingo Sub-Locations of Nyandarua County
						0454	Kanjuuri Range	25 834	122.80	Comprises Kanjuuri, Upper Gilgii and Ngorika Sub-Locations of Nyandarua County
						0455	Mirangine	27 056	69.60	Comprises Mirangine and Sabugo Sub-Locations of Nyandarua County
						0456	Kaimbagga	17 926	111.70	Comprises Gichungo and Kandutura Sub-Locations of Nyandarua County
						0457	Rurii	23 952	127.20	Comprises Passenga, Matura and Rurii Sub-Locations of Nyandarua County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
018	Nyandarua	092	Ol Jorok	95 643	439.20					
						0458	Gathanjii	21 326	108.30	Comprises Silibwet and Gathanjii Sub-Locations of Nyandarua County
						0459	Gatimu	26 341	72.30	Comprises Gikingi, Gatimu and Kanguo Sub-Locations of Nyandarua County
						0460	Weru	26 152	133.90	Comprises Weru, Kirimangai, Gatumbiro and Lesirko Sub-Locations of Nyandarua County
						0461	Charagita	21 824	124.70	Comprises Matindiri, Ruiru, Nyairoko, Oraimutia and Ngano Sub-Locations of Nyandarua County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
018	Nyandarua	093	Ndaragwa	92 626	653.50	0462	Leshau/Pondo	19 066	119.60	Comprises Mbuyu, Ndivai, Leshau and Shauri Sub-Locations of Nyandarua County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
019	Nyeri	094	Tetu	78 320	149.80	0466	Dedan Kimathi	20 686	48.30	Comprises Kirurumi, Ngoro, Karunaini, Kanjora, Thatha, Ihururu, Ichagachiru, Kigogo Ini, Kabage, Gatumbiro and Karaihu Sub-Locations of Nyeri County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
019	Nyeri	095	Kieni	175 812	1 378.10	0468	Agitathi-Gaaki	26 631	47.80	Comprises Gaaki, Kiawathiani, Mutathi-Ini, Gichira, Mung Aria, Gititu, Huhoini, Thage- Ini, Ithekahuno and Gathaiti Sub-Locations of Nyeri County
						0469	Mweiga	17 264	69.40	Comprises Bondeni, Amboni, Niengu and Kamatonau Sub-Locations of Nyeri County
						0470	Naromoru/ Kiamathaga	26 291	176.20	Comprises Naromoru, Ndiriti, Kabendera, Tigitii, Muricu, Kamburaini and Gikamba Sub-Locations of Nyeri County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0471	Mwiyogo/Endara sha	19 446	132.90	Comprises Muthuni, Labura, Mwiyogo, Endarasha and Mitero Sub-Locations of Nyeri County
						0472	Mugunda	23 712	261.00	Comprises Karembo, Ruirii, Kamiruri, Nairutia, Kamariki and Lamuria Sub-Locations of Nyeri County
						0473	Gatarakwa	18 890	97.50	Comprises Gakanga, Charity, Watuka, Kabati and Embaringo Sub-Locations of Nyeri County
						0474	Thegu River	21 804	185.90	Comprises Maragima, Thirigitu, Thungari, Rongai, Gaturiri and Lusoi Sub-Locations of Nyeri County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
						0475	Kabaru	22 084	203.70	Comprises Ndathi, Kirima, Kinahuri and Munyu Sub-Locations of Nyeri County
019	Nyeri	096	Mathira	148 847	296.60	0476	Gakawa	26 321	251.50	Comprises Kahurura, Gathiru and Gitima Sub-Locations of Nyeri County
						0477	Ruguru	22 946	94.00	Comprises Gatung'ang'a, Karuthi, Hiriga, Chieni, Rutturu, Kiamariga, Iruri and Sagana Sub-Locations of Nyeri County
						0478	Magutu	24 114	35.30	Comprises Gatei, Gitunduti, Gaikuyu, Gathehu and Gikumbo Sub-Locations of Nyeri County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0479	Irainai	27 652	49.90	Comprises Chehe, Kairia, Kiamwangi, Gatundu, Thegenge, Kaguyu and Kiaguthu Sub-Locations of Nyeri County
						0480	Konyu	21 959	31.80	Comprises Mukore, Gakuyu, Gachuku and Karindundu Sub-Locations of Nyeri County
						0481	Kirimukuyu	28 898	54.30	Comprises Gachuiro, Ngaini, Mutathi-ini, Thaiti, Ngandu, Mbogoini, Thiu and Kiria Sub-Locations of Nyeri County
						0482	Karatina Town	23 278	31.30	Comprises Cheru/Kiangararu, Kiharo/Bisashara, Muthua/Giakairu, Ragati, Baricho, Ichuga and Itiati Sub-Locations of Nyeri County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
019	Nyeri	097	Othaya	87 374	174.70	0483	Mahiga	21 846	42.40	Comprises Ugachiku, Kamoko, Gaturuturu, Munyange, Gikoe, Kihome, Gitugi, Rukira and Kagonye Sub-Locations of Nyeri County

## **[Subsidiary]**

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
019	Nyeri	098	Mukurweni	83 932	178.70	0487	Gikondi	18 533	37.50	Comprises Karaba, Kibutio, Kaharo, Kirungu, Thimu, Muthathini and dKarindi Sub-Locations of Nyeri County
						0488	Rugi	20 699	49.40	Comprises Karara, Ngamwa, Mihuti, Igana, Mweru and Karundu Sub-Locations of Nyeri County
						0489	Mukurwe-Ini West	18 417	33.20	Comprises Gakinduni, Mbiyu-Ini, Njru-Ini, Gaikundo, Ruthanji, Muyu and Gatura Sub-Locations of Nyeri County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
019	Nyeri	099	Nyeri Town	119 273	183.10	0491	Kiganjo/ Mathari	23 872	76.20	Comprises Kihuyo, Mathari, Nyaribo, Kiganjo, Kiichu and Gachika Sub- Locations of Nyeri County
						0492	Rware	25 018	6.50	Comprises Majengo Sub- Location of Nyeri County
						0493	Gatitu/ Muruguru	21 804	60.60	Comprises Thunguma, Riamukurwe, Gatitu, Gitiru, Muruguru and Marua Sub- Locations of Nyeri County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0494	Ruring'u	22 160	14.90	Comprises Ruring'u, Chorong'i and Karia Sub-Locations of Nyeri County
						0495	Kamakwa/ Mukaro	26 419	24.90	Comprises Muthuaini, Munungaini, Gitathani, Kamakwa, Kinunga and Kihatha Sub-Locations of Nyeri County
020	Kirinyaga	100	Mwea	190 512	542.80	0496	Mutithi	26 864	106.90	Comprises Rukanga, Kabiriri, Kiandegwa and Kinyaga Sub-Locations of Kirinyaga County
						0497	Kangai	19 300	38.80	Comprises Kombuini, Mathigaini and Kathiga Sub-Locations of Kirinyaga County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0498	Thiba	23 219	34.00	Comprises Nguka and Thiba Sub-Locations of Kirinyaa County
						0499	Wamumu	17 881	62.00	Comprises Wamumu Sub-Location of Kirinyaa County
						0500	Nyangati	25 016	52.30	Comprises Kamiigwa, Kangu, Kirimara, Kithiriti and Nyangati Sub-Locations of Kirinyaa County
						0501	Murinduko	28 250	158.80	Comprises Kamunyange, Mugamba-Ciura, Miuu and Riagicheru Sub-Locations of Kirinyaga County
						0502	Gathigiriri	18 337	32.20	Comprises Mathangauta, Gathigiriri and Mahiga-Ini Sub-Locations of Kirinyaga County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Km (Approx.)	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
							0503	Tebere	31 645	57.80	Comprises Kiarukungu Sub-Location of Kirinyaga County
020	Kirinyaga	101	Gichugu	124 672	229.60		0504	Kabare	38 489	62.50	Comprises Rukenya, Kiritini, Ngiroche, Muthige, Mikarara, Gachigi and Njuku Sub-Locations of Kirinyaga County
							0505	Baragwi	20 027	30.80	Comprises Rwamabit, Thimu, Rainu and Gattu Sub-Locations of Kirinyaga County
							0506	Njukiine	24 190	60.10	Comprises Ngerwe, Mirichi, Kanju and Ngiriambu Sub-Locations of Kirinyaga County
							0507	Ngariama	18 064	37.60	Comprises Rung'eto, Kabari, Thirikwa and Nyangeni Sub-Locations of Kirinyaga County

## SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
020	Kirinyaga	102	Ndia	99 515	210.80	0508	Karumandi	23 902	38.60	Comprises Thumaita, Kariru, Kiaruri and Guama Sub-Locations of Kirinyaga County
						0509	Mukure	30 536	59.30	Comprises Mukure, Kanyokora, Kagio-Ini, Kianjang'a and Gitaku Sub-Locations of Kirinyaga County
						0510	Kiiine	41 036	81.30	Comprises Nguguiini, Kibingoti, Kiangai, Ruiru, Maitharui and Kithumbu Sub-Locations of Kirinyaga County
						0511	Kariti	27 943	70.20	Comprises Nyangio, Mukui, Thigirichi, Gacharu and Sagana Sub-Locations of Kirinyaga County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
020	Kirinyaga	103	Kirinyaga Central	113 355	222.20					
						0512	Mutira	23 359	30.10	Comprises Kaguma, Kabari, Kaguyu and Kirunda Sub-Locations of Kirinyaga County
						0513	Kanyekini	32 333	132.20	Comprises Kiaga, Kanyei, Kathare, Kianjege, Ngaru and Nduini Sub-Locations of Kirinyaga County
						0514	Kerugoya	30 336	25.80	Comprises Kagyu, Keitheri, Kimandi and Karia Sub-Locations of Kirinyaga County
						0515	Inoi	27 327	34.10	Comprises Ndimi, Kariko, Thaita and Mbeti Sub-Locations of Kirinyaga County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
021	Murang'a	104	Kangema	76 988	173.70					
						0516	Kanyanya-Ini	23 192	60.40	Comprises Gitugu, Ichichi, Gitunga, Kanyanya-Ini, Karurumo, Kibutha, Kiruri, Nduni and Ngeini Sub-Locations of Murang'a County
						0517	Muguru	34 524	61.00	Comprises Gakira, Kanorero, Kiairathie, Watuha, Gacharaigu, Gikui, Gitunguri and Nyakahna of Murang'a County
						0518	Rwathia	19 272	52.30	Comprises Rwathia, Tuthu, Waijerere, Kiawambogo and Kihoya Sub-Locations of Murang'a County

[Subsidiary]

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
021	Murang'a	105	Mathloya	88 219	351.30	0519	Gitugi	33 731	66.70	Comprises Gitugi, Rumyeki, Kambara, Chui, Ngutu, Karunge, Miuti, Nyakianga, Gikoe and Gatunguri Sub-Location of Murang'a County
						0520	Kiru	33 563	247.50	Comprises Kairo, Kiamuturi, Kagongo, Gatacharageini, Kagumoni, Kanjama, Kiambuathia, Kiraini, Kora and Aberdare lll/ Sub - Locations of Murang'a County
						0521	Kamacharia	20 905	37.10	Comprises Kamacharia, Kairi, Kamune and Thuita Sub-Locations of Murang'a County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
021	Murang'a	106	Kiharu	181 076	268.80	0522	Wangu	28 898	50.80	Comprises Kahuti, Wangu, Kirogo, Wanjengi, Mukangu and Gatheru Sub-Locations of Murang'a County
						0523	Mugorii	29 192	57.40	Comprises Kilia, Mirihu, Gatundu and Kahuro Sub-Locations of Murang'a County
						0524	Mbiri	33 171	42.80	Comprises Muchungucha, Maragi Gikandu, Kambiriwa, Githuri and Mirara Sub-Locations of Murang'a County
						0525	Township	27 484	13.00	Comprises Karuri, Mukuyu and Njogu-ini Sub-Locations of Murang'a County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0526	Murarandia	28 943	60.00	Comprises Gathaihi, Gatuiya, Kaganda, Murarandia and Theri Sub-Locations of Murang'a County
						0527	Gaturi	33 388	44.80	Comprises Gakuyu, Gathuki-Ini, Geitwa/Mugeka, Ruri, Kigongo and Nyakini Sub-Locations of Murang'a County
021	Murang'a	107	Kigumo	123 766	242.10	0528	Kahumbu	19 586	33.20	Comprises Mugumo-Ini, Gakuyu, Gittembe, Kahariro and Kandani Sub-Locations of Murang'a County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
					0529	Muthithi		23 419	35.90	Comprises Mungu- Ini, Kagurumo, Muthithi, Kihiti and Gikarangu Sub-Locations of Murang'a County
					0530	Kigumo		23 320	33.70	Comprises Iriguini, Marumi, Githima and Kirere Sub- Locations of Murang'a County
					0531	Kangari		29 195	63.80	Comprises Makomboki, Mariira and Kangari Sub- Locations of Murang'a County
					0532	Kinyona		28 246	75.50	Comprises Kamukabi, Gachchocho, Kinyona and Gacharage Sub- Locations of Murang'a County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
021	Murang'a	108	Maragya	152 272	466.70	0533	Kimorori/ Wempa	32 365	125.90	Comprises Wempa, Gathungururu and Kimorori Sub- Locations of Murang'a County
						0534	Makuyu	26 910	114.40	Comprises Gakung'u, Makuyu and Kirimiri Sub- Locations of Murang'a County
						0535	Kambiti	21 195	77.80	Comprises Mihang'o, Karia- Ini, Kambiti, Maragua Ridge, Maraniau and Kamuiru Sub- Locations of Murang'a County
						0536	Kamahuha	24 189	47.80	Comprises Iganjio, Kaharati, Kamahuha and Saba Saba Sub- Locations of Murang'a County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0537	Ichagaki	23 253	58.10	Comprises Gikomora, Ichagaki, Kianjiruini and Samar Sub-Locations of Murang'a County
						0538	Nginda	24 360	42.70	Comprises Gakoigo, Gathera, Irembu, Itaaga, Mbugua and Kaharo Sub-Locations of Murang'a County
021	Murang'a	109	Kandara	156 663	236.00					
						0539	Ng'ataria	18 005	21.90	Comprises Kawendo, Naario and Ng'ataria Sub-Locations of Murang'a County
						0540	Muruka	23 535	32.40	Comprises Gatitu, Murukai Kiranga and Nguthuru Sub-Locations of Murang'a County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0541	Kagundu-Ini	28 847	38.30	Comprises Githunguri, Gitura, Kabati, Kagundu-Ini and Kariti Sub-Locations of Murang'a County
						0542	Gaichanjiru	28 363	46.60	Comprises Gaichanjiru, Kagira, Kagumo-Ini, Maria-ini, Ngurwe-ini and Kariua/Githaiti Sub-Locations of Murang'a County
						0543	Ithiru	27 182	37.70	Comprises Gakui/Karimamwiro, Githuya, Kaguthi, Kiiri and Gakarara Sub-Locations of Murang'a County
						0544	Ruchu	30 731	59.10	Comprises Githumu, Gitura, and Mukuria/Gacharage Sub-Locations of Murang'a County

## SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
021	Murang'a	110	Gatanga	163 597	587.20	0545	Ithanga	19 359	68.90	Comprises Kirathani, Kaguku, Mianyan'i, Kwa Mukundi, Mugumo and Thungururu Sub-Locations of Murang'a County
						0546	Kakuzi/ Mitubiri	31 144	217.70	Comprises Gituamba, Kinyangi, Nanga and Thuthua Sub-Locations of Murang'a County
						0547	Mugumo-Ini	23 832	77.80	Comprises Mithanduku-Ini, Mugumo-Ini, Gathambara, Mwiting'i, Gakurai, Ithang'ari and Kigio Sub-Locations of Murang'a County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0548	Kihumbu-Ini	27 131	36.90	Comprises Kagongo, Kihumbu-Ini, Nyaga, Thuita, Gituumba, Kiunyu, Rugaita, Gatiguru, Mukarara, Mukuruwe and Njaiini Sub-Locations of Murang'a County
						0549	Gatanga	23 959	36.80	Comprises Chomo, Gaitanga, Kirwara, Gathanjii, Kiria-Ini, Mureke, Thare and Mabanda of Murang'a County
						0550	Kariara	38 172	149.10	Comprises Gatura, Karangi, Kimakia, Mbugiti, Kiarutara, Kiganjo, Mwago, Kanunga, Kimandi/Wanyaga, Ndaka-Ini, Giachuki, Gitiri, Kigoro, Ndunyu-Chege and Gatunguru Sub-locations of Murang'a County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Km (Approx.)	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
022	Kiambu	111	Gatundu South	114 180	168.80						
							0551	Kiamwangi	20 371	27.80	Comprises Kigongo, Kiamwangi, Nembu and Gathage Sub-Locations of Kiambu County
							0552	Kiganjo	27 134	55.20	Comprises Mundoro, Gachika, Ndundu, Kiganjo, Gatitu and Kiamworia Sub-Locations of Kiambu County
							0553	Ndarugo	20 245	50.40	Comprises Kirangi, Munyu-Ini, Gacharage, Karatu, Gitwe and Karinga Sub-Locations of Kiambu County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Description
022	Kiambu	112	Gatundu North	100 611	246.90	0554	Ngenda	46 430	Comprises Ituru, Kahuguini, Wamwangi, Kirangari, Kimunyu, Handege, Ritho and Githunguchu Sub-Locations of Kiambu County
						0555	Gituamba	25 434	Comprises Mataara, Gituamba, Kiriko, Ndiko, Ngorongo, Maria-Ini and Kanyoni Sub-Locations of Kiambu County
						0556	Githobokoni	21 415	Comprises Kieni, Gakoe, Kamunyaka, Njahi, Mwimuto, Gachege, Gathaithe and Gatei Sub-Locations of Kiambu County

## SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
022	Kiambu	113	Juja	118 793	326.60					
						0557	Chania	26 977	28.80	Comprises Kamwangi, Nguna, Karri, Igegania, Makwa and Muiringo Sub-Locations of Kiambu County
						0558	Mang'u	26 785	29.70	Comprises Nyamangara, Mitero, Mukunwe, Mangu, Gatukiyu and Karuri Sub-Locations of Kiambu County
						0559	Murera	15 887	59.50	Comprises Mugutha Sub-Location of Kiambu County
						0560	Theta	23 134	31.10	Comprises Theta Sub-Location of Kiambu County
						0561	Juja	34 134	45.90	Comprises Kiaora and Minimaini Sub-Locations of Kiambu County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0562	Witeithie	25 777	68.80	Comprises Komo and Witeithie Sub-Locations of Kiambu County
						0563	Kalimoni	19 861	121.30	Comprises Kalimoni Sub-Location of Kiambu County
022	Kiambu	114	Thika Town	165 342	217.60	0564	Township	39 100	38.30	Comprises Kariminu, Biashara and Kianjau Sub-Locations of Kiambu County
						0565	Kameni	74 149	40.00	Comprises Komo and Kameni Sub-Location of Kiambu County
						0566	Hospital	25 523	12.80	Comprises Majengo and Umoja Sub-Location of Kiambu County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
022	Kiambu	115	Ruiru	201 986	179.90	0567	Gatuyanya	14 934	82.10	Comprises Munyu, Gatuyanya and Githima Sub-Location of Kiambu County
						0568	Ngoliba	11 636	44.40	Comprises Ngoliba and Maguguni Sub-Location of Kiambu County
						0569	Gitothua	18 083	20.70	Comprises Gitothua, Mukuyu Sub-Location of Kiambu County
						0570	Biasahara	41 596	8.60	Comprises Viwanda/Biasahara Sub-Location of Kiambu County
						0571	Gatongora	13 807	112.90	Comprises Gatongora Sub-Location of Kiambu County
						0572	Kahawa/Sukari	8 744	4.40	Comprises Kahawa Sukari Sub-Location of Kiambu County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0573	Kahawa Wendani	16 711	1.10	Comprises Kahawa Wendani Sub-Location of Kiambu County
						0574	Kiuu	46 351	4.90	Comprises Kiuu Sub-Location of Kiambu County
						0575	Mwiki	44 760	1.50	Comprises Mwiki Sub-Location of Kiambu County
						0576	Mwioko	11 934	25.80	Comprises Mwioko Sub-Location of Kiambu County
022	Kiambu	116	Githunguri	147 763	173.50					
						0577	Githunguri	36 378	36.70	Comprises Githunguri, Kiaria and Kanjai Sub-Locations of Kiambu County
						0578	Githiga	30 911	40.70	Comprises Gathangari, Githiga, Githia and Matuguta Sub-Locations of Kiambu County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0579	Ikinu	23 668	22.40	Comprises Ikinu, Kiababu, Ngemwa and Rioki Sub-Locations of Kiambu County
						0580	Ngewa	26 292	30.60	Comprises Giathioko, Kimathi, Nyaga and Kiambururu Sub-Locations of Kiambu County
						0581	Komothai	30 514	43.10	Comprises Gathugu, Kibichoi, Kiratina, Mbari ya Igi and Thuita Sub-Locations of Kiambu County
022	Kiambu	117	Kiambu	108 698	105.91	0582	Ting'ang'a	19 727	47.60	Comprises Ting'ang'a, Kagongo, Anner and Kamiti Sub-Locations of Kiambu County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0583	Ndumberi	35 823	16.11	Comprises Ndumberi, Karunga, Ngegu and Kanunga Sub-Locations of Kiambu County
						0584	Riabai	25 909	9.20	Comprises Riabai and Kihingo Sub-Locations of Kiambu County
022	Kiambu	118	Kiambaa	145 053	73.10	0585	Township	27 239	33.00	Comprises Kiambu, Thindigua and Kiamumbi Sub-Locations of Kiambu County
						0586	Cianda	15 119	36.70	Comprises Cianda and Kawaida Sub-Locations of Kiambu County
						0587	Karuri	30 660	14.50	Comprises Njiku, Kiambaa and Karuri Sub-Locations of Kiambu County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0588	Ndenderu	35 853	7.40	Comprises Ndenderu, Ruaka, Wangunyu, Mahindi and Karura Sub-Locations of Kiambu County
						0589	Muchatha	26 544	11.80	Comprises Njoro, Gathanga and Muchatha Sub-Locations of Kiambu County
						0590	Kihara	36 877	2.70	Comprises Gachie and Kihara Sub-Locations of Kiambu County
022	Kiambu	119	Kabete	140 427	60.20	0591	Gitaru	29 177	13.50	Comprises Gitaru, Kanyariri, and Chura Sub-Locations of Kiambu County
						0592	Mugiga	27 527	15.30	Comprises Mugiga, Kahuhuo and Ruku Sub-Locations of Kiambu County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0593	Nyadunu	28 771	17.80	Comprises Nyadhuna, Karangari, Karura and Gathiga Sub-Locations of Kiambu County
						0594	Kabete	30 657	10.10	Comprises Lower Kabete and Kibichiku Sub-Locations of Kiambu County
						0595	Uthira	24 295	3.50	Comprises Uthira Sub-Location of Kiambu County
022	Kiambu	120	Kikuyu	125 402	175.70	0596	Karai	20 420	27.60	Comprises Karai, Gikambura and Gitiba Sub-Locations of Kiambu County
						0597	Nachu	18 655	96.30	Comprises Nachu, Renguti, Kari and Lusigetti Sub-Locations of Kiambu County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
022	Kiambu	121	Limuru	131 132	281.80	0601	Bibirioni	21 202	21.90	Comprises Bibirioni Sub-Location of Kiambu County
						0602	Limuru Central	31 211	25.50	Comprises Limuru Town, Kiminithu, Rironi and Gatimu Sub-Locations of Kiambu County
						0603	Ndeiya	26 387	124.70	Comprises Nduini, Tieikunu, Nderu and Thiaio Sub-Locations of Kiambu County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0604	Limuru East	28 348	57.90	Comprises Mabroukie, Kiawaroga, and Karambaini Sub-Locations of Kiambu County
						0605	Ngecha Tigoni	23 984	51.80	Comprises Ithanji, Ngecha Kabuku and Red Hill Sub-Locations of Kiambu County
022	Kiambu	122	Lari	123 895	439.20	0606	Kinale	26 007	186.50	Comprises Kamae, Kamkombi-ini, Kinale, and Mukuu Sub-Locations of Kiambu County
						0607	Kijabe	27 612	77.50	Comprises Kijabe, Magina, Mbau-ini, Bathi and Kambaa Sub-Locations of Kiambu County
						0608	Nyanduma	23 454	50.20	Comprises Gachoire, Nyanduma and Kagwe Sub-Locations of Kiambu County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0609	Kamburu	18 951	41.60	Comprises Matimbei, Kagaa, Kamburu, and Kamchege Sub-Locations of Kiambu County
						0610	Lari/Kirenga	27 871	83.40	Comprises Escarpment, Kirenga, Githinioni, Gituamba, Lari Settlement, Nyambai and Gatithia Sub-Locations of Kiambu County
023	Turkana	123	Turkana North	166 786	20 020.40	0611	Kaeris	28 398	4082.00	Comprises Kanakurudo, Kaeris, Naclunga, Kangakipur and Milimataku Sub-Locations of Turkana County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Description
						0612	Lakezone	35 033	1909.00 Comprises Kataboi, Lomekui, Katiko, Nachukui, Kokuselei, Riokomor, Lowarengak, Todonyang and Kanamikuny Sub-Locations of Turkana County
						0613	Lapur	30 220	3241.00 Comprises Natioo, Lokitaung, Kachoda, Karebur, Nabulukok, Kokuro, Sasame, Napeikar and Liwan Sub-Locations of Turkana County
						0614	Kaaleng/Kaikor	32 444	3834.00 Comprises Kakeiae, Loitanit, Lokolio, Kaalem, Kotome, Karach II, Nalita and Loruth Esekon Sub-Locations of Turkana County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
023	Turkana	124	Turkana West	207 080	15 444.80	0615	Kibish	25 203	5087.00	Comprises Karach I, Koyasa, Lokomairinyang, Kibish, Naita, Natapar and Kaitede Sub-Locations of Turkana County
						0616	Nakale	15 488	1867.40	Comprises Nakale, Kobwin, Lokore and Losaiait Sub-Locations of Turkana County
						0617	Kakuma	33 539	1577.00	Comprises Namorungole, Nadapal and Tarach Sub-Locations of Turkana County
						0618	Lopur	35 664	1992.00	Comprises Lopur, Lopusiki and Namon Sub-Locations of Turkana County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0619	Letea	37 512	2909.40	Comprises Tulabany, Loritt, Loreng, Namorkirionok, Katilemot, Lokipoto and Loito Sub-Locations of Turkana County
						0620	Songot	17 624	2365.10	Comprises Lokangae, Lopwarin, Lokudule and Songot Sub-Locations of Turkana County
						0621	Kalobeyei	16 378	1599.70	Comprises Kalobeyei, Natura, Lonyuduk, Nalapatui and Oropoi Sub-Locations of Turkana County
						0622	Lokichoggio	38 699	1481.60	Comprises Lokichoggio, Lokarwon, Lotetelit and Loremeit Sub-Locations of Turkana County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
023	Turkana	125	Turkana Central	134 674	4 906.50	0623	Nanaam	27 664	3520.00	Comprises Lopiding, Nanaam, Lomeyan, Lotikipi and Mogila Sub-Locations of Turkana County
						0624	Kerio Delta	34 212	1934.80	Comprises Kangirisa, Nakoret, Lorengelup, Nakurio, Kerio, Kakimat, Kangagetet and Nadoito Sub-Locations of Turkana County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
						0626	Kalokol	19 477	1134.90	Comprises Namadak, Kalokol, Kapua Sub-Locations of Turkana County
						0627	Lodwar Township	35 506	544.40	Comprises Lodwar Town, Nakwamekwi and Napetet Sub-Locations of Turkana County
						0628	Kanamkemer	22 784	287.40	Comprises Kanamkemer and Nawoitong Sub-Locations of Turkana County
023	Turkana	126	Loima	120 480	7 776.10	0629	Kotaruk /Lobei	31 629	1138.60	Comprises Kotaruk, Naipa, Lokipetot - Areng'an, Kalemunyang and Lobei Sub-Locations of Turkana County

## SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0630	Turkwel	47 399	3518.20	Comprises Turkwel, Napeikar, Tiya, Lorigum, Kapus, Nadapal, Kawalatthe, Lomeyan and Nachuro Sub-Locations of Turkana County
						0631	Loima	20 396	2119.10	Comprises Puch, Namoruputh, Lochor-Ekyuen, Lochor Edome, Sub-Locations of Turkana County
						0632	Lokirrama/ Lorengippi	21 056	1000.20	Comprises Lokirrama, Lochor-alomala, Atalokamusio, Lorengippi, Kaemanik, Nakurio, Lodwat, Loya and Loima Sub-Locations of Turkana County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
023	Turkana	127	Turkana South	135 913	7 710.60	0633	Kaputit	15 119	682.00	Comprises Lorokon, Nakwamor and Kalomwae Sub-Locations of Turkana County
						0634	Katiliu	41 924	1143.10	Comprises Kalemingorok, Katiliu, Lokapel and Kanaodon Sub-Locations of Turkana County
						0635	Lobokat	11 128	1002.10	Comprises Kainuk, Loyapat and Kakong Sub-Locations of Turkana County
						0636	Kalapata	23 509	1984.30	Comprises Loperot, Kalapata and Nakaalei Sub-Locations of Turkana County
						0637	Lokchar	44 233	2899.10	Comprises Kapese, Lokichar, Lochwangimatak and Napusimoru Sub-Locations of Turkana County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
023	Turkana	128	Turkana East	90 466	15 739.40	0638	Kapedo /Napaitom	25 438	4215.90	Comprises Silale, Kapedo, Lomelo, Katir, Napaitom, Nadome, Ekipor, Kamuge and Noliukia Sub-Locations of Turkana County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
024	West Pokot	129	Kapenguria	139 500	1 530.70	0641	Riwo	27 527	736.40	Comprises Adurkoi, Kanyarkwat, Katikomor, Kreswo, Chepkram, Kamayech, Mtembur, Serewo, Kitakapel, Kongelai, Poole, Simawa, Chemakeu, Chesira, Emboasis and Miskwony Sub-Locations of West Pokot County

## SCHEDULE—continued

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
										Merur, Narkwjjit, Rukei, Tamarukwo and Tonoyo Sub- Locations of West Pokot County
										Comprises Kolo, Leiwa, Tamugh, Mungit, Tindar, Chepkemos, Kochar, Psapai, Simat, Tompul and Chepnyal Sub- Locations of West Pokot County
						0646	Sook	12 414	151.00	Comprises Kolo, Leiwa, Tamugh, Mungit, Tindar, Chepkemos, Kochar, Psapai, Simat, Tompul and Chepnyal Sub- Locations of West Pokot County
024	West Pokot	130	Sigor	85 079	2 384.10	0647	Sekerr	16 936	656.00	Comprises Nasolot, Sarmach, Parek, Chepondol, Mbara, Orwa and Sostin Sub- Locations of West Pokot County
										Comprises Akiariamet, Amolem, Tikit, Amaler,
						0648	Masool	15 744	771.10	

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
										Chepsatum and Nyangaita Sub-Locations of West Pokot County
						0649	Lomut	24 768	452.00	Comprises Annet, Pitrap, Sukuk, Kokwositol, Lebei, Nyarportwo, Mogho, Pitasis, Seito, Toghamo, Kaparet, Kokwoptorir, Mams and Pkopogh Sub-Locations of West Pokot County
						0650	Wei Wei	27 631	505.00	Comprises Korelach, Ptokou, Sangat, Takar, Kokotendwo, Soka, Wakorr, Yawayaw, Karapogh, Kitoyo, Ptalam and Solion Sub-Locations of West Pokot County

## [Subsidiary]

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
024	West Pokot	131	Kacheliba	156 011	3 856.20	0651	Suam	22 223	393.10	Comprises Kanyerus, Kopulio, Nakuyen, Karon, Kacheliba and Ngengechwa Sub-Locations of West Pokot County
						0652	Kodich	22 539	283.80	Comprises Lokichar, Orolwo, Kalemgorok, Kodich, Cherangan and Karameri Sub-Locations of West Pokot County
						0653	Kasei	14 765	782.50	Comprises Kasei, Kamkeito, Karokou, Sirwach, Korpu, Kachawa, Kapitolomwo, Ompolion, Kamunono and Sub-Locations of West Pokot County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
						0654	Kapchok	24 684	438.20	Comprises Konyao and Kapyen Sub-Locations of West Pokot County
						0655	Kiawa	28 235	938.60	Comprises Kases, Kiawa, Chelopoy, Mbaru, Kaurieng, Lopet, Chepolog, Pcholio and Kamunai Sub-Locations of West Pokot County
						0656	Alale	43 565	1020.00	Comprises Kopito, Lorsuk, Apijke, Kola, Kodii, Akoret, Alale, Naruoro, Amakuriat, Kalapata, Mekuyo, Nauyapong, Lokitonyala and Sasak Sub-Locations of West Pokot County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
024	West Pokot	132	Pokot South	132 100	647.20					
						0657	Chepareria	41 563	149.00	Comprises Chepturungny, Korellach, Senetwo, Sla, Chepkopech, Chesra, Pserum, Sharpogh, Chepareria, Kosuiol, Tampala, Kapohemogen, Mongorion, Propoi and Ywaleike Sub-Locations of West Pokot County
						0658	Batei	30 773	163.00	Comprises Parua, Pusol, Chepkoriong, Sebit, Kerewa, Moipus, Subukwo and Ortum Sub-Locations of West Pokot County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0659	Lelam	33 527	130.00	Comprises Cheparten, Kapsangar, Kapribuk, Meshau, Mokoyon, Chepkono, Simotwo, Tonoyon, Chesubet, Kabichbich, Kapkanyan, Kapsait and Mbayai Sub-Locations of West Pokot County
025	Samburu	133	Samburu West	81 094	2 295.50			0660	Tapach	26 237 205.20 Comprises Chebon, Nyarpat, Kale, Nyarkulian, Sina, Tangasia, Kamelei, Kokwopsis and Tapach Sub-Locations of West Pokot County
								0661	Lodokejek	14 020 464.60 Comprises Lodokejek, Mbarigon, Lonkaitolia,

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
										Lmisigiyoi, Garma, Mugur, Kirimun and Lkironiti Sub-Locations of West Pokot County
0662						0662	Suguta Marmar	11 905	559.00	Comprises Logorate, Suguta Marmar, Longewan, Amaya, Nasur and Lomolog Sub-Locations of Samhnm County
0663						0663	Maralal	34 351	221.60	Comprises Maralal Town, Lkoroto, Shabaa, Ngari, Ledero, Miilmani and Lpartuk Sub-Locations of Samburu County
0664						0664	Loosuk	10 240	490.80	Comprises Loosuk, Tinga, Malaso and Pura Sub-Locations of Samburu County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
025	Samburu	134	Samburu North	83 759	8 175.80	0665	Porro	10 578	559.50	Comprises Siambu, Seketet, Mugur, Iporowua/Malaso, Lemisigyo, Sirata Nairobi, Nauneiri and Ngemuny Sub-Locations of Samburu County
						0666	Ei-Barta	13 675	1022.40	Comprises Bendera, Naling'ang'or, Baragoi Town, Ngial, Marti, Suyan and Maskita Sub-Locations of Samburu County
						0667	Nacholia	12 824	2179.00	Comprises Nacholia, Nakuparat, Tenter, Lonyangaten, Kaleie, Lokorkor, and Emoru-Akiing Sub-Locations of Samburu County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0668	Ndoto	14 912	1776.90	Comprises Lesirikan, Lodua, Arsim, Illaut, Loikumkum, Ngurionit, Latakweny and Seren Sub-Locations of Samburu County
						0669	Nyiro	19 592	1689.10	Comprises Lkotikal, Uaso Rongai, Simale, South Horr, Tuum, Parkati, Ijuk, Loonjorin, Lkayo, Lusurkoi and Nakweny Sub-Locations Samburu County
						0670	Angata Nayokie	9 747	569.60	Comprises Lulu, Morijo, Soit Naibor, Barsaloi, Loibashai and Angata Nyokie Sub-Locations of Samburu County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
025	Samburu	135	Samburu East	59 094	9 711.20	0671	Baawa	13 009	938.80	Comprises Moru, Baawa, Ibukoi, Mabati, Opiroi, Lorrok-lolmong'o and Nonkeek Sub-Locations of Samburu County
						0672	Waso	17 796	4950.40	Comprises Archer's Post, Lerata, Losesia, Sere-Olipi, Ndonyo Wuasin, Lengusaka and Laresoro Sub-Locations of Samburu County
						0673	Wamba West	13 713	999.40	Comprises Lpus Leuai, Ngutuk Ongiron, Remot, Sesia, Lengei, Litimin, Lpus, Nkaloni, Resim and Silango Nanyokie Sub-Locations of Samburu County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
						0674	Wamba East	16 063	1467.50	Comprises Lpashe, Kotting, Wamba, Matakwani, Golgotim and Lkisin Sub-Locations of Samburu County
						0675	Wamba North	11 522	2293.90	Comprises Nkare Narok, Lorrok-Onyokie, Raraiti, Swari, Lmarmaroil and Ngilai Central Sub-Locations of Samburu County
026	Trans Nzoia	136	Kwanza	166 524	511.90					Comprises Kapomboi, Kobos, Namajalala, Liyavo and Kapsiwet Sub-Locations of Trans Nzoia County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0677	Kwanza	55 647	165.90	Kwanza, Anuka, Kaisagat and Karau Sub-Locations of Trans Nzoia County
						0678	Keiyo	33 297	182.00	Comprises Kapkoi, Kolongolo and Keiyo Sub-Locations of Trans Nzoia County
						0679	Bidii	21 498	26.60	Comprises Bidii Sub-Location of Trans Nzoia County
026	Trans Nzoia	137	Endebess	137 655	680.00					
						0680	Chepchoina	48 778	325.70	Comprises Twiga, Kaptega and Kiptogot Sub-Locations of Trans Nzoia County
						0681	Endebess	43 358	202.00	Comprises Chorilm and Endebess Sub-Locations of Trans Nzoia County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0682	Matumbei	45 519	152.30	Comprises Matumbei and Mubere Sub-Locations of Trans Nzoia County
026	Trans Nzoia	138	Saboti	114 249	388.10					
						0683	Kinyoro	39 645	149.50	Comprises Teldet, Kinyoro and Kipyowian Sub-Locations of Trans Nzoia County
						0684	Matisi	34 942	40.10	Comprises Grassland, Kipsongok and Matisi Sub-Locations of Trans Nzoia County
						0685	Tuwani	39 662	4.20	Comprises Tuwani and Bondeni Sub-Location of Trans Nzoia County
						0686	Saboti	34 988	150.30	Comprises Saboti and Kiboro Sub-Locations of Trans Nzoia County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
026	Trans Nzoia	139	Kiminini	205 156	333.00	0687	Machewa	49 999	44.00	Comprises Machewa Sub-Location of Trans Nzoia County
						0688	Kiminini	33 764	143.00	Comprises Kiminini Sub-Location of Trans Nzoia County
						0689	Waitaluk	40 377	50.00	Comprises Kapkoi Sisal Sub-Location of Trans Nzoia County
						0690	Sirende	23 677	32.00	Comprises Sirende Sub-Location of Trans Nzoia County
						0691	Hospital	30 234	26.00	Comprises Milimani, Naisambu Sub-Locations of Trans Nzoia County
						0692	Sikhendu	38 373	41.00	Comprises Sikhendu Sub-Location of Trans Nzoia County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0693	Nabiswa	38 731	41.00	Comprises Nabiswa Sub-Location of Trans Nzoia County
026	Trans Nzoia	140	Cherangany	195 173	556.90					
						0694	Sinyere	25 890	72.40	Comprises Sinyere Sub-Location of Trans Nzoia County
						0695	Makutano	18 362	80.80	Comprises Biribiret, Kapolet and Kapsara Sub-Locations of Trans Nzoia County
						0696	Kaplamai	25 257	59.50	Comprises Kimoson Sub-Locations of Trans Nzoia County
						0697	Motoset	33 185	109.80	Comprises Motoset and Nzoia Sub-Locations of Trans Nzoia County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0698	Cherangany/Suwerwa	36 556	89.00	Comprises Kachibora, Geta, Kiptoi, Kaplumbo, Kapierit and Kapkarwa Sub-Locations of Trans Nzoia County
						0699	Chepsiyo/Kiptoror	29 559	82.00	Comprises Kibuswa, Kapsigilai, Millimani and Top Suwerwa Sub-Locations of Trans Nzoia County
						0700	Sitatunga	26 364	63.40	Comprises Sitatunga Sub-Location of Trans Nzoia County
027	Uasin Gishu	141	Soy	171 941	682.40					
						0701	Moi's Bridge	30 142	100.30	Comprises Moi's Bridge Sub-Location of Uasin Gishu County
						0702	Kapkures	19 076	28.80	Comprises Matunda Sub-Location of Uasin Gishu County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0703	Ziwa	18 143	65.10	Comprises Ziwa, Kerotet, Sirkwa, Legebet Sub-Locations of Uasin Gishu County
						0704	Segeta/ Barsombe	20 914	70.40	Comprises Segero, Kapngetumy, Barsombe, Chepterit, Kiborokwa part of Kaisagat Sub-Locations of Uasin Gishu County
						0705	Koisagat/ Kapsang	17 956	99.00	Comprises Lolkinyei, Kapsang, Part of Koisagat Sub-Locations of Uasin Gishu County
						0706	Kipsomba	19 183	117.70	Comprises Kipsomba Sub-Location of Uasin Gishu County
						0707	Soy	25 068	135.20	Comprises Soy and Kongasis Sub-Locations of Uasin Gishu County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
027	Uasin Gishu	142	Turbo	208 583	364.60	0708	Kuinet/ Kapsuswa	21 459	65.90	Comprises Kuinet and Part of Kamukunji Sub-Locations of Uasin Gishu County
						0709	Ngenyilel	30 805	95.60	Comprises Chepsaita and Osorongai Sub-Locations of Uasin Gishu County
						0710	Tapsagoi	30 515	74.50	Comprises Tapsagoi, Turbo, Kaptebee and Kapkong Sub-Locations of Uasin Gishu County
						0711	Kamagut	28 290	63.60	Comprises Sosiani and Leseru Sub-Locations of Uasin Gishu County
						0712	Kiplombe	51 835	110.70	Comprises Kiplombe and Kilimani Sub-Locations of Uasin Gichu County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
027	Uasin Gishu	143	Moiben	138 409	566.50	0713	Kapsaos	67 138	20.20	Comprises Kapsaos and Huruma (including Market) Sub-Locations of Uasin Gishu County
						0714	Tembelio		28 021	119.40 Comprises Kapkei, Eleyo border, Kamaua, Kimoning, Cheburbur, Kapituktuk and Tuiyo-Tuk Sub-Locations of Uasin Gishu County
						0715	Sergoit		16 220	172.00 Comprises Chepkoiel, Sergoit and Kejji Sub-Locations of Uasin Gishu County
						0716	Karuna/Meibeki	26 048	140.40	Comprises Uswo, Kapiolo, Chepiaskei, Sosio, Meibeki and Kapsiliot Sub-Locations of Uasin Gishu County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0717	Moiben	25 774	111.80	Comprises Merewet, Torochmoi, Moiben, Tolaita and Kapsubere Sub-Locations of Uasin Gishu County
						0718	Kimumu	42 346	22.90	Comprises Kimumu and Sigot Sub-Locations Uasin Gishu County
027	Uasin Gishu	144	Ainabkoi	118 089	591.80					
						0719	Kapsoya	38 421	43.40	Comprises Kapsoya Sub-Location of Uasin Gishu County
						0720	Kaptagat	41 105	68.50	Comprises Tendwo, Latonyok, Kipsinende, Kongasis, Kileges, Cheptigit, Kapsundei,

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
027	Uasin Gishu	145	Kapserset	121 178	451.00	0722	Simat/Kapserset	31 030	Songich, Chepkongony and Chesogor Sub-Locations of Uasin Gishu County
								148.30	Comprises Simat, Lemook and Chepkaret Sub-Locations of Uasin Gishu County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0723	Kipkenyo	20 800	69.80	Comprises Kipkaren Estate A, B, C, Cheranya, Pioneer Estate block B, Homecraft and Part of Langas Sub-Locations of Uasin Gishu County
						0724	Ngeria	23 427	106.00	Comprises Kabongo, Kaplelach, Part of Langas, Oasis and Oleripes Sub-Locations of Uasin Gishu County
						0725	Megun	12 836	80.40	Comprises Megun, Songoliet and Ndubneti Sub-Locations of Uasin Gishu County
						0726	Langas	33 085	46.50	Comprises Langas block 1, 2, 3 and 4, Kasarani Block A, B, C and Yamumbi Sub-Locations of Uasin Gishu County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
027	Uasin Gishu	146	Kesses	135 979	299.00	0727	Racecourse	29 555	46.50	Comprises Langas Sub-Location of Uasin Gishu County
						0728	Chepitiret/ Kipchamo	27 657	110.10	Comprises Saruiyat, Lengut, Mugundoi, Kapitomo, Chepitiret and Emekwien Sub-Locations of Uasin Gishu County
						0729	Tulwet/Chiyat	41 084	62.70	Comprises Kesses, Tulwet, Koisagat and Lingwai Sub-Locations of Uasin Gishu County
						0730	Tarakwa	37 683	79.70	Comprises Tarakwa, Leinguse, Kipkurete and Chagaio (Timboroa) Sub-Locations of Uasin Gishu County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
028	Elgeyo-Mara	147	Marakwet East	78 749	784.30					
						0731	Kapyeego	17 057	308.60	Comprises Kesom, Kapyeego, Kararia, Segut, Kamasia and Chepiobut Sub-Locations of Elgeyo Marakwet County
						0732	Sambirir	21 585	145.30	Comprises Maina, Metipso, Nyirar, Kapkuto, Chemworit, Kimuren, Chesoii, Turturung, Chesioyo, Muswon, Rocho, Enou, Kisoka, Maruber, Lukuket, Kombases, Chesetan, Chugor, Mogil and Kipyebu Sub-Locations of Elgeyo maraket County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0733	Endo	21 619	178.60	Comprises Kaben, Marich, Barkelat, Talai, Kiswei, Kasemoi, Sagat, Sibow, Kakipui, Olot, Ketut and Kapkondot Sub-Locations of Elgeyo Marakwet County
						0734	Embobut/ Embulot	18 488	151.80	Comprises Korou, Kaitamoi, Mumol, Endul, Maron and Kipchumwa Sub-Locations of Elgeyo Marakwet County
028	Elgeyo-Mara	148	Marakwet West	108 374	804.60			0735	Lelan	20 111
										198.40
										Comprises Chemosong, Chorwo, Kapialamwa, Kapkochur, Kapchepsar, Kapsait, Kimnai,

[Subsidiary]

## SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
										Kokwangoi and Kibigos Sub-Locations of Elgeyo Marakwet County
						0736	Sengwer	18 903	161.50	Kapferit, Kipsambach, Korongoi, Kapcherop, Kipsiro, Kakisong'a, Kamoi and Kibuga Sub-Locations of Elgeyo Marakwet County
						0737	Cherang'any/ Chebororwa	18 172	95.20	Comprises Chebai, Tenden, Koitugum, Kamanin, Kabelio, Busiesoo and Kondabiliet Sub-Locations of Elgeyo Marakwet County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0738	Moiben/ Kusewo	19 277	147.00	Comprises Yemit, Jemunada, Sumbeiy wet, Kilima, Cheptongei, Nerkwo and Chebiemit Sub-Locations of Elgeyo Marakwet County
						0739	Kapsowar	25 423	123.90	Comprises Kapsowar, Kapsumai, Kobuswo, Sangurur, Tuiyobel, Kipsaiya and Sisiya Sub-Locations of Elgeyo Marakwet County
						0740	Arrior	6 488	78.60	Comprises Arrior, Resim, Chepkum, Kapchemuta, Niwai and Kotiili Sub-Locations of Elgeyo Marakwet County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
028	Elgeyo-Mara	149	Keiyo North	73 715	557.40	0741	Kamariny	25 057	Comprises Kaplamai, Sergoit, Kiptabus, Katalel, Chesitek, Kipsoen, Chelingwa, Kapteren and Kapkoi Sub-Locations of Elgeyo Marakwet County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
028	Elgeyo-Mara	150	Keiyo South	109 160	903.40	0744	Kapobhemutwa	23 126	111.50	Comprises Korkitony, Kendur, Kapkatui, Bugar, Kapkonga, Sing'ore, Kapkessum, Chebokokwaa, Mindiliwa and Iten Township Sub-Locations of Elgeyo Marakwet County
						0745	Kaptarakwa	19 069	153.60	Comprises Chebior, Kitany, Kaptarakwa, Mokwo, Kapiagat, Kipulos and Kapkenda Sub-Locations of Elgeyo Marakwet County
						0746	Chepkorio	23 349	97.30	Comprises Flax, Chepkorio, Lelboinei, Kamellii, Samich, Cherota,

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
										Kapchepteck, Kipsaina and Mwen Sub-Locations Elgeyo Marakwet County
						0747	Soy North	14 457	215.20	Comprises Kabito, Chebininyi, Epke, Chepsigot, Cheptebo, Rokocho, Emsea, Changach, Kapsokom, Sego and Muskut Sub-Locations of Elgeyo Marakwet County
						0748	Soy South	20 370	234.60	Comprises Morop, Turesia, Chop, Tumeiyø, Chepsirei, Koimur, Enego, Kocholwo, Salawa, Molol and Kapkosom Sub-Locations of Elgeyo Marakwet County

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## [Subsidiary]

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0749	Kabiemit	18 970	132.90	Comprises Kapchebel, Kabiemit, Cheboen, Kapkoma, Tumeiyo, Ketigoi, Chepkosom, Chepkurmum, Tambul, Kipkomwo and Kapkitony Sub-Locations of Elgeyo Marakwet County
						0750	Metkei	12 945	69.80	Comprises Kapchorua, Kamwosor, Kombatich, Kimmet, Cheboge, Kiptengwer, Kipsaos, Kabirirus and Tugumo Sub-Locations of Elgeyo Marakwet County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
029	Nandi	151	Tindiret	105 044	580.90	0751	Songhor/Soba	39 934	192.50	Comprises Taunet, Songhor, Sokosik, Kibukwo, Cherondo, Kabirer, Matampach, Kaplelach, Got ne tel, Tebeson, Senetwo, Sigoria, Kamilet, Kapkitany, Mombwo, Cheptionon, Soba River, Kabolebo and Kabutie Sub-Locations of Nandi County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
										Kaplamaicyo, Kamelli, Kimatikei, Mbogo Vale and Setek Sub-Locations of Nandi County
										Comprises Keben, Koilot, Sochoi, Lolduga, Kapkorio, Olessos, Mogooin, Siglai and Cheptuingeny Sub-Locations of Nandi County
						0753	Ollessos	19 396	67.90	Comprises Serengonik, Kipkorom, Kapchorua, Sirwa, Kapkoros, Tereno, Kapsokio, Ainapring'etuny, Toroton, Kisoga and Keibui Sub-Locations of Nandi County
						0754	Kapchorua	17 818	161.30	

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
029	Nandi	152	Aldai	149 256	458.10	0755	Kabwareng	22 807	47.20	Comprises Koibarak, Chebara, Kereri, Kenyor, Chepkuny and Kapkeben Sub-Locations of Nandi County

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## [Subsidiary]

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0758	Kobujoi	26 539	80.80	Comprises Kapsagawat, Kiptaruswo, Chebillat, Chepketeemon, Kibwareng, Boi, Samitui and Kesogon Sub-Locations of Nandi County
						0759	Kaptumuo/Kaboi	24 464	97.80	Comprises Chepkongony, Ibania, Kamarich, Kaboi, Mugundai, Kapsoo and Mosombor Sub-Locations of Nandi County
						0760	Koyo/Ndurio	19 905	69.40	Comprises Keburo, Koyo, Toret moi, Kapsaiyo, Nduriyo, Sarma, Kapkolei, Urugoi, Kimolwo, Kaburon, Kaborogin and Kapsaos Sub-Locations of Nandi County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
029	Nandi	153	Nandi Hills	103 181	403.40	0761	Nandi Hills	33 545	74.40	Comprises Kosoiywo, Sinendet, Samoei, Chemoni, Soiyet, Kirondio, Kipsebwo, Kalei, Kabote, Cheptiliik, Kaprien, Kapkoros, Kapngeturuy, Tururo, Kipsamoo, Chebarus, Kaplelmet, Kimoroniik, Keteng and Keibarak Sub-Locations of Nandi County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
							Kapkembur, Cheboin, Kipchamo and Kipkeigei Sub-Locations of Nandi County			
0763						0763	Chemell/ Chemase	14 479	127.80	Comprises Chemelli, Tambul, Kimwani, Kapk Wong, Kibsem, Kibigong and Chemursoi Sub-Locations of Nandi County
0764						0764	Kapsimatwo	18 382	72.50	Comprises Kapsimotwo, Chematich, Kibwareng, Chepsire, Barasendu, Temso, Chepkoijo, Kiptegat, Chepsangor and Matema Sub-Locations of Nandi County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
029	Nandi	154	Chesumei	130 752	472.10	0765	Chemundu/ Kapng'etunyi	25 403	52.30	Comprises Kapng'etunyi, Kamurguiywo, Baraton Sub- Locations of Nandi County
						0766	Kosirai	25 741	92.50	Comprises Kaptildil, Tebeson, Mosoriot, Mateket, Belekenya, Cheperit, Kamonjii, Kokwet, Kosirai, Ndapirabwa and Segut Sub- Locations of Nandi County
						0767	Lelmoko/ Ngacheck	23 354	106.30	Comprises Lelbonet, Ngacheck, Kipchunu, Mutwot, Kiboswa, Ndonya Ngaria, Itigo, Ainamoi Kipkongowwa, Bibriet, Lelmokwo and Chepiatit Sub- Locations of Nandi County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0768	Kaptel/ Kamoiywo	31 375	149.60	Comprises Kaptel, Chepkober, Talai, Sironoi, Kimngeru, Saniak, Kamoiywo and Kombe Sub-Locations of Nandi County
						0769	Kiptuiya	24 879	71.40	Comprises Kiptuiya, Kaptoongen and Kapchorwa Sub-Locations of Nandi County
029	Nandi	155	Emgwen	130 084	368.40	0770	Chepkumia	21 283	87.00	Comprises Chepkumia and Cheboite Sub-Locations of Nandi County
						0771	Kapkangani	23 994	43.20	Comprises Chepsonoi, Tindinyo and Kiborgok Sub-Locations of Nandi County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Description
						0772	Kapsabet	35 962	74.50 Comprises Kapsabet Town, Kiminda, Meswo and Kamobo Sub-Locations of Nandi County
						0773	Kilibwoni	48 845	163.70 Comprises Kipsotoi, Kipsigak, Kapkeruge, Chesuwe, Kabirirsang, Underit, Kimaaam, Kipture, Irimis, Kaplamai, Kapsumbejywo, Kapchemoywo, Kaptagunyo, Tiryo, Arwos, Kapendon, Kilbwoni, Kaplonyo, Kapchepsir, Kapchumba, Kiptenden, Tulon, Kapnyebrai, Emdin, Terige, Songoliet, Kiplorok,

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
029	Nandi	156	Mosop	134 648	601.60	0774	Chepterwai	18 944	73.30	Comprises Kamasai, Soimining, Chepterwai, Cheptionon, Teresia, Cheptili, Kimgoror, Kapkoimur and Kapkenyeroi Sub-Locations of Nandi County
						0775	Kipkaren	19 147	93.90	Comprises Sarora, Kapsertion, Laboret, Ngeniel, Kipkaren Salient and Chepkemel Sub-Locations of Nandi County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0776	Kurgung/ Surungai	18 225	82.20	Comprises Rubet, Kurgung, Kamungei, Kapitch, Kapsabao, Ngoroin, Surungai, Koiban and Koisolik Sub-Locations of Nandi County
						0777	Kabiyet	19 262	77.20	Comprises Kapkagaron, Kamasia, Lolkeiringet, Cheptuiyet, Kabiyet Township, Ndielele and Kaiboi Sub-Locations of Nandi County
						0778	Nodalat	18 651	75.10	Comprises Kabiemit, Kapkatei and Kaplemur, Ndalat, Kaigat, Lemook and Chemnoet Sub-Locations of Nandi County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0779	Kabisaga	19 029	78.80	Comprises Kabisaga, Chepkoiyo, Cheptil, Sigtot and Chepkaret Sub-Locations of Nandi County
						0780	Sangalo/ Kebulonik	21 390	121.10	Comprises Kipsomoite, Sangalo, Kamwega, Cheplaibek and Ebulonik Sub-Locations of Nandi County
030	Baringo	157	Tiaty	133 189	4 540.48			0781	20 362	1102.68 Comprises Ngaina, Mirgisi, Ngoron, Angoritiang, Kulal, Akoret, Loks and Kapedo North Sub-Locations of Baringo County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0782	Kolowa	19 499	752.55	Comprises Kolowa, Barbello, Chepkererat, Tilingwo, Loiwat, and Kipnai Sub-Locations of Baringo County
						0783	Ribkwio	14 572	871.49	Comprises Maron, Kabedo West, Chesakam, Nginyang' West, Kositei and Sereton Sub-Locations of Baringo County
						0784	Siale	21 947	335.36	Comprises Kwichatis, Nasarot, Napukut, Kapedo East, Nakoko and Losikiriamoi Sub-Locations of Baringo County
						0785	Loiyamorok	13 885	597.80	Comprises Chemuro, Nginyang' East, Pako, Kokore and Loruk-Kongasis Sub-Locations of Baringo County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0786	Tangulbei/Korossi	21 697	591.25	Comprises Tuwo, Chepelion, Kokwotot, Makany, Kadokoi, Orus, Tangulbei, Nakorete, Kechii, Chemoigut, Komolion and Korossi Sub-Locations of Baringo County
						0787	Churo/Amaya	21 227	289.35	Comprises Chepelow, Kachilitwa, Putero, Amaya, Churo, Tebelekwo and Kapituya Sub-Locations of Baringo County
030	Baringo	158	Baringo North	93 789	1 703.50	0788	Barwessa	23 986	475.70	Comprises Ayatyā, Marigut, Kulkui, Kaptiimwo, Barwesa, Konoo, Keturwo, Muchukwo, Katibel and Kapluk Sub-Locations of Baringo County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0789	Kabartonijo	19 092	126.70	Comprises Kapkruok, Kapkaimo, Mosop, Kasaka, Tilo, Kaptum, Sumeiyon, Kaimugul, Lelian, and Tiriondonin Sub-Locations of Baringo County
						0790	Saimo/Kipsaraman	21 046	85.60	Comprises Kapkoiwo, Kapkombe, Tirimionin, Kasisit, Kapchekor, Kapiere, Bartolimo and Issas Sub-Locations of Baringo County
						0791	Saimo/Soi	17 814	542.00	Comprises Taimon, Akorian, Koroto, Barketiew, Sibilo, Rondinin, Loruk and Kipcherere Sub-Locations of Baringo County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
030	Baringo	159	Baringo Central	81 480	588.52	0792	Bartabwa	11 851	473.50	Kinyach, Kapturo, Kalabata, Bartabwa, Kesumet, Atiar, Terik and Tuluk Sub-Locations of Baringo County
						0793	Kabarnet	23 430	165.68	Lelmen, Kapyemit, Salawa, Kinoso, Sironoi, Kiboino, Moloi, Seguton, Kewanoi and Kapcheperit Sub-Locations of Baringo County
						0794	Sacho	15 230	105.98	Kaptunoi, Saimet, Kapkelawa, Kapiriony, Kapiei, Kasetan, Kabarak, Timboiywo and Kabasisi Sub-Locations of Baringo County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0795	Tenges	9 567	123.94	Comprises Eitui, Cheplambus, Koibarak, Ochi, Tabarin, Kisonei, Kibe, Tenges and Sorok Sub-Locations of Baringo County
						0796	Ewale/ Chapchap	17 021	96.57	Comprises Kituro, Kapitomo, Kipkaech, Kaptiorokwo/Kitumb bei, Seretunin, Kapkiai, Chebunyur, Tiriony and Morop Sub-Locations Baringo County
						0797	Kapropita	16 232	96.35	Comprises Riwo, Chebano, Kinyo, Kapsolo/Borowonin, Kapcherebet/Turku, Kaprogonya, Kurumbompsoo and Sagesak Sub-Locations Baringo County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
030	Baringo	160	Baringo South	80 871	1 985.11	0798	Mariyat	27 892	682.71	Comprises Sabor, Koriema, Kimalei, Kibingoi, Ketemwa, Koitillion, Kabusa, Perkerra, Yatoi, Endao, Tuluongoi, Kaptich, Bekibon, Tinomoi, Moigutwo, Sogon and Tabei Sub-Locations of Baringo County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
										Sandai, Mbechot, Kasiela, Mochongoi, Kapnairok, Kamaili, Kimoriot, Kapkecher and Maji Ndege Sub-Locations of Baringo County
						0801	Mukutani	9 503	534.90	Comprises Rugu, Mukutani, Ngaleche, Arabal, Logumgum and Kisienian Sub-Locations of Baringo County
030	Baringo	161	Mogotio	60 959	1 303.87					Comprises Sore, Sirwa, Kaburgei, Kapteit, Koitebes, Rosoga, Nguberet, Chemongoch, Kipsogon, Mogotio, Kapkein, Kimng'orom, Kiptiorm

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
										Legetewet, Olbat, Ndania, Kiprot and Sagasagik Sub-Locations of Baringo County
										MaijMoto, Kapiewo, Radad, Molos, Kamar, Oterit, Chemoinoi, Eminin, Kimose, Kabogor and Cheberen Sub-Locations of Baringo County
						0803	Emining	16 508	529.21	Comprises
										Chebirebei, Waseges, Kiribot, Nyalibuch, Kabuswo, Kamasai, Kabargei, Koitiimet, Ngendalei, Kisana, Koisaram, Oldebes, Chomiek, Molosiwe,
						0804	Kisanana	16 658	487.13	Comprises

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Description
030	Baringo	162	Eldama Ravine	105 273	953.82	0805	Lembus	21 140	Mugurin, Mukuyuni, Turkulu, Kapnosgei, Kipnyung'unj, Ol Kokwe, Kibomoi, Chepyuan and Tinoseik Sub-Locations of Baringo County
						0806	Lembus Kwen	20 207	Comprises Timboroa, Tinet, Torongo, Tripkatoi, Mwachon and Tugumoi Sub-Locations of Baringo County

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[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0807	Ravine	17 026	33.55	Comprises Ravine Town, Benonin and Kabiyet Sub-Locations of Baringo County
						0808	Mumberes /Maii Mazuri	18 881	214.80	Comprises Mumberes, Maii Mazuri, Equator and Makutano Sub-Locations of Baringo County
						0809	Lembus/Perkerra	15 871	130.20	Comprises Perkerra, Tuiyotich, Tonioi, Kabimoi, Saos, Sagat, Tolmo, Orongai and Cheraik Sub-Locations of Baringo County
						0810	Koibatek	12 148	254.37	Comprises Solian, Kirobon, Kipkaber, Kiplombe, Leblos, Kaplelach and Orinie Sub-Locations of Baringo County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
031	Laikipia	163	Laikipia West	203 459	2 783.80	0811	Oi-Moran	17 731	590.60	Comprises Oi-Moran, and Dimkon Sub-Locations of Laikipia County
						0812	Rumuruti Township	21 630	509.30	Comprises Rumuruti Township, Ndurumo and Lorian Sub-Locations of Laikipia County
						0813	Githiga	28 102	135.60	Comprises Mithiga and Mwenje Sub-Locations of Laikipia County
						0814	Marmaret	42 629	364.10	Comprises Muhotetu, Karaba, Kabage, Triogo, Kiambogo, Melwa, Olibet and Siron Sub-Locations of Laikipia County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0815	Igwamiti	69 491	269.60	Comprises Ngoru, Shamanei, Lusegwa, Maina, Ndunyu, Manguo, Kaiti and Mathengera Sub-Locations of Laikipia County
						0816	Salama	23 876	914.60	Comprises Salama, Muruku, Pesi, Thome, Mutara and Kiamariga Sub-Locations of Laikipia County
031	Laikipia	164	Laikipia East	116 562	1 261.80	0817	Ngobit	23 978	271.20	Comprises Wihare, Wiyumire, Kariguni, Mutario, Muonua, Njoguini, Ruai, Wamura and Nyambogichi Sub-Locations of Laikipia County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	Constituency Ward No.	County Assembly Ward Name	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0818	Tigithi		27 062	562.00	Comprises Lamuria and Matanya Sub-Locations of Laikipia County
						0819	Thingithu		20 836	103.50	Comprises Thingithu and Marura Sub-Locations of Laikipia County
						0820	Nanyuki		28 485	36.00	Comprises Ntukuruma, Likii and Majengo Sub-Locations of Laikipia County
						0821	Umande		16 201	289.10	Comprises Umande, Kalalu and Ngairigu Sub-Locations of Laikipia County
031	Laikipia	165	Laikipia North	79 206	4 650.50	0822	Sosian		26 077	1726.20	Lonyiek, Magadi, Maundu ni Meti, Kirimon and Sosian (Ol Maisor), Kariwo and Kahuno Sub-Locations of Laikipia County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	Area in Sq. Km (Approx.)	County Assembly Ward	County Assembly Ward Description
						0823	Segera	16 002	1380.00	Comprises Naibor, Segera, Impala, Rugutu, Mukima, Kimugandura and Ngarengiro Sub-Locations of Laikipia County	
						0824	Mugogodo West	13 715	755.20	Comprises Ewaso, Ilmotok, Tura and Seek Sub-Locations of Laikipia County	
						0825	Mugogodo East	23 412	789.10	Comprises Sieku Kurikuri, Majurian, Alijo, Mumonyot, Ngarendare Ethi, Chumvi, Ngenia and Sangaa Sub-Locations of Laikipia County	
032	Nakuru	166	Molo	124 438	478.79			0826	Marashoni	12 454	245.70 Comprises Kiptunga, Kitiro and Ndosua Sub-Locations of Nakuru County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
						0827	Elburgon	43 438	97.09	Comprises Arimi, Elburgon and Mutamaiyu Sub-Locations of Nakuru County
						0828	Turi	25 448	77.80	Comprises Turi South, Turi North and Kiambiriia Sub-Locations of Nakuru County
						0829	Molo	43 098	58.20	Comprises Matumaini, Molo Town, Sachangwan and Kabianga Sub-Locations of Nakuru County
032	Nakuru	167	Njoro	184 859	713.30					
						0830	Mau Narok	35 429	159.30	Comprises Stapei and Kianjoya Sub-Locations of Nakuru County
						0831	Mauche	34 044	184.50	Comprises Chebitet, Kipkembu, Kiptulei, Lelechwet,

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
										Loitopes, Mauche, Siriat, Tachasis and Teret Sub- Locations of Nakuru County
										Comprises Bagaria, Kapyemit, Lusiru, Milimani and Naishi Sub- Locations of Nakuru County
						0832	Kihingo	26 607	97.64	Comprises Misipei, Nesuit and Sigotik Sub-locations of Nakuru County
						0833	Nesuit	13 488	75.20	Comprises Sinendet, Pwani, Nduleve, Lare and Gichobo Sub- Locations of Nakuru County
						0834	Lare	17 862	72.20	Comprises Mukungugu, Subuku, Migaa and Njoro Sub- Locations of Nakuru County
						0835	Njoro	57 429	124.46	

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
032	Nakuru	168	Naivasha	224 141	1 685.80	0836	Biasbara	15 692	64.00	Comprises Mununga and Kinamba Sub-Locations of Nakuru County
						0837	Hellsgate	39 209	91.20	Comprises Mirera Sub-Location of Nakuru County
						0838	Lake View	20 082	16.60	Comprises Lakeview Sub-Location of Nakuru County
						0839	Mai mahiu	29 796	544.00	Comprises Satelight, Kijabe and Longonot Sub-Locations of Nakuru County
						0840	Maeilla	27 528	427.80	Comprises Kongoni, Maeilla, Moi Ndabi, Kipkonyo and Ndabibi Sub-Locations of Nakuru County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0841	Olkaria	25 437	345.50	Olkaria Sub-Location of Nakuru County
						0842	Naivasha East	20 884	90.90	Munyu and Marainishu Sub-Locations of Nakuru County
						0843	Viwanda	45 513	105.80	Sokoni Sub-Location of Nakuru County
032	Nakuru	169	Gilgil	152 102	1 348.40					
						0844	Gilgil	47 603	84.30	Comprises Gilgil Sub-Location of Nakuru County
						0845	Elementaita	27 504	213.10	Comprises Kiambogo and Elementaita Sub-Locations of Nakuru County
						0846	Mbaruk/Eburu	33 395	621.00	Comprises Mbaruk, Kongasis and Eburo Sub-Locations of Nakuru County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0847	Malewa West	21 915	274.10	Comprises Karati, Tarambete and Gatamayu Sub-Locations of Nakuru County
						0848	Murindat	21 685	155.90	Comprises Langalanga, Gitare and Kanunga Sub-Locations of Nakuru County
032	Nakuru	170	Kuresoi South	115 435	583.00	0849	Amaio	21 086	87.60	Comprises Chepakundi, Kaplamai, Kiptaragon, Sinendet and Amalo Sub-Locations of Nakuru County
						0850	Keringet	29 149	163.40	Comprises Barget, Chebara, Kapsimbeiywo, Keringet, Millimet, Ribot, Silibwet and Siwot Sub-Locations of Nakuru County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0851	Kiptagich	26 193	114.00	Comprises Ainamoi, Arunwet, Cheboti, Chepwet, Emikit, Irongo, Kapugunot, Kipragichi and Korseguth Sub-Locations of Nakuru County
						0852	Tinet	39 007	218.00	Comprises Chemaner, Chepalungu, Kapnanda, Kipsonoi, Tegat and Tinet Sub-Locations of Nakuru County
032	Nakuru	171	Kuresoi North	124 050	559.70	0853	Kiptororo	37 590	241.60	Comprises Kuresoi, Kangoi, Chemare, Chemalich, Tulwet and Kipkewa Sub-Locations of Nakuru County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0854	Nyota	39 455	174.20	Comprises Nyota, Langwenda, Mawingo, Sollat, Murgienvy, Ikumbi, Chepiagum, Lulukwet and Olumbu Sub-Locations of Nakuru County
						0855	Sirikwa	17 042	63.40	Comprises Set kotes and Sirikwa Sub-Locations of Nakuru County
						0856	Kamara	29 963	80.50	Comprises Mau Samit, Kamara, Sarambei, Koige, Mau and Sinendet Sub-Locations of Nakuru County
032	Nakuru	172	Subukia	94 478	390.71	0857	Subukia	21 151	89.11	Comprises Magomano Arashi, Tetu, Subukia East and Munanda Sub-Locations of Nakuru County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0858	Wasages	33 904	172.70	Comprises Gitundaga, Lari, Wiumirrie, Kianoe, Simboiyon, Mihango and Wei Sub-Locations of Nakuru County
						0859	Kabazi	39 423	128.90	Comprises Nyadundo, Ruiru, Kirima, Ndungiriri, Rugongo and Kabazi Sub-Locations of Nakuru County
032	Nakuru	173	Rongai	130 132	1 049.10	0860	Menengai west	27 881	118.70	Comprises Mercy Njeri, Olive-inn, Kamungei, Mangu and Menengai Sub-Locations of Nakuru County
						0861	Soin	24 969	292.50	Comprises Makutano, Morop, Kapseteek, Lomoio, Athinai, Kokwomoi, Majani Mingi and Barina Sub-Locations of Nakuru County

## SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0862	Visoi	31 368	204.90	Comprises Kandutura, Kapkwemi, Moricho, Lengenet, Boito, Umoja, Gicheha and Kampi va Moto Sub-Locations of Nakuru County
						0863	Mosop	27 047	197.20	Comprises Matuiku, Chepseon, Summek, Mimwaiata, Ngata, Kirobon, Millimani and Ogilgei Sub-Locations of Nakuru County
						0864	Solai	18 867	235.80	Comprises Chemasis, Nyamaindihi, Emarangishu, Arusto, Lower Soi, Koisamo and Arutani Sub-Locations of Nakuru County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
032	Nakuru	174	Bahati	144 266	375.40	0865	Dundori	24 316	54.90	Comprises Dondori, Githioro and Mugwathi Sub-Locations of Nakuru County
						0866	Kabatini	29 629	62.10	Comprises Wendo, Thayu and Kabatini Sub-Locations of Nakuru County
						0867	Kiamaina	31 345	52.10	Comprises Ruri, Workers and Kiamaina Sub-Locations of Nakuru County
						0868	Lanet/Umoja	28 011	50.20	Comprises Mereroni and Murunyu Sub-Locations of Nakuru County
						0869	Bahati	30 965	156.10	Comprises Chania, Matukanio, Wanyororo and Bahati Sub-Locations of Nakuru County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
032	Nakuru	175	Nakuru Town West	152 257	251.00					
						0870	Barut	6 781	195.50	Comprises Parkview, Barut, Lake Nakuru National Park and Keiwei Sub-Locations of Nakuru County
						0871	London	23 583	20.90	Comprises London, Millimani and Viwanda Sub-Locations of Nakuru County
						0872	Kaptembwo	70 352	5.10	Comprises Kaptembwo Sub-Location of Nakuru County
						0873	Kapkures	8 956	26.00	Comprises Ingobor, Mogoan and Lalwei Sub-Locations of Nakuru County
						0874	Rhoda	24 596	1.10	Comprises Mwariki A Sub-Location of Nakuru County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
032	Nakuru	176	Nakuru East	Town 157 167	74.30	0875	Shaabab	17 989	2.40	Comprises Githima Sub-Location of Nakuru County
						0876	Biashara	35 916	19.60	Comprises Afraha and Baharini Sub-Locations of Nakuru County
						0877	Kivumbini	20 574	25.90	Comprises Kivumbini Sub-Location of Nakuru County
						0878	Flamingo	32 356	2.60	Comprises Langalanga Sub-Location and Lake Nakuru National Park of Nakuru County
						0879	Menengai	32 926	26.20	Comprises Menengai and Kiratina Sub-Locations of Nakuru County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
033	Narok	177	Kilgoris	180 417	2 526.00	0880	Nakuru East	35 395	23.3	Comprises Muguga, Mwariki B, Kiamunyeki and Free Area Sub-Locations of Nakuru County
						0881	Kilgoris Central	41 977	305.80	Comprises Poroko, Nakuyana, Osupuko, Naronyo, Olengoloto, Olomismis, Kilutoori, Sirua-Aulo, Romosha, Shartuka, Enkosipa, Oronkai, Medungi, Pimbinet and Meguorra Sub-Locations of Narok County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0882	Keyian	26 673	270.30	Comprises Ildolisho, Mapashi, Enosean, Isampin, Elengata Saeni, Olontare, Ipashire, Ntuka, Sikawa, Oldonyati and Kilkat Sub-Locations of Narok County
						0883	Angata Barikoi	24 945	315.20	Comprises Oldonyo-Orok, Kondamet, Enkoperiae, Magena, Mashangwa, Angata Barikoi, Ngendalel, Cheichei and Siteti Sub-Locations of Narok County
						0884	Shankoe	28 545	220.50	Comprises Olochani, Lepolosi, Endonyo Nkopit, Osinoni, Nyasita, Olalui, Ilmeshuki,

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
										Mukuleta, Shankoe, Oleroko and Enaenyieny Sub-Locations of Narok County
						0885	Kimintet	22 843	813.50	Comprises Oloololo, Kirindoni, Esot Naibor, Sitioka, Pusanki, Emarti and Ntuleie Sub-Locations of Narok County
						0886	Lolgorian	35 434	600.70	Comprises Kerinkanne, Oloitmongi, Kawai, Olmotonyi, Olkiloriti, Lolgorian, Moita, Nkarario, Masurura, Naar- olong and Nentekeny Sub-Locations of Narok County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
033	Narok	178	Emurua Dikirr	94 115	320.50	0887	Ilkerin	26 357	96.70	Comprises Chemamit and Ilkerin Sub-Locations of Narok County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
033	Narok	179	Narok North	175 588	2 603.30	0891	Oloposimoru	20 035	270.20	Comprises Oloposimoru, Olmariko, Oleng'ape, Ololongoi, Ilikani, Kamurar and Nkokolani Sub-Locations of Narok County
						0892	Olokurio	21 045	527.60	Comprises Olokurio, Entiyani, Naityupaki, Iltuati, Ilkeremisho and Ilmoleian Sub-Locations of Narok County
						0893	Narok Town	47 517	373.70	Comprises Narok Town and Oleleshwa Sub-Locations of Narok County
						0894	Nkareta	20 206	462.90	Comprises Nkareta, Naisoya and Olopito Sub-Locations of Narok County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
033	Narok	180	Narok East	82 956	2 059.50	0897	Mosiro	0897	27 463	Comprises Ntulele, Ongata Naado, Sosian, Enkoreroi, Mosiro, Kilonkisa, Oloiturot and Nturumeti Sub-Locations of Narok County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0898	Ildamat	15 643	474.80	Comprises Illaiser, Ildamat, Enoseiya, Oloombokish, Enkorika and Enaramatisoreki Sub-Locations of Narok County
						0899	Keekonyokie	20 613	408.20	Comprises Keekonyokie, Oloikarere and Olesharo Sub-Locations of Narok County
						0900	Suswa	19 237	308.60	Comprises Enoosupukia and Suswa Sub-Locations of Narok County
033	Narok	181	Narok South	176 764	4 959.20					
						0901	Maji Moto/ Naroosura	39 530	2139.20	Comprises Maji Moto, Enku, Ntuka, Olenkuluo, Ol Doinyo Orasha, Olkiran, Nkimpa, Naroosura, Enturuto,

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
										Enkutoto, Oliorowua and Elengata-Enterit Sub-Locations of Narok County
						0902	Ololulung'a	34 633	444.60	Comprises Ololulung'a, Ereiti, Endoinyo Ngiro and Nkoben Sub-Locations of Narok County
						0903	Melelo	35 069	214.40	Comprises Melelo and Olosopani Sub-Locations of Narok County
						0904	Loita	22 873	1675.60	Comprises Mausa, Olorte, Olmesutie, Ilmarin, Ilmarai, Olingatua, Morijo Loita, Nkopon and Entasekera Sub-Locations of Narok County
						0905	Sogoo	28 743	84.10	Comprises Enkaroni and Sogoo Sub-Locations of Narok County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
033	Narok	182	Narok West	141 080	5 452.70	0907	Ilmotiok	51 276	279.10	Comprises Kuto, Nkiito, Oichorro-Oiroua, Ilmotiok, Mogoiwet, Mulot and Nkorkorri Sub-Locations of Narok County
						0908	Mara	33 201	1318.20	Comprises Aitong, Lemek, Mararianda, Rongena and Enelerai Sub-Locations of Narok County
						0909	Siana	34 095	2802.80	Comprises Endoinyo Narasha, Olkinyei, Nkoiale, Siana, Sekenani, Megwara and Koivaki Sub-Locations of Narok County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0910	Naikarra	22 508	1052.60	Comprises Esoit, Leshuta, Naikarra, Olderkesi and Osarara Sub-Locations of Narok County
034	Kajando	183	Kajando North	195 746	148.00	0911	Olkeri	43 820	59.70	Comprises Lemelepo, Upper Matasia, Lower Matasia, Upper Nkoroi, Oloosurutia, Kahndo and Olkeri Sub-Locations of Kajando County
						0912	Ongata Rongai	44 675	16.50	Comprises Ongata Rongai and Ole Kasasi Sub-Locations of Kajando County
						0913	Nkaimurunya	55 406	9.90	Comprises Kware, Mosoi Range, Empakasi and Kandis Sub-Locations of Kajando County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0914	Olooluua	33 754	19.30	Comprises Bulbul, Kerarapon, Olepolos and Olooluua Sub-Locations of Kajado County
						0915	Ngong	18 091	42.60	Comprises Ngong Township Sub-Location of Kajado County
034	Kajado	184	Kajado Central	102 978	4 212.60					
						0916	Purko	4 167	209.50	Comprises Nkoile, Enkaroni, Isait and Nalepo Sub-Locations of Kajado County
						0917	Ildamat	9 990	274.30	Comprises Esukuta, Olkiloriti, Oloyiakalanji, Hospital and Market Sub-Locations of Kajado County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0918	Dalalekutuk	27 830	757.80	Comprises Kikuro, Malilima, Olemurkat, Pelewa, Olgirra, Olontulugum, Impiro, Inkewanchani, Iseuri, Isajiloni, Enkorika, Orinie and Majengio Sub-Locations of Kajado County
						0919	Matapato North	29 830	1659.60	Comprises Bissi, Olepolos, Illipatimaro, Lorngosua, Ruanche, Emotoroki, Olmoleiani and Olkeriai Sub-Locations of Kajado County
						0920	Matapato South	31 161	1311.40	Comprises Kumpa, Meto, Oldonyoorok, Eluanata, Mailua and Namanga Sub-Locations of Kajado County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
034	Kajado	185	Kajado East	136 482	2 610.30	0921	Kaputiei North	29 989	88.70	Comprises Isinya, Enkigirini, Ipolosat and Olturoto Sub-Locations of Kajado County
						0922	Kitengela	30 663	102.90	Comprises Olooloiitkosi location of Kajado County
						0923	Oloosirikon/ Sholinke	34 175	287.40	Comprises Kitengela Centre, Oloosirikon and Sholinke Sub-Locations of Kajado County
						0924	Kenyawa-Poka	24 559	1340.40	Comprises Sultan Hamud, Nkama, Imbilin, Emali, Kiboko, Merueshi, Masimba and Imbuko Sub-Locations of Kajado County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
034	Kajado	186	Kajado West	104 376	7 910.80	0925	Imaroro	17 096	790.90	Comprises Ilmunkush (Emarti, Erankau), Arroi and Imaroro (Kiloh, Lensonkoyo, Mashuuru) Sub-Locations of Kajado County
						0926	Keekonyokie	36 562	807.60	Comprises Esonoru, Oltepesi, Oteyani, Naserian, Kisamis, Kisaju, Illoodoariak, Kipeto and Oloyiankalani Sub-Locations of Kajado County
						0927	Illoodokilani	11 832	2010.60	Comprises Kora, Torosei, Kilonito, Elangata Waus, Toroka, Emukutan and Singirane Sub-Locations of Kajado County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0928	Magadi	23 108	3085.50	Comprises Magadi, Olkeri, Oloika, Shompole, Pakase, Lenkobei, 01Kiramatian,01doi ny-Oonyokie, Nkurman, Entasopia, Long'osua/Musenke and Oldokko Sub-Locations of Kajado County
						0929	Ewuaso Nkidongi Oo	27 182	2007.10	Comprises Eremit, Olgumi, Inkushin, Enkorika, Ewuaso O Nkidongi, Saikeri Kimuka, Oloshoibor and Kibiko Sub-Locations of Kajado County
						0930	Mosiro	5 692	486.70	Comprises Empairbal, 01doriko,01depe Sub-Locations of Kajado County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
034	Kajadio	187	Kajadio South	147 730	6 411.00	0931	Entonet/ Lenkism	23 779	2321.80	Comprises Entonet, Amboseli, Olchiro, Olgulului and Lenkism Sub-Locations of Kajadio County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
035	Kericho	188	Kipkelion East	111 832	746.40	0936	Londani	28 319	120.20	Comprises Jagoror, Kipsirichet, Tuiyobel, Masaita and Saramek Sub-Locations of Kericho County
						0937	Kedowa/ Kimugul	36 330	241.60	Comprises Tegunot, Chepkongony, Kedowa, Kisabo, Kimasian, Cheptangulgei, Kimugul, Kiperengwe and Kibemit Sub-Locations of Kericho County
						0938	Chepseon	36 284	181.90	Comprises Chagalk, Chepsir, Tugunon, Chepcholiet, Kaplamboi, Kipkeremwo, Cheymen,

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Description
035	Kericho	189	Kipkelion West	94 758	360.90	0939	Tendeno/ Sorget	10 899	202.70 Comprises Tendeno, Subukia, Sorget, Malaget, Chemare and Kongoni Sub-Locations of Kericho County
						0940	Kunyak	18 001	68.00 Comprises Chemogoch, Kapkemoi, Kapkwani, Chelee, Chesonoi and Timbilli Sub-Locations of Kericho County
						0941	Kamasian	20 079	80.50 Comprises Mutaragon, Nairobi, Kutung, Barera, Tulyobei(Kipsegi), Leidet,

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
										Lelu and Kapkures Sub-Locations of Kericho County
						0942	Kipkelion	25 501	107.80	Comprises Kalyet, Siret, Barsile, Segetet, Tiring'oro, Macherisok, Tombo, Kipkelion Town, Kipkelion North, Kapkwen, Matarmat and Lesirwa Sub-Locations of Kericho County
						0943	Chilchila	31 177	104.60	Comprises Mentera, Sereng, Siwot, Koisagat, Sombo, Songonyet, Chepkechei, Magire, Tulwoapmoi, Kokwet and Cherara Sub-Locations of Kericho County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
035	Kericho	190	Ainamoi	147 741	258.50	0944	Kapsait	27 845	57.50	Comprises Kenegut, Cheplel, Chepsoo, Chepkoinik, Sitiotwet, Samutet, Kapsait, Kapkitony, Chepkurkbet and Keitui Sub-Locations of Kericho County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0948	Kipchimchim	19 369	40.70	Comprises Chepcho, Chepkolon, Kipchimchim and Taiywet Sub-Locations of Kericho County
						0949	Kapsaos	29 121	57.20	Comprises Maso, Kapsaos, Buchenye and Tendwet Sub-Locations of Kericho County
035	Kericho	191	Bureti	167 649	321.10	0950	Kisaria	21 402	38.60	Comprises Mabasi, Roret, Monoru, Mosore, Kelelwa and Kapronei Sub-Locations of Kericho County
						0951	Tebesonik	20 912	66.10	Comprises Ngoina, Kelunet, Kibugat, Siiongi, Tebesonik, Kiptome and Kapkisara Sub-Locations of Kericho County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0952	Cheboin	22 834	45.60	Comprises Cheborge, Kabarus, Cheboin, Ng'ororga, Kimwagit, Korongoi, Kaptele and Kapsogut Sub-Locations of Kericho County
						0953	Chemosot	26 553	50.60	Comprises Chemosot, Kusumek, Kapsenet wet, Gerawet, Chepkongony, Chemoiywa, Kabartegani, Kipkerieny and Kaminnjeri wet Sub-Locations of Kericho County
						0954	Litein	26 275	40.20	Comprises Cheribo, Chebwagan, Lalagin, Kapkarin, Rungut, Litein, Ngesumin, Kapsogiruk and Kamanamsim Sub-Locations of Kericho County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
035	Kericho	192	Belgut	125 292	294.50	0955	Cheplanget	26 940	44.50	Comprises Kibastuiyo, Kaminiweiwa, Arokyet, Butuik, Tiritab Moita and Cheplanget Sub-Locations of Kericho County
						0956	Kapkatet	22 733	35.50	Comprises Roronya, Chemoiben, Nganaset, Sosit and Itoik Sub-Locations of Kericho County
						0957	Walldai	33 674	55.10	Comprises Kaborok, Sosiot, Kaplobotti and Walldai Location of Kericho County
						0958	Kabianga	35 091	68.70	Comprises Mobego, Kiptome, Kapkitony, Chebirirbei, Koiwaleach,

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	Constituency Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
										Kapcheluch, Chemalui and Kabiangia Sub-Locations of Kericho County
										Comprises Chepkosilen, Seretut, Anapkoi and Kipsolu Sub-Locations of Kericho County
										Comprises Kiptetan and Chamogonday Sub-Locations of Kericho County
										Comprises Kapsuser (Part A), Kakiptui (Part A), Kipkoiyan and Borborwet Sub-Locations of Kericho County
0959			Cheptororiet/Seretut			20 649	38.70			
0960						19 951	104.00			
0961						15 927	28.00			

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
035	Kericho	193	Sigowet/Soin	105 124	473.10	0962	Sigowet	36 175	72.80	Comprises Sigowet, Kaptebengwo, Kamaget, Kebeneti, Mindiliwet, Kiptere, Kakeburu and Cheptuiyet Sub-Locations of Kericho County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
036	Bomet	194	Sotik	167 289	446.20	0966	Ndani/Abosí	37 149	90.00	Comprises Abosi, Kaplomboi, Kapchumbe, Gelegele, Kipsimbol, Koiyet, Ndani, Kipsingei, Cheplewa and Chepkeigei Sub-Locations of Bomet County
						0965	Soin	21 072	192.90	Comprises Simbi, Kaplelach, Kipsitet, Kapchebwai, Koitaborut, Kapkormon, Keinriet and Kapitalamwa Sub-Locations of Kericho County

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[Subsidiary]

## SCHEDULE—*continued*

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
036	Bomet	195	Chepalungu	163 833	490.60	0970	Rongera/ Manaret	22 344	86.90	Comprises Chebilat, Manaret, Mabwaiita, Monire, Rongera, Kipngosos and Tembwo Sub-Locations of Bomet County
						0971	Kongasisi	29 458	75.30	Comprises Koimeret, Kiriba, Kabema, Makimeny, Kiboson, Segemik, Meng'wet and Kimaya Sub-Locations of Bomet County
						0972	Nyangores	35 420	95.60	Comprises Itembe, Cheptagu m, Nyambugo, Kabisoge, Kyogong, Kimenderit, Kapkesosio and Goitabsiliwet Sub-Locations of Bomet County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
						0973	Sigor	32 818	121.30	Comprises Tumai, Sugumerga, Sigor, Lelaitich, Areyet, Kipkeigei, Chepkosa, Kapsabul and Lugumek Sub-Locations of Bonet County
						0974	Chebunyo	34 922	94.20	Comprises Chebunyo, Kamogiboi, Tilang'ok, Kaboson, Kataret, Cheboyo, Mogor, Ribowio and Nogirwet Sub-Locations of Bonet County
						0975	Siongiroi	31 215	104.20	Comprises Chepwastuiyet, Kapoleseroi, Bingwa, Kipsuter, Chelelach, Siongiroi and Kansimha Sub-Locations of Bonet County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
036	Bomet	196	Bomet East	127 430	316.10					
						0976	Merigi	29 568	58.10	Comprises Kiromwok, Menet, Chepkolon, Chepingainai(Part), Kapsimbiri and Merigi Sub-Locations of Bomet County
						0977	Kembu	26 992	57.00	Comprises Kaparuso, Kongotik, Chepkitwal, Kipyosat and Tegat Sub-Locations of Bomet County
						0978	Longisa	28 365	79.30	Comprises Kapkimoila, Koibeiyon, Kiptulwa, Cheboin, Emiitot and Samituk Sub-Locations of Bomet County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
						0979	Kipretes	23 272	72.40	Comprises Kipereres, Nodubai, Kapliyo, Kiplabotwo and Olokyin Sub-Locations of Bomet County
						0980	Chemanner	19 233	49.30	Comprises Kichutmo, Kapsigirio, Chemanner, Chamboi, Lelkaket and Sitotwet Sub-Locations of Bomet County
036	Bomet	197	Bomet Central	126 520	261.50	0981	Sillbwet Township	27 511	42.50	Comprises Kapsimotwo, Sillbwet, Chepgaina (Part) and Motigo Sub-Locations of Bomet County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
						0982	Ndaraweta	22 059	52.90	Comprises Teganda, Nyongores, Kabusare and Ngainet Sub-Locations of Bomet County
						0983	Singorwet	21 795	43.60	Comprises Singorwet, Aisalk, Kabungut, Mugango and Kitopen Sub-Locations of Bomet County
						0984	Chesoen	34 476	60.80	Comprises Kamogoso, Chesoen, Sibaiyan, Kipleji and Kapkoros Sub-Locations of Bomet County
						0985	Mutarakwa	20 679	61.70	Comprises Solyot, Kapsangaru, Kanusin, Leldatet and Tarakwa of Bomet Sub-Locations County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
036	Bomet	198	Konoin	145 057	483.5					
						0986	Chepchabas	25 704	178	Comprises Chepchabas, Chemosit and Chepkembe Sub-Locations of Bomet County
						0987	Kimulot	22 735	47.00	Comprises Chebsangang, Kapset, Chemalai, Kapsinendet and Kapsengere Sub-Locations of Bomet County
						0988	Moggosiek	30 734	60.50	Comprises Kapken, Cheptingting, Simoti, Chongenwo, Mogonjet, Chepkochun, Saseta and Ngererit of Sub-Locations Bomet County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
						0989	Boito	31 964	109.90	Comprises Besiobei, Kamogomon, Kapiten, Kapsigowo, Boito, Chemelet and Kabiangek Sub-Locations of Bomet County
						0990	Embomos	33 920	88.40	Comprises Embomos, Siomo, Kirimose, Sotit, Kimawandi, Taboino, Kitala, Satiet, Bosto, Kugerwet, Terek and Kiptenden Sub-Locations of Bomet County
037	Kakameg a	199	Lugari	167 014	367.00			0991	Mautuma	25 082 83.80 Comprises Mukuyu and Mbagara Sub-Locations of Kakamega County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						0992	Lugari	31 381	81.30	Comprises Lugari and Marakusi Sub-Locations of Kakamega County
						0993	Lumakanda	29 955	59.00	Comprises Mwamba and Munyuki Sub-Locations of Kakamega County
						0994	Chekalinini	19 705	41.70	Comprises Koromait and Musembe Sub-Locations of Kakamega County
						0995	Chevaywa	33 145	57.00	Comprises Kivaywa, Kiliboti and Kulumbeni of Kakamega County
						0996	Lwandeti	27 746	44.20	Comprises Luandeti, Maturu, Mabuye and Mananga Sub-Locations of Kakamega County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
037	Kakameg a	200	Likuyani	125 137	301.90					
						0997	Likuyani	27 243	97.20	Comprises Soy and Seregeya Sub-Locations of Kakamega County
						0998	Sango	22 853	56.40	Comprises Sango and Mawe/Tatu Sub-Locations of Kakamega County
						0999	Kongoni	23 701	43.30	Comprises Kongoni Sub-Location of Kakamega County
						1000	Nzoia	30 321	54.90	Comprises Vinyenya, Musemwa, Mois Bridge and Matunda Sub-Locations of Kakamega County
						1001	Sinoko	21 019	50.10	Comprises Nzoia, Mwiba, Namunyiri and Miiimani Sub-Locations of Kakamega County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
037	Kakameg a	201	Malava	205 166	423.30	1002	West Kabras	26 114	46.70	Comprises West Lukala, Shikuse, Lukume, Mutsuma, Shimuli, Burundu and Sawawa Sub-Locations of Kakamega County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1005	Butali/Chegulo	31 876	78.20	Comprises Butali, Mukavakava, Shipala, Tande, Namushiya, Mahusi, Chebwai and Matsakha Sub-Locations of Kakamega County
						1006	Manda-Shivanga	32 194	68.30	Comprises Teresia, Fuvuye, Muriola, Cheptuli, Tombo, Manda and Shandiche Sub-Locations of Kakamega County
						1007	Shirugu-Mugai	25 055	54.40	Comprises Shivikhwa, Samitsi, Lukala, Malekha, Sheywe, Sundulu, Musungu and Malanga Sub-Locations of Kakamega County
						1008	South Kabras	37 523	61.00	Comprises Mwera, Shilongo, Shamberere, Lunyinya, Iwetere, y

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
037	Kakameg a	202	Lurambi	160 229	161.80					Salala, Chevosso and Shamoni Sub-Locations of Kakamega County
						1009	Butsotso East	23 227	33.10	Comprises Indangalasia, Shirakalu and Murumba Sub-Locations Kakamega County
						1010	Butsotso South	17 377	31.20	Comprises Matioli, Emukaya and Eshibeye Sub-Locations Kakamega County
						1011	Butsotso Central	25 744	48.80	Comprises Shibili, Eshisiru and Shiyunzu Sub-Locations of Kakamega County
						1012	Sheywe	48 304	17.90	Comprises Sichirayi and Township Sub-Locations of Kakamega County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1013	Mahiakalo	12 067	13.40	Comprises Mahiakalo Sub-Location of Kakamega County
						1014	Shireire	33 510	17.40	Comprises Shireire Sub-Location of Kakamega County
037	Kakameg a	203	Navakholo	137 165	257.90					
						1015	Ingotse-Matiha	22 091	34.40	Comprises Ingotse and Matiha Sub-Locations of Kakamega County
						1016	Shinoyi-Shikomari-Esmmeiya	25 352	48.40	Comprises Shikomari, Shinoyi and Esmeiya Sub-Locations of Kakamega County
						1017	Bunyala West	38 407	73.30	Comprises Sidikho, Kochwa, Buddonga and Lusumu Sub-Locations of Kakamega County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
						1018	Bunyala East	22 122	45.00	Comprises Sevile and Namirama Sub-Locations of Kakamega County
						1019	Bunyala Central	29 193	56.80	Comprises Mukhweso, Sirigoi, Buchangu and Nambacha Sub-Locations of Kakamega County
037	Kakameg a	204	Mumias West	111 862	165.30					
						1020	Mumias Central	37 214	33.60	Comprises Mumias Township, Lureko and Matawa Sub-Locations of Kakamega County
						1021	Mumias North	15 765	35.70	Comprises Nucleus Sub-Location of Kakamega County
						1022	Etenje	28 162	50.60	Comprises Bukaya, Emukhuwa, Buchifwi and Masinjira Sub-Locations of Kakamega County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	Constituency Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
037	Kakameg a	205	Mumias East	100 956	135.50					
							1024	Lusheya/ Lubinu	37 609	57.00 Comprises Lusheya, Lubinu and Ekeru Sub-Locations of Kakamega County
							1025	Malaha/Isongo/ Makunga	31 004	43.40 Comprises Makunga, Malaha and Isongo Sub-Locations of Kakamega County
							1026	East Wanga	32 343	35.10 Comprises Khaunga, Eluche and Mung'anya Sub-Locations of Kakamega County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
037	Kakameg a	206	Matungu	146 563	275.90	1027	Koyonzo	35 812	66.90	Comprises Koyonzo, Indangalasia and Nanyeni Sub-Locations of Kakamega County
						1028	Kholera	28 821	61.90	Comprises Kholera and Namulungu Sub-Locations of Kakamega County
						1029	Khalaba	19 778	39.00	Comprises Khalaba and Musamba Sub-Locations of Kakamega County
						1030	Mayoni	30 584	49.80	Comprises Mayoni and Matungu Sub-Locations of Kakamega County
						1031	Namamali	31 568	58.30	Comprises Namamali, Lunganyiro, Mireire and Munami Sub-Locations of Kakamega County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
037	Kakameg a	207	Buteere	139 780	210.60					
						1032	Marama West	31 250	51.30	Comprises Buchenya, Lunza, Bumamu and Shitari Sub-Locations of Kakamega County
						1033	Marama Central	44 717	61.00	Comprises Shirotsa, Shirembe, Shinamwiriyuli, Ibokolo, Mutoma, Imanga and Bulafu Sub-Locations of Kakamega County
						1034	Marenyo-Shianda	23 065	31.90	Comprises Muyundi, Shikungo, Buboko, Mabole, Bubala and Shianda Sub-Locations of Kakamega County
						1035	Marama North	20 796	32.90	Comprises Shiraha, Lukoye, Inaya and Bushitini Sub-Locations of Kakamega County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
037	Kakameg a	208	Khwiserero	102 635	145.60	1036	Marama South	19 952	33.50	Comprises Shiatsala, Bushieni, Masaba, Bukuti, Eshienjera and Shibembe Sub-Locations of Kakamega County
						1037	Kisa North	19 300	31.50	Comprises Mundobelwa, Mwikalika and Emuruba Sub-Locations of Kakamega County
						1038	Kisa East	19 905	31.90	Comprises Emalindi, Eshibinga, Mundaha, Ematsatsi and Munjiti Sub-Locations of Kakamega County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward (Approx.)	County Assembly Ward Description
						1039	Kisa west	21 230	28.70 Comprises Dudi, Muhaka, Doho, Ebuhala and Ekomero Sub-Locations of Kakamega County
						1040	Kisa Central	42 200	53.50 Comprises Wambulisher, Mundeku, Emuisaisa, Muwanda, Mushiangabu, Estirali and Khushiku Sub-Locations of Kakamega County
037	Kakameg a	209	Shinyalu	159 475	445.40			1041	Isukha North
								1042	Murhanda
									23 496 42.20 Comprises Lubao, Bulovi, Buyangu and Ivakale Sub-Locations of Kakamega County
									28 285 36.00 Comprises Mukulusu, Shisembe, Shiswa and Iteryi Sub-Locations of Kakamega County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population Km (Approx.)	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
						1043	Isukha Central	34 545	42.70	Comprises Shingoto, Mukhang'o, Shiasava and Virhembe Sub-Locations of Kakamega County
						1044	Isukha South	35 807	38.30	Comprises Shitochi, Museno, Shirulu, Lugose and Shidodo Sub-Locations of Kakamega County
						1045	Isukha East	17 930	262.60	Comprises Kakamega Forest, Lunyu, Lukusi and Ikyuwa Sub-Locations of Kakamega County
						1046	Isukha West	19 412	23.60	Comprises Mukhonje, Malimili and Mugomari Sub-Locations of Kakamega County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
037	Kakameg a	210	Ikolomani	104 669	143.60					
						1047	Idakho South	20 917	24.00	Comprises Shabwali, Madivini, Kaluni, Shisejeri, Shanjetso and Lukose Sub-Locations of Kakamega County
						1048	Idakho East	26 757	39.40	Comprises Lihembe, Makokho, Savane, Ivonda, Shiveye and Shitoli Sub-Locations of Kakamega County
						1049	Idakho North	25 861	40.60	Comprises Mutaho, Shimanyiro, Shikulu Shiseso Sub-Locations of Kakamega County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1050	Idakho Central	31 134	39.60	Comprises Musoli, Lunenere, Shibunarie, Mukongolo, Malinya and Shivagala Sub-Locations of Kakamega County
038	Vihiga	211	Vihiga	91 616	90.20	1051	Lugaga-Wamuluma	29 153	24.10	Comprises Muanda, Vunandi, Magui, Kegoye, Mbihi and Chambiti Sub-Locations of Vihiga County
						1052	South Maragoli	19 293	27.80	Comprises Chagenda, Endeleri, Masana and Lusiola Sub-Locations of Vihiga County
						1053	Central Maragoli	23 370	17.20	Comprises Emanda, Ikumba, Kidundu and Chanao Sub-Locations Vihiga of County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
038	Vihiga	212	Sabatia	123 761	105.40	1054	Mungoma	19 800	21.10	Comprises Madzui, Mahanga, Vigulu and Kisienye Sub-Locations of Vihiga County
						1055	Lyaduywa/Izava	25 605	19.20	Comprises Bukhulunya, Munoywa, Demesi, Mbale, Lyaduywa and Mukingi Sub-Locations of Vihiga County
						1056	Sabatia West	21 501	17.60	Comprises Kegondi, Kisatiru, Solongo and Hamuyundi Sub-Locations of Vihiga County
						1057	Chavakali	12 535	9.60	Comprises Walodeya, Ewojo and Igunga Sub-Locations of Vihiga County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
						1058	North Maragoli	18 487	16.30	Comprises Kigama, Kivagala, Digulia, Mudere and Mulundu Sub-Locations of Vihiga County
						1059	Wodanga	21 940	19.00	Comprises Vokoli, Lusengeli, Gavudia, Gaigedi and Mambari Sub-Locations of Vihiga County
						1060	Busali	23 693	23.70	Comprises Budaya, Chamakanga, Chavogere, Kedoli, Itegero and Bugina Sub-Locations of Vihiga County
038	Vihiga	213	Hamisi	148 259	156.50		1061	Shiru	22 334	19.60 Comprises Jeptulu, Makuchi and Shiru Sub-Locations of Vihiga County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description	County Assembly Ward
						1062	Gisambai	21 452	24.00	Comprises Galona, Gamozi, Gavudunyi and Gimomoi Sub-Locations of Vihiga County	
						1063	Shamakholko	27 535	25.00	Comprises Jivovoli, Serem, Kisasi, Kalwani and Senende Sub-Locations of Vihiga County	
						1064	Banja	22 535	27.30	Comprises Gasianga, Givogi, Kapotik and Kipchekwen Sub-Locations of Vihiga County	
						1065	Muhudu	16 659	19.90	Comprises Kapiech, Mulundu and Muhudu Sub-Locations of Vihiga County	

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1066	Tambua	18 689	21.80	Gimarakwa, Ivola, Kiptaimes, Gamalenga and Mwembe Sub-Locations of Vihiga County
						1067	Jepkoyai	19 055	18.90	Comprises Kitagwa, Givole, Kapchemug and Tigoi Sub-Locations of Vihiga County
Vihiga	214	Luanda	95 922	84.70		1068	Luanda Township	14 403	7.90	Comprises Ebusrailo and Ebusikhale Sub-Locations of Vihiga County
						1069	Wemilabi	23 046	22.20	Comprises Esirabe, Ematsalwa, Ebubayi, Ebulonga and Ebukhubi Sub-Locations of Vihiga County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
						1070	Mwibona	17 360	17.20	Comprises Esandumba, Ebaturyi and Mwitibi Sub-Locations of Vihiga County
						1071	Luanda South	19 994	20.80	Comprises Esabalu, Ekwanda, Ebwiranyi, Em'maloba and Maseno Sub-Locations of Vihiga County
						1072	Emabungo	21 119	16.60	Comprises Ebusakami, Ebuhando, Ebusundi and Iboona Sub-Locations of Vihiga County
038	Vihiga	215	Emuhaya	95 064	94.50	1073	North Bunyore	35 908	37.00	Comprises Ebusamia, Ebusiloli, Ebunangwe, Emusutswi,

## SCHEDULE—*continued*

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1077	Chesikaki	24 062	39.50	Comprises Chemondi, Sasur, Toroso and Chesikaki Sub-Locations of Bungoma County
						1078	Chepyuk	25 442	94.00	Comprises Chepyuk, Kabura, Emia, Chepkurkur, Korng'otuny and Kaimugul Sub-Locations of Bungoma County
						1079	Kapkateny	28 668	48.10	Comprises Cheptonion, Chengeywo, Kammeru, Kapkuriiongo, Maseek, Sacho, Terem and Toywonder Sub-Locations of Bungoma County
						1080	Kaptama	33 555	59.80	Comprises Kabwoyo, Kaptalelio, Kongit, Chemoge, Kaptama,

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
039	Bungoma	217	Sirisia	102 422	213.20	1082	Namwela	27 553	47.20	Comprises Central Namwela, Menu and South Namwela Sub-Locations of Bungoma County

[Subsidiary]

## SCHEDULE E—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1083	Malakisi/South Kulisiru	35 067	80.40	Comprises Bukokholo, Butonge, North Kulisiru and South Kulisiru Sub-Locations of Bungoma County
						1084	Lwandanyi	39 802	85.60	Comprises Machaka, Chebukuyi, Mayekwe, Wamono, Sitabicha, Tamiega and Mwale Sub-Locations of Bungoma County
039	Bungoma	218	Kabuchai	141 113	232.20	1085	Kabuchai/Chwele	35 855	49.70	Comprises Kabuchai, Mukheywa and Chwele Sub-Locations of Bungoma County
						1086	West Nalondo	33 130	54.90	Comprises West Nalondo and Kisiwa Sub-Locations of Bungoma County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq.Km (Approx.)	County Assembly Ward Description
						1087	Bwake/Luuuya	34 140	63.60	Comprises North Nalondo, Bwake and Luuya Sub-Locations of Bungoma County
						1088	Mukiyuni	37 988	64.00	Comprises Kibchori, Kuywa, Mukiyuni, Sichei and Sikulu Sub-Locations of Bungoma County
039	Bungoma	219	Bumula	178 897	248.70	1089	South Bukusu	23 135	48.30	Lumboka, Mateka and Muanda Sub-Locations of Bungoma County
						1090	Bumula	31 923	67.40	Comprises Lunao, Bumula, Kimatuni and Mabusi Sub-Locations of Bungoma County
						1091	Khasoko	14 035	24.90	Comprises Khasoko, Mungore and Namatiota Sub-Locations of Bungoma County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1092	Kabula	20 756	41.70	Comprises Kabula and Watoya Sub-Locations of Bungoma County
						1093	Kimaeti	36 539	66.40	Comprises Nakhwana, Bitobo, Khasolo and Siyombe Sub-Locations of Bungoma County
						1094	West Bulusu	20 002	38.90	Comprises Kibuke, Lwanja, Mayanja and Na'oli Sub-Locations of Bungoma County
						1095	Siboti	32 507	60.10	Comprises East Siboti, Musakasa, Kisawayi and Mukwa Sub-Locations of Bungoma County
039	Bungoma	220	Kanduyi	229 701	210.80	1096	Bukembe West	20 311	35.60	Comprises Ndengiwa and Namirembe Sub-Locations of Bungoma County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1097	Bukembe East	26 749	51.40	Comprises North Sang'alo and Kongoli Sub-Locations of Bungoma County
						1098	Township	19 017	5.10	Comprises Township Sub-Location of Bungoma County
						1099	Khalaba	24 499	8.80	Comprises Khalaba Sub-Location of Bungoma County
						1100	Musikoma	37 933	44.00	Comprises Namasanda and South Kanduyi Sub-Locations of Bungoma County
						1101	East Sang'alo	32 288	65.90	Comprises East Sang'alo and Mwikhupo Sub-Locations of Bungoma County
						1102	Tuuti	16 385	22.30	Comprises Tuuti Sub-Location of Bungoma County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1103	Marakaru	19 396	26.20	Comprises Marakaru Sub-Location of Bungoma County
						1104	West Sang'alo	33 123	59.20	Comprises West Sang'alo and Namwacha Sub-Locations of Bungoma County
039	Bungoma	221	Webuye East	101 020	161.50					
						1105	Mihuu	37 808	66.00	Comprises Mihuu Misimo, Mitukuyu and Magemo Sub-Locations of Bungoma County
						1106	Ndivisi	39 791	67.80	Comprises Lutacho, Marinda, Makuselwa, Misemwa, Wabukhonyi and Sitabicha Sub-Locations of Bungoma County
						1107	Maraka	23 421	27.70	Comprises Maraka and Township (Part) Sub-Locations of Bungoma County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
039	Bungoma	222	Webuye West	129 233	242.60	1108	Sitikho	37 570	93.80	Comprises Matisi, Sitikho, Milo and Khalumui Sub-Locations of Bungoma County
039	Bungoma	223	Kimilili	132 822	181.20	1109	Matuloo	44 425	60.40	Comprises Matulo, Malaha, Kituni and Township (Part) Sub-Locations of Bungoma County
039	Bungoma	223	Kimilili	132 822	181.20	1110	Bokoli	47 238	88.40	Comprises Bokoli, Mahanga, Miendo and Misiku Sub-Locations of Bungoma County
						1111	Kibingei	34 458	51.90	Comprises Chebukwabi and Kibingei Sub-Locations of Bungoma County
						1112	Kimilili	36 267	42.10	Rural and Township Sub-Locations of Bungoma County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1113	Maeni	24 209	41.00	Comprises Nasusi and Sikhendu Sub-Locations of Bungoma County
						1114	Kamukuywa	37 888	46.20	Comprises Makhonge and Nabikoto Sub-Locations of Bungoma County
039	Bungoma	224	Tongaren	187 478	378.30	1115	Mbakalo	32 229	50.20	Comprises Kibisi and Mbakalo Sub-Locations of Bungoma County
						1116	Naitiri/ Kabuyefwe	38 023	77.40	Comprises Kabuyefwe, Sirakaru and Naitiri Sub-Locations of Bungoma County
						1117	Milima	33 352	64.60	Comprises Milima Sub-Location of Bungoma County
						1118	Ndalu	21 148	58.90	Comprises Ndalu and Tabani Sub-Locations of Bungoma County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1119	Tongaren	33 907	74.10	Comprises Tongaren and Kiminini Sub-Locations of Bungoma County
						1120	Soysambu/ Mitua	28 819	53.10	Comprises Mitua and Soysambu Sub-Locations of Bungoma County
040	Busia	225	Teso North	117 947	257.10					
						1121	Malaba Central	25 192	25.40	Comprises Ikapolok, Kajei, Amagoro, Komirai, Olobal Township and Akiiriamasit Sub-Locations of Busia County
						1122	Malada North	13 765	37.80	Comprises Kakoli, Korisai, Okuleu, Koruruma, Onyonyur and Osasame Sub-Locations of Busia County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1123	Ang'urai South	20 791	49.70	Comprises Aedomoru, Akolong', Akachachat, Kakapel, Mwari, Katelepai, Kekalet and Rwanama Sub-Locations of Busia County
						1124	Ang'urai North	23 400	56.30	Comprises Adumai, Apokor, Chelelemuk, Kakurkit, Katotoi, Kolait, Adanya and Moding Sub-Locations of Busia County
						1125	Ang'urai East	15 549	36.90	Comprises Akobwait, Aloete, Aterait, Changara, Kekamer, Chemasir and Kolanya Sub-Locations of Busia County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
040	Busia	226	Teso South	137 924	293.60	1126	Malaba South	19 250	51.00	Comprises Kamolo, Keng'atuny, Kirirko, Kocholia, Kodedema, Kokare, Koteko and Onvururu Sub-Locations of Busia County
						1127	Ang'orom		26 162	22.10 Comprises Agolot, Alupe and Amerikwai Sub-Locations of Busia County
						1128	Chakol South	31 571	69.10	Comprises Adungosi, Alomodoi, Amaase, Obuchun, Ong'arima, Okiiidu, Olepito, Ong'aro and Otimong' Sub-Locations of Busia County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1129	Chakol North	18 655	49.50	Comprises Achit, Akites, Aludeka, Aterait, MoruKarisa, Ng'elechom and Mwairi Sub-Locations of Busia County
						1130	Amukura West	17 423	35.60	Comprises Aderema, Akiramas, Akoret, Odioyi, Osuret and Okook Sub-Locations of Busia County
						1131	Amukura East	23 357	66.10	Comprises Akobwait, Amukura, Aturet, Kidera, Kochek, Kotur, Kwangamor, Kamunoit and Okisimo Sub-Locations of Busia County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
040	Busia	227	Nambale	94 637	237.90	1133	Nambale	32 293	68.70	Comprises Nambale, Kisoko and Siekunya Sub-Locations of Busia County
						1134	Bukhayo North/Walatsi	22 459	62.60	Comprises Kapina, Khwilaare, Lupida and Musokoto Sub-Locations of Busia County
						1135	Bukhayo East	21 696	58.60	Comprises Buyofu, Madibo, Mungatsi and Sikinna Sub-Locations of Busia County
						1136	Bukhayo Central	18 189	48.00	Comprises Lwanyange, Malanga and Sidende Sub-Locations of Busia County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	Constituency Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
040	Busia	228	Matayos	111 345	196.20	1137	Bukhayo West	33 480	72.80	Comprises Mundika, Bugengi and Esikulu Sub-Locations of Busia County
						1138	Mayenje	9 170	14.60	Comprises Mayenje Sub-Location of Busia County
						1139	Matayos South	30 874	68.60	Comprises Busende, Buyama, Lung'a, Matoung'e, Igero, Luliba, Murende, Nangoma and Munyafwa Sub-Locations of Busia County
						1140	Busibwabo	11 328	32.50	Comprises Nakhakina, Alung'oii and Nasira Sub-Locations of Busia County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1141	Burumba	26 493	7.70	Comprises Mijini Sub-Location of Busia County
040	Busia	229	Butula	121 870	247.10	1142	Marachi West	20 211	36.20	Comprises Bukhakala, Bumala "A", Busire, Burinda and Bujumba Sub-Locations of Busia County
						1143	Kingandole	18 270	35.80	Comprises Ikonzo, Namwitsula and Kinaando Sub-Locations of Busia County
						1144	Marachi Central	19 816	38.90	Comprises Bukhalarie and Esikoma Sub-Locations of Busia County
						1145	Marachi East	20 865	43.50	Comprises Bumala "B" and Elukongo Sub-Locations of Busia County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1146	Marachi North	24 054	50.70	Comprises Tingolo, Bukati, Kanjala and Sikarira Sub-Locations of Busia County
						1147	Elugulu	18 654	42.00	Comprises Bulemia, Namusala, Bulwani, Emukhweso, Namusala and Bwaliro Sub-Locations of Busia County
040	Busia	230	Funyula	93 500	265.10					Comprises Luanda, Buloma, Namboboto, Mudoma, Lugala, Nyakhobi, Ludacho, Mango, Sibinga and Ganjala Sub-Locations of Busia County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1149	Nangina	20 193	50.00	Kabwodo, Odiado, Sigulu, Wakhungu, Budalanga, Surekeresi, Bukhulungu and Luchululo Sub-Locations of Busia County
						1150	Ageng'a Nanguba	25 378	80.80	Ageng'a, Ojibo, Sigalame, Bukiri, Rumbiye, Buiwanga and Nanderema Sub-Locations Busia County
						1151	Bwirri	19 786	64.30	Comprises Buisio, Busembe, Hakati and Namuduru Sub-Locations of Busia County
040	Busia	231	Budalangi	66 723	131.40			1152	10 381	47.70 Comprises Magombe East, Magombe

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[Subsidiary]

## SCHEDULE—*continued*

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[Subsidiary]

## SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
041	Siaya	232	Ugenya	108 934	310.20	1156	West Ugenya	30 325	98.00	Comprises Karadolo East, Karadolo West, Masat East, Masat West, Sifuyo East, Sifuyo West, Nyalanya, Uyundo, and Ndenga Sub-Locations of Siava County
						1157	Ukwala	21 270	52.90	Comprises Doho East, Doho West, Simur, Simur East, Simur-Kondiek, Siranga and Yenga Sub-Locations of Siava County
						1158	North Ugenya	27 081	65.00	Comprises Nyamsenda, Ligala North Jera, Kagonya and Segia Sub-Locations of Siaya County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
					1159	East Ugenya		30 258	94.30	Comprises Anyiko, Sihayi Ramunde, Kathieno A, Kathieno B and Kathieno C Sub-Locations of Siaya County
041	Siaya	233	Ugunja	93 372	212.90			1160	Siidindi	Comprises Simenya, Rangala, Yiro East, Yiro West, Ruwe and Uhuyi Sub-Locations of Siaya County
								1161	Sigomere	Comprises Got Osimbo, Mung'aq, Madungu, Sigomere, Asango East, Asango West, Tingare East and Tingare West Sub-Locations of Siaya County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
041	Siaya	234	Alego Usonga	187 243	623.50	1162	Ugurija	39 213	84.30	Comprises Ligga, Umala, Ambira, Ngunya, Ugunja, Rambula South, Rambula North and Magoya Sub-Locations of Siaya County
						1163	Usong'a	13 601	82.20	Comprises Sumba, Nyadorera 'A' and Nyadorera 'B' Sub-Locations of Siaya County
						1164	West Allego	32 234	101.90	Comprises Kalkada Uradi, Komanya Kalaka, Komanya Kowala, Kodiere, Mahola Ulawe, Gang'u, Kaugagi Hawing'a, Kaugagi Udena, Sigoma Uranga and Kabura Uhuyi Sub-Locations of Siaya County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1165	Central Alego	30 993	142.80	Comprises Ojwando 'A', Ojwando 'B', Kochieng 'A', Kochieng 'B', Koyeo, Kakumu, Kombewa, Kadenge and Obambo Sub-Locations of Siaya County
						1166	Siaya Township	32 252	45.30	Comprises Nyandiwa, Mulaha, and Karapul Sub-Locations of Siaya County
						1167	North Alego	21 710	56.80	Comprises Hono, Nyamila, Komolo, and Nvalaunaa Sub-Locations of Siaya County
						1168	South Alego		194.50	Comprises Bar Agulu, Nyang'oma, Masumbi, Mur Ng'iy'a, Randago, Bar Olengo, Mur Malanga, Bar

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
041	Siaya	235	Gem	160 675	353.20	1169	North Gem	35 004	86.20	Comprises Malanga, Got Regea, Ndere, Nyabeda, Lundha, Mailera, Asayi and Sirembe Sub-Locations of Siaya County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1171	Central Gem	23 854	52.50	Comprises Gongo, Nyandiwa, Nyawara, Sinwo and Kagilo Sub-Locations of Siaya County
						1172	Yala Township	23 151	34.10	Comprises Anyiko, Sauri, Nyamminia and Jina Sub-Locations of Siaya County
						1173	East Gem	24 764	61.90	Comprises Marenyo, Uranga, Lihanda and Ramulia Sub-Locations of Siaya County
						1174	South Gem	30 421	63.30	Comprises Rea, Kambare, Ndori, Kanyadet, Kaudha East, Kaudha West, Onyinyore and Gomhe Sub-Locations of Siaya County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
041	Siaya	236	Hondo	157 522	593.00	1175	West Yimbo	28 503	40.30	Comprises Usenge, Got Agulu, Mahanga and Mitundu Sub-Location of Siaya County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
						1179	West Sakwa	25 313	109.80	Comprises Utonga, Kapiyo, Maranda, Usire and Nvawita Sub-Locations of Siaya County
						1180	North Sakwa	33 164	96.00	Comprises Bar Kowino, Ajigo, Bar Chando and Abom Sub-Locations of Siaya County
041	Siaya	237	Rarieda	134 558	403.30	1181	East Asembo	32 886	78.50	Comprises Omia Mwalo, Omia Diere, Omia Malo, South Ramba and North Ramba Sub-Locations of Siaya County
						1182	West Asembo	33 072	101.00	Comprises Nyagoko, Siger, Mahaya, Akom and Memba Sub-Location of Siaya County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1183	North Uyoma	21 245	73.90	Comprises Masala, West Katweng'a, East Katweng'a, Ochieng'a and Rageng'i Sub-Location of Siaya County
						1184	South Uyoma	19 536	57.80	Comprises Lieta, Ndigwa and Naya Sub-Location of Siaya County
						1185	West Uyoma	27 819	92.10	Comprises Rachai, Kobong, Nyabera, Kokwiri and Kagwa Sub - Location of Siaya County
042	Kisumu	238	Kisumu East	150 124	135.90	1186	Kajulu	40 876	38.30	Comprises Got Nyabondo, Kadero-K, Okok, Konya and Wathorego Sub-Locations of Kisumu County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1187	Kolwa East	21 288	57.80	Comprises Buoye, Chiga and Mayenya Sub-Locations of Kisumu County
						1188	Manyatta B	27 952	2.50	Comprises Manyatta B Sub-Location of Kisumu County
						1189	Nyalenda A	28 269	3.20	Comprises Nyalenda A Sub-Location of Kisumu County
						1190	Kolwa Central	31 739	34.10	Comprises Nyalunya and Kasule Sub-Locations of Kisumu County
042	Kisumu	239	Kisumu West	131 246	212.90					
						1191	South Kisumu	22 126	50.40	Comprises Ojolla, Osiri and Kanyawegi Sub-Locations of Kisumu County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
						1192	Central Kisumu	38 128	30.30	Comprises Kogony, Korando 'A' and Korando 'B' Sub-Locations of Kisumu County
						1193	Kisumu North	24 890	40.60	Comprises Dago, Mkendwa, Bar 'a', Bar 'b' and Nyahera Sub-Locations of Kisumu County
						1194	West Kisumu	22 147	56.40	Comprises Newa, Upper Kadongo, Lower Kadongo, South Kapuonia and North Kapuonia Sub-Locations of Kisumu County
						1195	North Kisumu	23 955	35.20	Comprises West Karatieng, East Karatieng, Sunga and Marera Sub-Locations of Kisumu County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
042	Kisumu	240	Kisumu Central	168 892	32.70					
						1196	Railways	34 924	15.10	Comprises Kanyakwar, Bandari and Nyawita Sub-Locations of Kisumu County
						1197	Migosi	19 826	1.90	Comprises Migosi Sub-Locations of Kisumu County
						1198	Shauri Kaloleni	14 806	2.10	Comprises Kaloleni Sub-Locations of Kisumu County
						1199	Market Milmami	18 902	6.50	Comprises Northern and Southern Sub-Locations of Kisumu County
						1200	Kondele	48 004	2.40	Comprises Manyatta A Sub-Location of Kisumu County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
042	Kisumu	241	Seme	98 805	190.20	1202	West Seme	28 456	77.10	West Reru, East Reru, West Ngere, East Ngere, Angloga, Alwala, Kadlinga West, East Kadlinga, North Alungo and South Alungo Sub-Locations of Kisumu County
						1203	Central Seme	23 213	63.60	Comprises West Kanyadwera, East Kanyadwera, Upper Kombewa, East Othony, West Othony and Lower Kombewa Sub-Locations of Kisumu County

[Subsidiary]

## SCHEDULE E—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq Km (Approx.)	Constituency Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1204	East Seme	21 688	55.70	Comprises West Kolumje, East Kolumje, Kailia, Kitmikayi and Koker/Kajulu Sub-Locations of Kisumu County
						1205	North Seme	25 448	70.90	Comprises East Katieno, Kadero, West Katieno, North Kowe, South Kowe, North Rata and South Rata Sub-Locations of Kisumu County
042	Kisumu	242	Nyando	141 037	413.20	1206	East Kano/Wawidhi	17 334	101.90	Comprises Magina, Nyakongo, Katolo, Achego and Ayweyo Sub-Locations of Kisumu County
						1207	Awas/Onjiko	30 937	106.60	Comprises Kobongo, Border I, Ayucha, Border II, and Wang'ang'a Sub-Locations of Kisumu County

## SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward	County Assembly Description
						1208	Ahero	31 440	39.80	Comprises Kakmie, Kakola Ahero, Tura, Kakola/Kochogo, Kakola Ombaka, Kochogo Central, and Kochogo North Sub-Locations of Kisumu County	
						1209	Kabonyo/Kanyag wal	25 065	87.00	Comprises Kabonyo Irrigation Scheme, Kapiro, Upper Bwanda, Kwa Kungu, Central Ewanda, Koi, Anyuro, Ogenya, Ugwe, Nduru, and Kadhiambio Sub-Locations of Kisumu County	
						1210	Kobura	36 261	77.90	Comprises Kotieno, Kamayoga, Lela, Masogo, Nyamware North,	

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[Subsidiary]

## SCHEDULE—*continued*

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
										East II, East Kabar, West Kabar and Central Kabar Sub-Locations of Kisumu County
						1214	Chemelil	26 378	153.30	Comprises Upper Tamu, Lower Tamil, Kibigori, Chemelil, Nyangore, West Songhor, East Songhor and God Abuorio Sub-Locations of Kisumu County
						1215	Muhoroni Koru	41 157	183.10	Comprises Muhoroni Town, Tonde, Orego, Owaga, Koru, Nyando, Ochoria, Fort-Ternan and Homa Line Sub-Locations of Kisumu County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
042	Kisumu	244	Nyakach	133 041	357.30	1216	South Nyakach	17 322	50.90	Comprises Kajimbo, Ramogi, Gari and West Kadiang'a Sub-Locations of Kisumu County
						1217	North Nyakach	33 507	110.40	Comprises Rarieda, Lisan, Kasaye, Jimo Middle, Gem Rae and Gem Nam, Agoro East, Jimo East, Awach, Agoro West and Kandaria Sub-Locations of Kisumu County
						1218	Central Nyakach	25 282	76.00	Comprises Moro, Kabodho East, Olvalo, Jimo West, Kabodho North and Kabodho West Sub-Locations of Kisumu County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1219	West Nyakach	26 403	69.00	Comprises Upper Kadiang'a, Anding'o Opanga, West Koguta, Nyong'oga and Lower Kadiang'a Sub-Locations of Kisumu County
						1220	South Nyakach	30 527	51.00	Comprises East Koguta, East Kadiang'a and Ramogi Sub-Locations of Kisumu County
043	Homa Bay	245	Kasipul	113 117	259.90	1221	West Kasipul	25 807	84.50	Comprises Kadel Kamidigo, Kodera Kamiyawa, Kotieno Kochich, Kotieno Konuong'a and Kadel Karabach Sub-Locations Homa Bay County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1222	South Kasipul	25 691	39.10	Comprises Kanyango, Kasimba, Kawino and Kokal Sub-Locations of Homa Bay County
						1223	Central Kasipul	26 016	68.80	Comprises Kawere East, Kawere West, North Kachien, Nyalenda and South Kachien Sub-Locations of Homa Bay County
						1224	East Kamagak	14 588	40.40	Comprises Kachieng' and Sino Kagola Sub-Locations of Homa Bay County
						1225	West Kamagak	21 015	27.10	Comprises Kamuma and Obisa Sub-Locations of Homa Bay County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
043	Homa Bay	246	Kabondo Kasipul	107 549	249.80					
						1226	Kabondo East	31 962	63.20	Comprises Kakang'utu East, Kodhoch East, Kodumo East, Kowidi, Miriu and Rongo/Pala Sub-Locations of Homa Bay County
						1227	Kabondo West	31131	80.00	Comprises Kakang'utu West, Kakumu, Kasewe 'A', Kasewe 'B', Kilusi, Kodumo West, Lower Kodhoch West and Upper Kodhoch West Sub-Locations of Homa Bay
						1228	Kokwanyo/ Kakelo	26 532	71.30	Comprises Kakelo Dudi, Kakelo Kamroth, Kokwanyo East and Kokwanyo West Sub-Locations of Homa Bay County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
043	Homa Bay	247	Karachuonyo	162 045	412.50	1229	Kojwach	17 924	35.30	Comprises Kojwach Kamiyoro, Kojwach Kamuga and Kojwach Kawere Sub-Locations of Homa Bay County
						1230	West Karachuonyo	26 069	50.20	Comprises Koguta, Kowuor, Kanyadenda, Rabior, Kanyango, Kayoo East, Kayoo West, Kayoo Central, Kamuga, Kawiti, and Kalwal Sub-Locations of Homa Bay County
						1231	North Karachuonyo	23 614	58.30	Comprises Kokoth 'B', Koyumbe, Kakoko, Kochola, Kokidi, Kamwania, South Wagwe, North Wagwe, Kadik, and Koredo Sub-Locations of Homa Bay County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1232	Central	13 409	37.30	Comprises Kamser A', Kamser B', Kodondi, Kogembo, Kokweno and Kawour Sub-Locations of Homa Bay County
						1233	Kanyaluo	25 750	78.50	Comprises East Kowour, West Kowour, Kamenya North, Kamenya South, Kobia, Komwoyo, Kokweno Oriang' West, Kokweno Oriang' East and Kamenya Central Sub-Locations of Homa Bay County
						1234	Kibiri	19 496	46.80	Comprises Kamuga, Kanyong'o, Katonde, Kawadhgone, Kodero, Koiwang,

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
										Kowili, Kowili 2 and Ouko Ondeng'e Sub-Locations of Homa Bay County
						1235	Wangchieng	33 336	95.40	Comprises Kagwa, Kajiei, Kamsar Seka, Kamwala, Karabondi, Kobala, Kobuya East, Kobuya West and Rakwaro of Homa Bay County
						1236	Kendu Town	20 371	46.00	Comprises Kanyadhiang', Konyango, Majeri, Kotieno, Gumba, Lower Kakwajuok and Upper Kakwajuok Sub-Locations of Homa Bay County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
043	Homa Bay	248	Rangwe	99 748	259.90	1237	West Gem	19 711	54.90	Comprises Genga, Kamagawi, and Kanyaniwa Sub-Locations of Homa Bay County
						1238	East Gem	22 930	59.80	Comprises Kotieno, Kajulu and Koyolo Sub-Locations of Homa Bay County
						1239	Kagan	30 553	76.30	Comprises Gongo, Kanyaruanda, Kanyiriema, Kokoko and Komanya Sub-Locations of Homa Bay County
						1240	Kochia	26 554	68.90	Comprises Kaura, Kowili, Korayo, Kamanya and Kanam Sub-Locations of Homa Bay County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
043	Homa Bay	249	Homa Town	94 660	198.60					
						1241	Homa Central	22 781	25.90	Comprises Asego, Homabay town and Kobuduia Kogwang Sub-Locations of Homa Bay County
						1242	Homa Arujo	19 768	13.30	Comprises Arujo Sub-Location of Homa Bay County
						1243	Homa West ward	31 253	90.20	Comprise North Kanyabala, South Kanyabala, Kotieno, Katuma and Kalanya/Kanyango su-blocations of Homa Bay County
						1244	Homa Bay East	20 858	69.20	Comprises Kothidha, Kanyach Kachar and Komolo Sub-Locations of Homa Bay County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
043	Homa Bay	250	Ndhiwa	172 212	711.40					
						1245	Kwabwai	31 596	140.30	Comprises Kamdar Rachar, Kamdar Kawanga, Kasirime, Kadholo, Kamdar Kodondo, Kamdar Kanyolo and Kachuth Sub-Locations of Homa Bay
						1246	Kanyadoto	16 331	67.30	Comprises Kabura North, Kaganda North, Kaganda South and Kabura South Sub-Locations of Homa Bay County
						1247	Kanyikela	6 283	29.70	Comprises North Kanyikela and South Kanyikela Sub-Locations of Homa Bay County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1248	Kabouch North	35 270	137.40	Comprises Kawour/Kawere, Karading, Konyango, West Kachieng, East Kachieng, and Konyango-Kachwanya Sub-Locations of Homa Bay County
						1249	Kabuoch South/Pala	26 332	99.60	Comprises Koguta, Koita and Kamanya/Kaguria Sub-Locations of Homa Bay County
						1250	Kanyamwa Kologi	23 442	100.50	Comprises Kadwet, Kajwang, Kachola, West Kachieng, Komungu, Kakaeta and East Kachieng Sub-Locations of Homa Bay County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
043	Homa Bay	251	Suba North	111 409	420.80	1251	Kanyamwa Kosewe	32 958	136.60	Comprises Kwamo, Kayambo, Kabonyo and Kwandiko Sub-Locations of Homa Bay County
						1252	Mfangano Island	26 120	66.00	Comprises Wakula North, Wakula South, Sokilo South, Sokilo North, Wakinga and Waware Sub-Locations of Homa Bay

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1254	Kasgunga	19 653	74.70	Comprises Kasgunga West, Kasgunga Central and Kasgunga East Sub-Locations (Mbita Townshini) of Homa Bay County
						1255	Gembé	19 046	94.10	Comprises Kamieri West, Kamieri East, Waondo, Kanyanja, Ngodhe and Usao Sub-Locations of Homa Bay County
						1256	Lambwe	22 315	142.20	Comprises God Jope, Ruri West, Ruri East, Nyamaiji East, Nyamaiji West and Ogongo Sub-Locations of Homa Bay County
043	Homa Bay	252	Suba South	103 054	641.80	1257	Gwassi South	34 563	206.90	Comprises Owich, Lwala, Kiabuya, Nyancha, Magunga, Samba,

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
										Seka and Kibwer Sub-Locations of Homa Bay County
						1258	Gwassi North	30 598	125.20	Comprises Nyangwethe, Uterere, Kitawa, Kisaku, Malongo, Tonga, and Nyandiwa Sub-Locations of Homa Bay County
						1259	Kaksingiri West	26 021	104.20	Comprises Nyamirisa, Rang'wa West, Rang'wa East, Nyamarandi and Sindo Sub-Locations of Homa Bay County
						1260	Ruma-Kaksingiri East	11 872	205.50	Comprises Sumba West, Sumba East, Nyatoto and Nyadenda Sub-Locations of Homa Bay County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
044	Migori	253	Rongo	100 547	208.40	1261	North Kamagambo	18 755	46.40	Comprises Kameji, North Kamwango, South Kamwango and Koluoich Sub-Location of Migori County
						1262	Central Kamagambo	27 756	29.10	Comprises Kabuoro, Kodero Bara and Kanying'ombe Sub-Location of Migori County
						1263	East Kamagambo	26 857	63.90	Comprises Kambila, Kanyadie, Kongudi and Kong'oma, Kangeso and Kanyamamba Sub-Location of Migori County
						1264	South Kamagambo	27 179	69.00	Comprises North Kanyajuok, South Kanyajuok, Kanyawanga, Kemperi and Kanyimach Sub-Location of Migori County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
044	Migori	254	Awendo	108 913	262.00	1265	North-East Sakwa	18 142	37.80	Comprises Kadera Kuoyo, Kadera Lwala, Kanyasrega and Waware Sub - Location of Migori County
						1266	South Sakwa	36 200	108.80	Comprises Waware, Kogelo East, Kogelo West, Kogelo South, East Alego, Central Alego, West Alego and Waudha Sub - location of Migori County
						1267	West Sakwa	27 010	70.50	Comprises Kakmasia, Rabondo, Kanyangony and Kamresi Sub - Locations of Migori County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
044	Migori	255	Suna East	97 121	207.30	1269	God Jope	18 567	42.50	Comprises South Osingo, North Osingo, Wasio and Manyatta Sub-Locations of Migori County
						1270	Suna Central	27 645	27.70	Comprises Waswetta I and Ngege Sub-Locations of Migori County
						1271	Kakrao	33 642	94.80	Comprises Kireng'o, Nyamanga, Otacho and Kakrao Sub-Locations of Migori County
						1272	Kwa	17 267	42.30	Comprises Sagegi, Ogwethi, Kwa and Onguo Sub-locations of Migori County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
044	Migori	256	Suna West	94 127	282.80	1273	Wiga	24 096	103.60	Comprises God Kwer, Wiga, Mukuro and Nyasoko Sub - locations of Migori County
						1274	Wasweta II	17 952	54.80	Wasweta II and Sagero Sub - locations of Migori County
						1275	Ragana Oruba	-	30.30	Comprises Marindi and Onuba Sub - Location of Migori County
						1276	Wasimbete	19 232	94.10	Comprises Giribe, Nyamaranga, Mubachi and Kopanga Sub - Locations of Migori County
044	Migori	257	Uriri	115 751	380.70	1277	West Kanvamkago	26 786	107.60	Comprises Kajulu II, Kajulu I 'B' and Kajulu I Sub - Location of Migori County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1278	North Kanyamkago	30 396	110.30	Comprises Komanya Masoge, Katieno II, Kamgudho I, Katieno I and Kamgudho II Sub-Location of Migori County
						1279	Central Kanyamkago	17 814	57.40	Comprises Kawere II 'B' East Kawere Rateng', West Kawere Rateng', Nyobe, and Central Kawere Rateng' Sub-Location of Migori County
						1280	South Kanyamkago	27 719	69.70	Comprises Kamsaki Bware, Got Uriri and Lwala Sub-Location of Migori County
						1281	East Kanvamkaao	13 036	35.70	Comprises Thim Jope and Arambe Sub-Location of Migori County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
044	Migori	258	Nyatike	144 625	677.70	1282	Kachienget'	21 775	56.00	Comprises Gunga, Raga and Sori Sub-Locations of Migori County
						1283	Kanyasa	14 331	83.20	Comprises Otati, Alendo, Misiwi, Okayo and Ng'ira Sub-Locations of Migori County
						1284	North Kadem	30 697	204.70	Comprises Magungu, Bala, Kiwiro, Okenge, Kanyuor East, Kanyuor West, Karapolo and Kakelo/Kakoth Sub-Locations of Migori County
						1285	Macalder/ Kanyarwanda	22 691	136.40	Comprises Owich, Nyatike, Mikei, East Kanyarwanda, Central Kanyarwanda and West Kanyarwanda Sub-Locations of Migori County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Km (Approx.)	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
							1286	Kaleri	9 775	58.70	Comprises Kiasa and Olasi Sub-Locations of Migori County
							1287	Got Kachola	22 338	93.90	Comprises Nyandago, Bande, Amoyo, Winam and Aneko Sub-Locations of Migori County
							1288	Muhuru	23 018	44.80	Comprises Ibencho, Winjo, Tagache, Nyankondo, Nyabomo, Sumba Nyancha and Kitii Sub-Locations of Migori County
044	Migori	259	Kuria West	162 857	332.50		1289	Bukira East	19 476	34.20	Comprises Iguna and Tarang'anya Sub-Locations of Migori County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1290	Bukira Central/Ikerege	18 140	31.40	Comprises Komomange, Gwikonge and Ikereae Sub-Locations of Migori County
						1291	Isibaria	23 556	5.30	Comprises Nyamaharaga Sub-Location of Migori County
						1292	Mokerero	20 982	30.60	Comprises Nyangitti, Nyabikaye and Nyametaburo Sub-Locations of Migori County
						1293	Masaba	11 287	51.90	Comprises Nyamagagana, Masaba, Nyanchabo and Getong'anya Sub-Locations of Migori County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
						1294	Tagare	22 562	54.10	Comprises Ngisiru, Mabera, Nyangoge, and Nvankore Sub-Locations of Migori County
						1295	Nyamosense/ Komosoko	26 542	72.50	Comprises Isibania, Komosoko, Ngochoni and Mohero Sub-Locations of Migori County
						1296	Gokeharaka/ Getambwega	20 312	52.50	Comprises Ihore, Nyamaranya, Nyametambe and Masangora Sub-Locations of Migori County
044	Migori	260	Kuria East	93 229	235.00	1297	Ntimaru West	20 439	33.80	Comprises Ntimaru, Makarangwe, Gwiembe and Masangura Sub-Locations of Migori County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population Km (Approx.)	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
				1298	Ntmaru East	11 730	20.30	Comprises Itongo, Wangirabose and Siabai Sub-Locations of Migori County		
				1299	Nyabasi East	22 293	57.00	Comprises Nyamegenga, Kugitimo, Sakuri, Girigiri, Getongoroma and Kegonga Sub-Locations of Migori County		
				1300	Nyabasi West	38 767	123.90	Comprises Kebaroti, Maeta, Nyaroha, Nyabikongori, Tebesi, Nyaitara, Kuritinyange, Kombe, Sagegi, Nyamagana, Igena (Part), Komomange (Part), Sanchawa and Sub-Locations of Migori County		

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
045	Kisii	261	Bonchari	114 615	127.00	1301	Bomariba	38 696	42.50	Comprises Kébeye, Bomariba, Boroko, Bonyando and Bomwanda Sub-Locations of Kisii County
						1302	Bogiakumu	34 665	26.00	Comprises Bogiakumu, Bomwancha, Bonyanchaire, Bomakoni and Bonyaoro Sub-Locations of Kisii County
						1303	Bokeira	20 491	27.20	Comprises Bokeira and Bomokora Sub-Locations of Kisii County
						1304	Riana	20 763	31.30	Comprises Nyamwari, and Bogitaia Sub-Locations of Kisii County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
045	Kisii	262	South Mugirango	159 049	204.30					
						1305	Tabaka	32 115	33.00	Comprises Bosinange, Bomonyara and Tabaka Sub-Locations of Kisii County
						1306	Boikanga	19 866	29.10	Comprises Ikor, Boikanga, and Nyakore Sub-Locations of Kisii County
						1307	Bogotenga	26 139	33.90	Comprises Nyansore, Bomonyama and Boaetehaa Sub-Locations of Kisii County
						1308	Borabu/Chitago	39 413	44.40	Comprises Monianku, Nyamondo, Botabori, Kiagware, Amakara and Boige Sub-Locations of Kisii County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1309	Moticho	26 611	42.70	Comprises Ndonyo, Nyabera, Eburi and Nyataro Sub-Locations of Kisii County
						1310	Getenga	14 905	21.20	Comprises Muma, Bosaga and Nyaramba Sub-Locations of Kisii County
045	Kisii	263	Bomachoge Borabu	107 199	115.20					
						1311	Borabu Masaba	33 755	36.70	Comprises Kenyanya and Igorera Sub-Locations of Kisii County
						1312	Boochi Borabu	24 675	24.00	Comprises Emesa, Kiango and Ritembu Sub-Locations of Kisii County
						1313	Bokimonge	15 066	20.00	Comprise Nyabitunwa and Bokimonge Sub-Locations of Kisii County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
045	Kisii	264	Bobasi	190 077	240.60	1314	Magenche	33 703	34.50	Comprises Magenche, Mokubo and Nvamecheo Sub-Locations of Kisii County
						1315	Masige West	18 492	27.70	Comprises Gionseri, Mosora, Orogare, Omosaria, Nyachenge and Nyabisia Sub-Locations of Kisii County
						1316	Masige East	19 170	21.10	Comprises Turwa, Omokonge, Kiobegi and Masisi/goma Sub-Locations of Kisii County
						1317	Basi Central	23 346	33.10	Comprises Kegochi, Emenwa, Maji Mazuri and Nyoera Sub-Locations of Kisii County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
						1318	Nyacheki	31 088	41.30	Comprises Bosansa, Borangi, Riosugo, Isena and Riromo Sub-Locations of Kisii County
						1319	Bassi Bogetaorio	34 166	39.40	Comprises Nyantira, Rogongo, Nyachogochogo, Riontweka, Ritumbé and Nyangusu Sub-Locations of Kisii County
						1320	Bobasi Chache	22 004	25.30	Comprises Getenga, Gesure, Giasaiga and Bogetairo II Sub-Locations of Kisii County
						1321	Sameta/ Mokwerero	21 246	26.90	Comprises Eitora, Sameta and Kenyerere Sub-Location of Kisii County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
045	Kisii	265	Bomachoge Chache	93 530	106.30	1322	Bobasi/Boitanaare	20 565	25.80	Comprises Nyamagua, Igare and Kiongongi of Kisii County
						1323	Majoge Basi	23 482	27.80	Comprises Misesi and Kanyimbo Sub-Locations of Kisii County
						1324	Boochii/Tender e	33 197	31.00	Comprises Keragia, Nyansakia, Mang'ere and Boochii Sub-Locations of Kisii County
						1325	Bosotii/Sengerera	36 851	47.50	Comprises Kineni, Ibencho, Nyaisero and Bosoti Sub-Locations of Kisii County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
045	Kisii	266	Nyaribari Masaba	122 087	161.80					
						1326	Ichuni	27 724	31.10	Comprises chuni, Gesabakwa, Giensembe, Amabuko and Bogeche Sub-Locations of Kisii County
						1327	Nyamasibi	21 526	35.30	Comprises Elware, Nyamisibi, Sosera, Nyasike and Bong'onta Sub-Locations of Kisii County
						1328	Masimba	26 013	34.70	Comprises Meitembe, Riamichoki, Engorwa, Riuri Ibanchore, Gekonge, Kerema and Suguta Sub-Locations of Kisii County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1329	Gesusu	25 861	34.80	Comprises Chibwobi, Geracho, Nyamesocho, Geteri, Ilkeny, Masaba, Chironge, Gerare and Kegogi Sub-Locations of Kisii County
						1330	Kiamokama	20 963	25.90	Comprises Mogweko, Mobamba, Nyankononi, Ibacho and Emeroka Sub-Locations of Kisii County
045	Kisii	267	Nyaribari Chache	129 745	134.40					
						1331	Bobaracho	29 338	29.60	Comprises Nyamemiso, Bobaracho, Nyanguru and Kegati Sub-Locations of Kisii County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
						1332	Kisii Central	32 203	17.80	Comprises Masongo, Nyaura and Nyanchwa Sub-Locations of Kisii County
						1333	Keumbu	15 024	15.30	Comprises Nyamware and Bomwagi Sub-Locations of Kisii County
						1334	Kiogoro	13 102	16.10	Comprises Boronyi, Nyaguta and Matunwa Sub-Locations of Kisii County
						1335	Birongo	19 368	23.20	Comprises Keumbu (Taracha) and Birongo Sub-Locations of Kisii County
						1336	Ibeno	20 710	32.40	Comprises Kerera, Kirwa, Kabosi, Chinichiro and Nyamagwa Sub-Locations of Kisii County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
045	Kisii	268	Kitutu Chache North	103 849	123.90					
						1337	Monyerero	27 611	38.40	Comprises Ikuruma, Matongo and Gesangero Sub-Locations of Kisii County
						1338	Sensi	10 522	13.80	Comprises Sensi and Kiong'anyo Sub-Locations of Kisii County
						1339	Marani	35 048	37.80	Comprises Nyakieri, Igemo, Onywere, Nyamage and Kiomoncha Sub-Locations of Kisii County
						1340	Mwamoniari	30 668	33.90	Comprises Rioma, Metembe and Ngokoro Sub-Locations of Kisii County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Description
045	Kisii	269	Kitutu Chache South	132 131	104.40	1341	Bogusero	24 872	Comprises Bigege, Raganga, Matieko and Santa Sub-Locations of Kisii County
						1342	Bogeka	13 254	Comprises Gesoni and Mogusi Sub-Locations of Kisii County
						1343	Nyakoe	23 096	Comprises Bonyagatanyi, Iranda, Rieteba and Nyagisai Sub-Locations of Kisii County
						1344	Kitutu Central	50 363	Comprises Township/Mwamorsioma Sub-Location of Kisii County
						1345	Nyatioko	20 546	Comprises Mwamanwa and Mwamosioma Sub-Locations of Kisii County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
046	Nyamira	270	Kitutu Masaba	199 136	252.80	1346	Rigoma	43 300	47.30	Comprises Embora, Bocharia, Nyankoba and Biticha Sub-Locations of Nyamira County
						1347	Gachuba	32 305	39.40	Comprises Girango, Mirri and Rigena Sub-Locations of Nyamira County
						1348	Kemera	35 307	39.00	Comprises Nyangena, Moitunya, Kiabiraa, Kiangoso, Irianyi and Nyachichi Sub-Locations of Nyamira County
						1349	Magombo	22 263	31.40	Comprises Nyambaria, Gekano, Sirate, Nyaguku and Bogwendo Sub-Locations of Nyamira County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
					1350	Manga		30 289	40.90	Kilogutwa, Mwabosire, Morako and Nyakongo Sub-Locations of Nyamira County
046	Nyamira	271	West Mugirango	159 673	179.00		Gesima	35 672	54.80	Nyatieno, Nyamakoroto, Karantini, Nyabiosi, and Riamoni Sub-Locations of Nyamira County
								1352	32 676	Bomanyanya, Bomabacho, Bokiambotti, Bonyaiguba and Miruka Sub-Locations of Nyamira County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1353	Bogichora	41 826	48.20	Comprises Charachani, Nyameru, Bundo, Mongorisi, Ibucha and Timi Sub - Location of Nyamira County
						1354	Bosamaro	39 758	46.90	Comprises Ikobe, Bigege, Enchoro and Keaoai Sub - Locations of Nyamira County
						1355	Bonyamatuta	25 836	30.10	Comprises Siamani, Kebirigo and Nyabisimba Sub - Location of Nyamira County
						1356	Township	19 577	12.90	Comprises Township Sub - Location of Nyamira County
046	Nyamira	272	North Mugirango	122 353	183.00	1357	Itibo	27 598	32.90	Comprises Boisanga (I), Bokurati (II) and Bonyakoni Sub - Locations of Nyamira County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1358	Bomwagamo	17 252	38.70	Comprises Mageri, Nyagweko and Nyambiri Sub-Location of Nyamira County
						1359	Bokeira	27 489	39.20	Comprises Nyakenimo, Bonyengwe Egetonto and Matongo Sub-Locations of Nyamira County
						1360	Magwagwa	23 355	35.70	Comprises Magwagwa, Bonyengwe A and Bonyengwe B Sub-Locations of Nyamira County
						1361	Ekerenyø	26 659	36.50	Comprises I Konge, Boisanga (I), and Bokurati (I) Sub-Locations of Nyamira County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
046	Nyamira	273	Borabu	117 090	297.70	1362	Mekene	18 976	77.30	Comprises Mwongori, Mogusii, Kitaru and Nyankono/Kerumbe Sub-Locations of Nyamira County

[Subsidiary]

## SCHEDULE E—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
047	Nairobi	274	Westlands	176 689	72.40	1366	Kitisuru	31 202	21.30	Comprises Kitisuru, Loresho and Kyuna Sub-Locations of Nairobi County
						1367	Parklands/ Highridge	38 344	8.20	Comprises Upper Parklands, Highridge and Spring Valley Sub-Locations of Nairobi County
						1368	Karura	26 453	38.20	Comprises Karura and Muthaiga Sub-Locations of Nairobi County
						1369	Kangemi	44 564	1.60	Comprises Kangemi Sub-Location of Nairobi County
						1370	Mountain View	36 126	3.10	Comprises Mountain View and Gichagi Sub-Locations of Nairobi County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
047	Nairobi	275	Dagoreti North	181 365	29.00					
						1371	Kilimani	43 122	16.10	Comprises Kilimani and Maziwa Sub-Locations of Nairobi County
						1372	Kawangware	33 707	1.20	Comprises Parts of Kawangware Sub-Location of Nairobi County
						1373	Gatina	43 627	1.50	Comprises Gatina Sub-Location of Nairobi County
						1374	Kileleshwa	27 202	9.00	Comprises Muthangari and Kileleshwa Sub-Locations of Nairobi County
						1375	Kabiro	33 707	1.20	Comprises Parts of Kawangware Sub-Location of Nairobi County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
047	Nairobi	276	Dagoretti South	178 691	25.30					
						1376	Mutu-ini	17 973	5.00	Comprises Kirigu and Mutuini Sub-Locations of Nairobi County
						1377	Ngando	31 769	3.20	Comprises Ngando Sub-Location of Nairobi County
						1378	Riruta	65 320	4.20	Comprises New Satellite Sub-Location of Nairobi County
						1379	Uthiru/Ruthimtu	32 575	7.90	Comprises Uthiru and Ruthimtu Sub-Locations of Nairobi County
						1380	Waithaka	31 054	5.00	Comprises Waithaka and Kabaria Sub-Locations of Nairobi County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
047	Nairobi	277	Langata	176 314	196.80	1381	Karen	24 507	48.00	Comprises Karen, Langata, Hardy and Lenana Sub-Locations of Nairobi County
						1382	Nairobi West	33 377	6.90	Comprises Nairobi West Sub-Location of Nairobi County
						1383	Mugumo-ini	47 037	126.40	Comprises Mugumoini and Bonmas Sub-Locations of Nairobi County
						1384	South C	47 202	15.10	Comprises South C Sub-Location of Nairobi County
						1385	Nyayo Highrise	24 191	0.40	Comprises South Highrise Sub-Location of Nairobi County
047	Nairobi	278	Kibra	178 284	12.10	1386	Laini Saba	28 182	0.40	Comprises Laini Saba Sub-Location of Nairobi County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1387	Lindi	35 158	0.50	Comprises Lindi Sub-Location of Nairobi County
						1388	Makina	25 242	0.70	Comprises Makina Sub-Location of Nairobi County
						1389	Woodley/Kenyatta Golf Course	35 355	9.50	Comprises Kenyatta/Golf course, Woodley Sub-Locations of Nairobi County
						1390	Sarang'ombe	54 347	1.00	Comprises Gatwirira/Olympic Sub-Location of Nairobi County
047	Nairobi	279	Roysambu	202 284	48.80					
						1391	Githurai	47 194	2.00	Comprises Main Part of Githurai Sub-Location of Nairobi County
						1392	Kahawa West	39 994	13.90	Comprises Kiwanja and Kahawa West Sub-Locations of Nairobi County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1393	Zimmerman	38 912	7.10	Comprises Zimmerman and Njathaini Sub-Locations of Nairobi County
						1394	Roysambu	40 331	22.40	Comprises Roysambu and Garden Estate Sub-Locations of Nairobi County
						1395	Kahawa	35 853	3.40	Comprises Kongo Soweto and Kamuthi, Part of Githurai Sub-Locations of Nairobi County
047	Nairobi	280	Kasarani	200 984	152.60					
						1396	Clay City	30 658	15.30	Comprises Parts of Kasarani Sub-Location of Nairobi County
						1397	Mwiki	39 156	18.80	Comprises Mwiki Sub-Location of Nairobi County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1398	Kasarani	30 658	15.30	Comprises Part of Kasarani Sub-Location of Nairobi County
						1399	Njiru	64 551	5.20	Comprises Saika and Part of Njiru Sub-Locations of Nairobi County
						1400	Ruai	35 961	98.00	Comprises Ngundu and Ruai Sub-Locations of Nairobi County
047	Nairobi	281	Ruaraka	192 620	7.20					
						1401	Babadoyo	30 741	1.95	Comprises Part of Ruaraka Sub-Locations of Nairobi County
						1402	Utalii	36 275	1.90	Comprises Mathare 4 A and Utalii Sub-Locations of Nairobi County
						1403	Mathare North	53 658	0.50	Comprises Mathare Sub-Location of Nairobi County

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1404	Lucky Summer	30 000	1.95	Comprises Parts of Ruaraka Sub-Location of Nairobi County
						1405	Korogocho	41 946	0.90	Comprises Korogocho, Nyayo and Gitathuru Sub-Locations of Nairobi County
047	Nairobi	282	Embakasi South	201 042	12.00					
						1406	Imara Daima	70 641	3.90	Comprises Imara Daima Sub-Location of Nairobi County
						1407	Kwa Njenga	32 600	2.03	Comprises Part of Mukuru kwa Njenga Sub-Location of Nairobi County
						1408	Kwa Reuben	32 600	2.03	Comprises Part of Mukuru Kwa Njenga Sub-Location of Nairobi County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Km (Approx.)	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
					1409	Pipeline			32 600	2.03	Comprises Part of Mukuru Kwa Njenga Sub-Location of Nairobi County
					1410	Kware			32 601	2.03	Comprises Part of Mukuru Kwa Njenga Sub-Location of Nairobi County
047	Nairobi	283	Embakasi North	181 388	5.50						
					1411	Kariobangi North			39 342	1.10	Comprises Kariobangi North Sub-Location of Nairobi County
					1412	Dandora Area I			28 239	1.10	Comprises Part of Dandora A Sub-Location of Nairobi County
					1413	Dandora Area II			28 238	1.10	Comprises Part of Dandora A Sub-Location of Nairobi County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
047	Nairobi	284	Embakasi Central	185 948	14.30	1414	Dandora Area III	42 784	1.10	Comprises Part of Dandora B Sub-Location of Nairobi County
						1415	Dandora Area IV	42 785	1.10	Comprises Part of Dandora B Sub-Location of Nairobi County
						1416	Kayole North	37 580	4.60	Comprises Part of Kayole Sub-Location of Nairobi County
						1417	Kayole Central	37 580	1.20	Comprises Part of Kayole Sub-Location of Nairobi County
						1418	Kayole South	37 580	1.20	Comprises Part of Kayole Sub-Location of Nairobi County
						1419	Komarock	35 628	1.60	Comprises Komarock Sub-Location of Nairobi County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
047	Nairobi	285	Embakasi East	163 858	64.70	1421	Upper Savanna	37 944	2.40	Comprises Part of Savanna Sub-Location of Nairobi County
						1422	Lower Savanna	37 944	2.40	Comprises Part of Savanna Sub-Location of Nairobi County
						1423	Embakasi	32 517	22.50	Comprises Part of Embakasi Sub-Location of Nairobi County
						1424	Utawala	32 517	22.50	Comprises Part of Embakasi Sub-Location of Nairobi County
						1425	Mihango	22 936	14.90	Comprises Mihango Sub-Location of Nairobi County

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
047	Nairobi	286	Embakasi West	187 020	9.35					
						1426	Umoja I	50 739	1.50	Comprises Part of Umoja Sub-Location of Nairobi County
						1427	Umoja II	50 738	1.55	Comprises Part of Umoja Sub-Location of Nairobi County
						1428	Mowlam	22 983	3.40	Comprises Mowlam Sub-Location of Nairobi County
						1429	Kariobangi South	62 560	2.90	Comprises Kariobangi South and Uhuru Sub-Locations of Nairobi County
047	Nairobi	287	Makadara	160 434	13.00					
						1430	Maringo/Hamza	52 293	2.90	Comprises ofafa Maringo, Hamza, Bahati/Kimathi Sub-Locations of Nairobi County

[Subsidiary]

## SCHEDULE—continued

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1431	Viwandani	44 881	5.70	Comprises Viwandani Sub-Locations of Nairobi County
						1432	Harambee	32 238	2.60	Comprises Harambee and Lumumba-Jericho Sub-Locations of Nairobi County
						1433	Makongeni	31 022	1.80	Comprises Mbotela, Makongeni and Kaloleni Sub-Locations of Nairobi County
047	Nairobi	288	Kamukimji	211 991	8.80					
						1434	Pumwani	37 602	1.40	Comprises Majengo, Kamukunji, Shaurimoyo and Bondeni/Gorofani Sub-Locations of Nairobi County
						1435	Eastleigh North	43 258	0.90	Comprises Eastleigh North and Garage Sub-Locations of Nairobi County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward in Sq. Km (Approx.)	County Assembly Ward Description
						1436	Eastleigh South	66 264	1.00	Comprises Eastleigh South Sub-Locations of Nairobi County
						1437	Airbase	43 168	5.00	Comprises Maina wanjigi and Airbase Sub-Locations of Nairobi County
						1438	California	21 699	0.50	Comprises California (New Pumwani Phase 1) Sub-Location of Nairobi County
047	Nairobi	289	Starehe	166 041	20.00	1439	Nairobi Central	13 325	1.70	Comprises City Square, Muthurwa and Nairobi Central Sub-Locations of Nairobi County
						1440	Ngara	25 354	2.60	Comprises Ngara East and Ngara West Sub-Locations of Nairobi County

[Subsidiary]

SCHEDULE—*continued*

County No.	County Name	Constituency No.	Constituency Name	Constituency Population	Constituency Area in Sq. Km (Approx.)	County Assembly Ward No.	County Assembly Ward Name	County Assembly Ward Population (Approx.)	County Assembly Ward Area in Sq. Km (Approx.)	County Assembly Ward Description
						1441	Pangani	37 062	1.70	Comprises Pangani Sub-Location of Nairobi County
						1442	Ziwani/Kariokor	10 488	0.80	Comprises Karikor/Ziwani and Gikomba Sub-Locations of Nairobi County
						1443	Landimawe	26 509	7.30	Comprises Landimawe and Sub-Locations of Nairobi County
						1444	Nairobi South	53 303	5.90	Comprises Nairobi South and Hazina Sub-Locations of Nairobi County
047	Nairobi	290	Mathare	193 416	3.00	1445	Hospital	20 463	0.80	Comprises Mathare Sub-Location of Nairobi County
						1446	Mabatini	28 260	0.40	Comprises Mabatini (4B and Gitathuru) Sub-Location of Nairobi County

## SCHEDULE—*continued*

**Leadership and  
Integrity Act  
(No. 19 of 2012)**



**THE REPUBLIC OF KENYA**

**LAWS OF KENYA**

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**LEADERSHIP AND INTEGRITY ACT**

**NO. 19 OF 2012**

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*Section*

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REGISTRABLE INTERESTS

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**NO. 19 OF 2012****LEADERSHIP AND INTEGRITY ACT**

[*Date of assent: 27th August, 2012.*]

[*Date of commencement: 27th August, 2012.*]

**An Act of Parliament to give effect to, and establish procedures and mechanisms for the effective administration of Chapter Six of the Constitution and for connected purposes**

[Act No. 19 of 2012, Act No. 47 of 2012, Act No. 18 of 2014.]

**PART I – PRELIMINARY****1. Short title**

This Act may be cited as the Leadership and Integrity Act, 2012.

**2. Interpretation**

(1) In this Act, unless the context otherwise requires—

**“asset”** means a thing, tangible or intangible, owned, whether wholly or in part, or controlled by a person, which has an actual or determinable economic value and can be sold, exchanged or otherwise used or applied to meet an obligation or acquire something else in return;

**“authorised officer”** means an authorised officer of a public entity having jurisdiction under the Constitution or any other law to discipline the State officer in relation to whom the expression is used;

**“bank account”** means an account maintained by a bank or any other financial institution for and in the name of, or in the name designated by, a customer of the bank or other financial institution and into which money is paid or withdrawn by or for the benefit of that customer or held in trust for that customer and in which the transactions between the customer and the bank or other financial institution are recorded;

**“business associate”** means a person who does business with or on behalf of a State officer and has express or implied authority from that State officer;

**“Cabinet Secretary”** means the Cabinet Secretary for the time being responsible for matters relating to leadership and integrity and includes the Attorney-General;

**“Code”** means the General Leadership and Integrity Code prescribed under Part II and includes a specific Code of Leadership and Integrity prescribed under Part III of this Act;

**“Commission”** means the Ethics and Anti-Corruption Commission established under the Ethics and Anti-Corruption Commission Act, 2011 (No. 22 of 2011);

**“dependant”** means a person whose means of support is partially or wholly derived from a State officer;

**“public entity”** means—

- (a) the Government, including the national or County government, or any department, State organ, agency, service or undertaking of the national or County government;
- (b) the National Assembly or the Parliamentary Service Commission;
- (c) any corporation, council, board, committee or other body which has power to act under and for the purposes of any written law relating to the undertakings of a public utility or otherwise to administer funds belonging to or granted by the Government or money raised by rates, taxes or charges in pursuance of any such law; or
- (d) a corporation, the whole or a controlling majority of the shares of which are owned by a person or entity that is a public body by virtue of any of the preceding paragraphs of this definition; and
- (e) statutory public bodies;

**“public officer”** has the meaning assigned to it under Article 260 of the Constitution;

**“spouse”** means a wife or husband;

**“State officer”** has the meaning assigned to it under Article 260 of the Constitution.

(2) Despite subsection (1), until after the first elections under the Constitution, references in this Act to the expressions **“Cabinet Secretary”**, **“Principal Secretary”** or **“State department”** shall be construed to mean **“Minister”**, **“Permanent Secretary”** and **“Ministry”**, respectively.

[Act No. 18 of 2014, Sch.]

### **3. Guiding values, principles and requirements**

(1) The primary purpose of this Act is to ensure that State officers respect the values, principles and requirements of the Constitution.

(2) A State officer shall respect the values, principles and the requirements of the Constitution, including—

- (a) the national values and principles provided for under Article 10 of the Constitution;
- (b) the rights and fundamental freedoms provided for under Chapter Four of the Constitution;
- (c) the responsibilities of leadership provided for under Article 73 of the Constitution;
- (d) the principles governing the conduct of State officers provided for under Article 75 of the Constitution;
- (e) the educational, ethical and moral requirements in accordance with Articles 99(1)(b) and 193(1)(b) of the Constitution;
- (f) in the case of County governments, the objectives of devolution provided for under Article 174 of the Constitution; and

(g) in so far as is relevant, the values and principles of Public Service as provided for under Article 232 of the Constitution.

(3) Nothing in this Act shall be construed as in any way diminishing or derogating from the values and principles under subsection (2).

#### **4. Implementation of the Act**

(1) Every person has the responsibility of implementing the provisions of this Act to the extent required by this Act.

(2) The Commission is responsible for overseeing and enforcing the implementation of this Act.

(3) In undertaking its mandate, the Commission may request a State organ to assist it in ensuring compliance with and enforcing Chapter Six of the Constitution and this Act.

(4) The Commission may require any public entity to carry out such functions and exercise such powers as may be necessary under this Act.

(5) Where a public entity has failed to comply with the requirements under subsection (3), the Commission may make an application before a High Court judge for appropriate orders requiring the public entity to comply.

#### **5. Delegation of functions by the Commission**

The Commission may, by notice in the *Gazette*, delegate to a public entity or an authorised officer any of its powers and functions under this Act.

### **PART II – GENERAL LEADERSHIP AND INTEGRITY CODE**

#### **6. General Code**

(1) This Part prescribes a general Leadership and Integrity Code for State officers.

(2) The provisions of Chapter Six of the Constitution shall form part of this Code.

(3) Unless otherwise provided in this Act, the provisions of the Public Officer Ethics Act (No. 4 of 2003) shall form part of this Code.

(4) If any provision of this Act is in conflict with the Public Officer Ethics Act, 2003 this Act shall prevail.

#### **7. Rule of law**

(1) A State officer shall respect and abide by the Constitution and the law.

(2) A State officer shall carry out the duties of the office in accordance with the law.

(3) In carrying out the duties of the office, a State officer shall not violate the rights and fundamental freedoms of any person unless otherwise expressly provided for in the law and in accordance with Article 24 of the Constitution.

#### **8. Public trust**

A State office is a position of public trust and the authority and responsibility vested in a State officer shall be exercised by the State officer in the best interest of the people of Kenya.

**9. Responsibility and duties**

Subject to the Constitution and any other law, a State officer shall take personal responsibility for the reasonably foreseeable consequences of any actions or omissions arising from the discharge of the duties of the office.

**10. Performance of duties**

A State officer shall, to the best of their ability—

- (a) carry out the duties of the office efficiently and honestly;
- (b) carry out the duties in a transparent and accountable manner;
- (c) keep accurate records and documents relating to the functions of the office; and
- (d) report truthfully on all matters of the organization which they represent.

**11. Professionalism**

A State officer shall—

- (a) carry out duties of the office in a manner that maintains public confidence in the integrity of the office;
- (b) treat members of the public and other public officers with courtesy and respect;
- (c) not discriminate against any person, except as is expressly provided by the law;
- (d) to the extent appropriate to the office, maintain high standards of performance and level of professionalism within the organisation; and
- (e) if the State officer is a member of a professional body, observe and subscribe to the ethical and professional requirements of that body in so far as the requirements do not contravene the Constitution or this Act.

**12. Financial integrity**

(1) A State officer shall not use the office to unlawfully or wrongfully enrich himself or herself or any other person.

(2) Subject to Article 76(2)(b) of the Constitution, a State officer shall not accept a personal loan or benefit which may compromise the State officer in carrying out the duties.

**12A. Self-declaration**

Any person intending to be appointed to a State office shall submit to the Commission a self-declaration form in the form set out in the First Schedule.

[Act No. 18 of 2014, Sch.]

**13. Moral and ethical requirements**

(1) For the purposes of Articles 99(1)(b) and 193(1)(b) of the Constitution, a person shall observe and maintain the following ethical and moral requirements—

- (a) demonstrate honesty in the conduct of public affairs subject to the Public Officer Ethics Act (No. 4 of 2003);

- 
- (b) not to engage in activities that amount to abuse of office;
  - (c) accurately and honestly represent information to the public;
  - (d) not engage in wrongful conduct in furtherance of personal benefit;
  - (e) not misuse public resources;
  - (f) not discriminate against any person, except as expressly provided for under the law;
  - (g) not falsify any records;
  - (h) not engage in actions which would lead to the State officer's removal from the membership of a professional body in accordance with the law; and
  - (i) not commit offences and in particular, any of the offences under Parts XV and XVI of the Penal Code (Cap. 63), the Sexual Offences Act (No. 3 of 2006), the Counter-Trafficking in Persons Act (No. 8 of 2010), and the Children Act (No. 8 of 2001).

(2) A person who wishes to be elected to a State office shall, for the purposes of this section, submit to the Independent Electoral and Boundaries Commission a self-declaration in the form set out in the First Schedule.

#### **14. Gifts or benefits in kind**

(1) A gift or donation given to a State officer on a public or official occasion shall be treated as a gift or donation to the State.

(2) Notwithstanding subsection (1), a State officer may receive a gift given to the State officer in an official capacity, provided that—

- (a) the gift is within the ordinary bounds of propriety, a usual expression of courtesy or protocol and within the ordinary standards of hospitality;
- (b) the gift is not monetary; and
- (c) the gift does not exceed such value as may be prescribed by the Commission in the regulations.

(3) Without limiting the generality of subsection (2), a State officer shall not—

- (a) accept or solicit gifts, hospitality or other benefits from a person who
  - (i) has an interest that may be achieved by the carrying out or not carrying out of the State officer's duties;
  - (ii) carries on regulated activities with respect to which the State officer's organisation has a role; or
  - (iii) has a contractual or legal relationship with the State officer's organisation;
- (b) accept gifts of jewellery or other gifts comprising of precious metal or stones ivory or any other animal part protected under the Convention on International Trade in Endangered Species of Wild Fauna and Flora; or
- (c) any other type of gift specified by the Commission in the regulations.

(4) A State officer shall not receive a gift which is given with the intention of compromising the integrity, objectivity or impartiality of the State officer.

(5) Subject to subsection (2), a State officer who receives a gift or donation shall declare the gift or donation to the Commission and the public entity which the State officer represents.

(6) Every public entity shall keep a register of—

- (a) gifts received by a State officer serving in the public entity; and
- (b) gifts given by the public entity to other State officers.

(7) The Commission shall make and publicize regulations regarding receipt and disposal of gifts under this section.

#### **15. Wrongful or unlawful acquisition of property**

A State officer shall not use the office to wrongfully or unlawfully influence the acquisition of property.

#### **16. Conflict of interest**

(1) A State officer or a public officer shall use the best efforts to avoid being in a situation where personal interests conflict or appear to conflict with the State officer's or public officer's official duties.

(2) Without limiting the generality of subsection (1), a State officer or a public officer shall not hold shares or have any other interest in a corporation, partnership or other body, directly or through another person, if holding those shares or having that interest would result in a conflict of the State officer's or public officer's personal interests and the officer's official duties.

(3) A State officer or a public officer whose personal interests conflict with their official duties shall declare the personal interests to the public entity or the Commission.

(4) The Commission or a public entity may give direction on the appropriate action to be taken by the State officer or public officer to avoid the conflict of interest and the State officer or public officer shall—

- (a) comply with the directions; and
- (b) refrain from participating in any deliberations with respect to the matter.

(5) Notwithstanding any directions to the contrary under subsection (4), a State officer or a public officer shall not award or influence the award of a contract to—

- (a) himself or herself;
- (b) the State officer's or public officer's spouse or child;
- (c) a business associate or agent; or
- (d) a corporation, private company, partnership or other body in which the officer has a substantial or controlling interest.

(6) In this section, "personal interest" includes the interest of a spouse, child, business associate or agent or any other matter in which the State officer or public officer has a direct or indirect pecuniary or non-pecuniary interest.

(7) Where a State officer or a public officer is present at a meeting, where an issue which is likely to result in a conflict of interest is to be discussed, the State officer or public officer shall declare the interest at the beginning of the meeting or before the issue is deliberated upon.

(8) A declaration of a conflict of interest under subsection (7) shall be recorded in the minutes of that meeting.

(9) Subject to Article 116(3) and (4) of the Constitution, a member of Parliament or a member of a county assembly shall declare any direct pecuniary interest or benefit of whatever nature in any—

- (a) debate or proceeding of the body of which he or she is a member;
- (b) debate or proceeding in any committee of that body; and
- (c) transaction or communication which the State officer may have with other members of the body, State officers, public officers or government officers.

(10) For purposes of subsection (9), the Clerk of the Senate, the National Assembly or a county assembly shall maintain a register of conflicts of interest, which shall be open to the public for inspection.

(11) Every public entity shall maintain an open register of conflicts of interest in the prescribed form in which an affected State officer or public officer shall register the particulars of registrable interests, stating the nature and extent of the conflict.

(12) For purposes of subsection (11), the registrable interests include the interests set out in the Second Schedule.

(13) A public entity shall keep the register of conflicts of interest for five years after the last entry in each volume of the register.

(14) It shall be the responsibility of the State officer or public officer to ensure that an entry of registrable interests under subsection (11) is updated and to notify the public entity or the Commission of any changes in the registrable interests, within one month of each change occurring.

## **17. Participation in tenders**

A State officer or a public officer shall not participate in a tender for the supply of goods or services to a public entity in which he or she is serving or is otherwise similarly associated, but the holding of shares by a State officer or a public officer in a company shall not be construed as participating in the tender of a public entity unless the State officer or public officer has a controlling shareholding in the company.

## **18. Public collections**

(1) A State officer shall not solicit for contributions from the public for a public purpose unless the President has, by notice in the *Gazette*, declared a national disaster and allowed a public collection for the purpose of the national disaster in accordance with the law.

(2) A State officer shall not participate in a public collection of funds in a way that reflects adversely on that State officer's integrity, impartiality or interferes with the performance of the official duties.

**19. Bank accounts outside Kenya**

(1) Subject to Article 76(2) of the Constitution or any other written law, a State officer shall not open or continue to operate a bank account outside Kenya without the approval of the Commission.

(2) A State officer who has reasonable grounds for opening or operating a bank account outside Kenya shall apply to the Commission for approval to open or operate a bank account.

(3) A State officer who operates or controls the operation of a bank account outside Kenya shall submit statements of the account annually to the Commission and shall authorize the Commission to verify the statements and any other relevant information from the foreign financial institution in which the account is held.

(4) Subject to subsections (1) and (2), upon the commencement of this Act, a serving State officer who operates a bank account outside Kenya shall close the account within six months or such other period as the Commission may, by notice in the *Gazette*, prescribe.

(5) This section shall apply to—

- (a) a State officer; and
- (b) a Public officer.

(6) Without prejudice to the foregoing provisions of this section, a State officer who fails to declare operation or control of a bank account outside Kenya commits an offence and shall, upon conviction, be liable to imprisonment for a term not exceeding five years, or a fine not exceeding five million shillings, or both.

**20. Acting for foreigners**

(1) A State officer shall not be an agent of, or further the interests of a foreign government, organisation or individual in a manner that may be detrimental to the security interests of Kenya, except when acting in the course of official duty.

(2) For the purposes of this section—

- (a) an individual is a foreign individual if the individual is not a citizen of Kenya; and
- (b) an organisation is a foreign organization if it is established outside Kenya or is owned or controlled by a foreign government, organisation or individual.

**21. Care of property**

(1) A State officer shall take all reasonable steps to ensure that public property in the officer's custody, possession or control is taken care of and is in good repair and condition.

(2) A State officer shall not use public property, funds or services that are acquired in the course of or as a result of the official duties, for activities that are not related to the official work of the State officer.

(3) A State officer shall return to the issuing authority all the public property in their custody, possession or control at the end of the appointment, or election term.

(4) A State officer who contravenes subsection (2) or (3) shall, in addition to any other penalties provided for under the Constitution, this Act or any other law be personally liable for any loss or damage to the public property.

## **22. Misuse of official information**

(1) A State officer shall not directly or indirectly use or allow any person under the officer's authority to use any information obtained through or in connection with the office, which is not available in the public domain, for the furthering of any private interest, whether financial or otherwise.

(2) The provisions of subsection (1), shall not apply where the information is to be used for the purposes of—

- (a) furthering the interests of this Act; or
- (b) educational, research, literary, scientific or other purposes not prohibited by law.

## **23. Political neutrality**

(1) An appointed State officer, other than a Cabinet Secretary or a member of a County executive committee shall not, in the performance of their duties—

- (a) act as an agent for, or further the interests of a political party or candidate in an election; or
- (b) manifest support for or opposition to any political party or candidate in an election.

(2) An appointed State officer or public officer shall not engage in any political activity that may compromise or be seen to compromise the political neutrality of the office subject to any laws relating to elections.

(3) Without prejudice to the generality of subsection (2) a public officer shall not—

- (a) engage in the activities of any political party or candidate or act as an agent of a political party or a candidate in an election;
- (b) publicly indicate support for or opposition against any political party or candidate participating in an election.

## **24. Impartiality**

A State officer shall, at all times, carry out the duties of the office with impartiality and objectivity in accordance with Articles 10, 27, 73(2)(b) and 232 of the Constitution and shall not practise favouritism, nepotism, tribalism, cronyism, religious bias or engage in corrupt or unethical practices.

## **25. Giving advice**

A State officer who has a duty to give advice shall give honest, accurate and impartial advice without fear or favour.

**26. Gainful employment**

(1) Subject to subsection (2), a State officer who is serving on a full time basis shall not participate in any other gainful employment.

(2) In this section, “**gainful employment**” means work that a person can pursue and perform for money or other form of compensation or remuneration which is inherently incompatible with the responsibilities of the State office or which results in the impairment of the judgement of the State officer in the execution of the functions of the State office or results in a conflict of interest in terms of section 16.

**27. Offers of future employment**

(1) A State officer shall not allow himself or herself to be influenced in the performance of their duties by plans or expectations for or offers of future employment or benefits.

(2) A State officer shall disclose, in writing, to the public entity and the Commission, all offers of future employment or benefits that could place the State officer in a situation of conflict of interest.

**28. Former State officer acting in a Government or public entity matter**

A former State officer shall not be engaged by or act for a person or entity in a matter in which the officer was originally engaged in as a State officer, for at least two years after leaving the State office.

**29. Misleading the public**

A State officer shall not knowingly give false or misleading information to any person.

**30. Falsification of records**

A State officer shall not falsify any records or misrepresent information to the public.

**31. Citizenship**

(1) Subject to Article 78(3) of the Constitution, a State officer who acquires dual citizenship shall lose his or her position as a State officer.

(2) A person who holds dual citizenship shall, upon election or appointment to a State office, not take office before officially renouncing their other citizenship in accordance with the provisions of the Kenya Citizenship and Immigration Act, 2011, (No. 12 of 2011.)

**32. Conduct of private affairs**

A State officer shall conduct private affairs in a manner that maintains public confidence in the integrity of the office.

**33. Tax, financial and legal obligations**

(1) A State officer shall pay any taxes due from him or her within the prescribed period.

(2) A State officer shall not neglect their financial or legal obligations.

**34. Bullying**

(1) A State officer shall not bully any person.

(2) For purposes of subsection (1), “bullying” includes repeated offensive behaviour which is vindictive, cruel, malicious or humiliating and is intended to undermine a person.

**35. Acting through others**

(1) A State officer contravenes the Code if the officer—

- (a) causes anything to be done through another person that would constitute a contravention of the Code if done by the State officer; or
- (b) allows or directs a person under their supervision or control to do anything that is in contravention of the Code.

(2) Subsection (1)(b) shall not apply where anything is done without the State officer’s knowledge or consent or if the State officer has taken reasonable steps to prevent it.

(3) A State officer who acts under an unlawful direction shall be responsible for his or her action.

**36. Reporting improper orders**

(1) If a State officer considers that anything required of them is in contravention of the Code or is otherwise improper or unethical, the State officer shall report the matter to the Commission.

(2) The Commission shall investigate the report and take appropriate action within ninety days of receiving the report.

### PART III – SPECIFIC LEADERSHIP AND INTEGRITY CODES

**37. Establishment of specific codes**

(1) Each public entity shall prescribe a specific Leadership and Integrity Code for the State officers in that public entity.

(2) The specific Leadership and Integrity Code prescribed by a public entity shall include all the requirements in the general Leadership and Integrity Code under Part II of this Act and may provide for the manner in which any requirements of the specific or general Code may be satisfied.

**38. Application of the general Code**

Until a public entity has prescribed a specific Leadership and Integrity Code under section 37, the general Code under Part II of this Act shall apply as though it were the specific Leadership and Integrity Code prescribed by the public entity.

**39. Approval and publication of specific codes**

(1) A public entity shall submit the specific Leadership and Integrity Code prescribed under section 37 to the Commission for approval.

(2) In considering the specific Leadership and Integrity Code submitted under subsection (1), the Commission shall ensure that it is consistent with the General Code prescribed under Part II of this Act, any other law and the Constitution.

(3) The Commission shall, within thirty days of receipt of a specific Leadership and Integrity Code, consider and approve it, with or without amendments, for publication in the *Gazette*.

(4) Subject to the provisions of subsections (2) and (3), a public entity shall cause to be published the specific Leadership and Integrity Code in the *Gazette* within ninety days of the receipt of the approval from the Commission.

(5) Any specific Code of a public entity existing at the commencement of this Act shall be deemed to have been made under this Act and shall be submitted for approval by the Commission to ascertain its conformity with the General Code and approval within ninety days after the commencement of this Act.

#### PART IV – ENFORCEMENT OF THE LEADERSHIP AND INTEGRITY CODE

##### **40. State officer to sign Specific Leadership and Integrity Code**

Upon appointment or election, a State officer shall sign and commit to the specific Leadership and Integrity Code issued by the relevant public entity at the time of taking the oath of office or within seven days of assuming a State office.

##### **41. Breach of the Code**

(1) Subject to subsection (2), a breach of the Code amounts to misconduct for which the State officer may be subjected to disciplinary proceedings.

(2) Where an allegation of breach of the Code has been made against a State officer in respect of whom the Constitution or any other law provides the procedure for removal or dismissal, the question of removal or dismissal shall be determined in accordance with the Constitution or that other law.

##### **42. Lodging of complaints and investigations**

(1) A person who alleges that a State officer has committed a breach of the Code, may lodge a complaint with the relevant public entity and the public entity shall register and inquire into the complaint.

(2) A public entity may authorize any of its officers to inquire into a complaint on its behalf and determine whether a State officer has contravened the Code.

(3) An investigation may be made at the instance of a public entity.

(4) A State officer being investigated under this section shall be informed by the investigating authority, of the complaint made against that State officer and shall be given a reasonable opportunity to make a representation relating to the issue, before the investigation is concluded.

(5) A person who has lodged a complaint against a State officer shall be entitled to be informed of any action taken or to be taken in respect of the complaint and shall be afforded a hearing.

(6) Where an investigation under this section is initiated while the State officer is in office, it may be continued even after the person under investigation has ceased to be a State officer.

(7) Subject to the Constitution and any regulations for the enforcement of the Code made under this Act, a State officer may be suspended from office pending the investigation and determination of allegations made against that State officer where such suspension is considered necessary.

(8) The Commission shall prescribe disciplinary mechanisms and procedures to be followed in the event of contravention of the Code, and those mechanisms and procedures shall comply with Article 47 of the Constitution or any other applicable written law for the time being in force.

(9) The public entity or an authorized officer may take disciplinary action against a State officer serving in the public entity.

(10) Notwithstanding subsection (2) and (3), the Commission may inquire into and investigate an alleged breach of the Code either upon receipt of a complaint or on its own motion.

[Act No. 18 of 2014, Sch.]

#### **43. Referral for possible civil or criminal proceedings**

(1) If upon investigation under this Part, the public entity is of the opinion that civil or criminal proceedings ought to be preferred against the respective State officer, the public entity shall refer the matter to—

- (a) the Commission or the Attorney-General, with respect to civil matters;
- (b) the Director of Public Prosecutions, with respect to criminal matters; or
- (c) any other appropriate authority.

(2) Referral of a matter under subsection (1) shall not preclude the person, the State organ or public entity referring the matter from undertaking further investigations or action into the matter.

(3) If a matter is referred to the Commission under subsection (1)(a) and in the opinion of the Commission, criminal proceedings ought to be preferred against the respective State officer, the matter shall be referred to the Director of Public Prosecutions.

(4) In addition to the prosecution of a State officer, the Commission may take any other action that it considers necessary.

(5) The prosecution of any State officer is not a bar to other steps that the Commission may consider necessary.

#### **44. Advisory opinion**

(1) A State officer or public entity may request the Commission to give an advisory opinion on any issue relating to the application of Chapter Six of the Constitution.

(2) The Commission shall establish appropriate mechanisms and procedures for the provision of advisory opinions under subsection (1) in a confidential and timely manner.

#### **45. Reports of the Commission**

(1) The Commission shall submit an annual report, containing all the information relevant to the enforcement of and compliance with the provisions of this Act, to the President and Parliament.

(2) The Commission shall publish the report made under subsection (1) in the *Gazette* and facilitate reasonable access of the report by the public.

## PART V – OFFENCES AND PENALTIES

### 46. Obstructing or hindering persons under this Act

- (1) A person shall not—
- (a) without justification or lawful excuse, obstruct, hinder, assault or threaten a person undertaking his or her duties under this Act;
  - (b) deceive or knowingly mislead the Commission, a public entity or a person undertaking his or her duties under this Act;
  - (c) destroy, alter, conceal or remove documents, records or evidence that the person believes, or has grounds to believe may be relevant to an investigation or proceedings under this Act; or
  - (d) provide false information to the Commission, a public entity or a person acting under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five million shillings, or to imprisonment for a term not exceeding five years, or to both.

### 47. General penalty

Any person who is convicted of an offence under this Act, for which no penalty is expressly provided, shall be liable on conviction to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both.

### 48. Breach of section 20

A State officer who does not comply with the provisions of section 20 commits an offence and is liable, on conviction, to a fine not exceeding five million shillings, or to imprisonment for a term not exceeding five years, or to both.

### 49. Forfeiture and compensation

(1) Where a State officer is proven to have obtained any property in breach of this Act, the State officer shall, subject to any appeal which the officer may make, forfeit the property and the property shall be held by the Commission or by an agent appointed by the Commission in trust for the Republic, until it is lawfully disposed of.

(2) The Commission may order a State officer referred to in subsection (1) to pay by way of compensation to the State such sum, including interest, as may be determined by the Commission as just, having regard to the loss suffered by the Government or public entity and such order shall be deemed to be a decree under section 25 of the Civil Procedure Act (Cap. 21) and shall be executed in the manner prescribed under Part III of that Act.

(3) For the purposes of subsection (2), the rate of interest on any property or money irregularly obtained shall not be less than the prevailing lending rates and shall be payable with effect from the day such property or money was obtained.

(4) The money or proceeds of the sale of property which is forfeited to the Government under this section shall be paid into the Consolidated Fund.

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## PART VI – GENERAL PROVISIONS

### **50. Protection of officers of the Commission or public entity**

Subject to this Act, no civil or criminal liability shall attach to an officer of the Commission or public entity acting on the instructions of the chief executive officer of a public entity, for anything done in good faith by that officer in the performance of the duties under this Act.

### **51. Oversight over the Commissioners**

(1) Where a violation of Chapter Six of the Constitution or this Act, which is not a violation as contemplated in Article 251 of the Constitution, is alleged against a member of the Commission, the President shall establish an independent review panel to inquire into the allegation.

(2) An allegation under subsection (1) shall be submitted to the Cabinet Secretary by way of petition setting out the alleged violation, who shall submit the petition to the President.

(3) The independent review panel established under subsection (1) shall comprise five State officers of good character and integrity drawn from any of the Commissions established under Chapter Fifteen of the Constitution.

(4) The independent review panel shall inquire into the alleged contravention or violation committed by a member of the Commission.

(5) If the inquiry discloses that a member of the Commission has violated Chapter Six of the Constitution, the independent review panel shall take the appropriate disciplinary action, or if it does not have the power to take the appropriate disciplinary action, refer the matter to a body or person who is vested with that power.

(6) Regulations made under section 54(f) shall apply to the disciplinary procedures under this section.

(7) A person who is dissatisfied with the decision of the independent review panel may apply for a review within fifteen days from the date of the decision.

(8) The independent review panel shall review its decision within fifteen days after the application for review.

(9) A person who is dissatisfied with the decision of the independent review panel under subsection (8) may appeal to the High Court and the Court shall make a decision within thirty days of the appeal.

### **52. Application of Chapter Six of the Constitution and this Act to public officers generally**

(1) Pursuant to Article 80(c) of the Constitution, the provisions of Chapter Six of the Constitution and Part II of this Act except section 18 shall apply to all public officers as if they were State officers.

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(2) For the purposes of subsection (1), the relevant public entity recognized or established pursuant to section 3 of the Public Officer Ethics Act, 2003 (No. 4 of 2003) shall enforce the provisions of this Act as if they were provided for under the Public Officer Ethics Act, 2003 (No. 4 of 2003).

### **53. Leadership education and training generally**

The Cabinet Secretaries responsible for leadership and integrity, constitutional affairs, education and the public service shall collaborate with the Commission and the relevant public entity for the purpose of developing and overseeing the provision of long term education and training on leadership and integrity to—

- (a) all public officers;
- (b) all levels of the education system; and
- (c) the public.

### **54. Regulations**

(1) The Commission shall make Regulations for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Commission may make Regulations to—

- (a) prescribe the limitations on the types of gifts that a State officer can receive under section 14;
- (b) prescribe for the maximum value of gifts that a State officer can receive under section 14;
- (c) prescribe for a mechanism for the receipt, collection, storage and disposal of gifts under section 14;
- (d) provide a mechanism and procedure for the opening, maintaining and publicizing of registers of conflict of interest under section 16;
- (e) prescribe the grounds and conditions for opening, registering, maintaining, controlling and closing bank accounts outside Kenya under section 19;
- (f) provide for the regulation on lodging of complaints, investigation and disciplinary processes and mechanisms on the enforcement of the Code under section 42.

## **PART VII – TRANSITIONAL PROVISION**

### **55. Deleted by Act No. 47 of 2012, Sch.**

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## FIRST SCHEDULE

[Section 13.]

## SELF-DECLARATION FORM

1. GENERAL INFORMATION					
Title		Surname	First Name	Middle Name	Other Names
Mr./Mrs./Prof/ Miss/Ms/Dr.					
ID CARD NO.		PASSPORT NO.	EXPIRY DATE OF PASSPORT		PIN NO.
SEX	MALE	FEMALE	OCCUPATION	E-MAIL ADDRESS	
(Tick)					
TELEPHONE NO.		MOBILE NO.		OTHER NUMBERS	
RESIDENCE		ESTATE/TOWN/LOCATION DISTRICT	POSTAL ADDRESS	P. O. BOX CODE TOWN/CITY	
		COUNTY		OTHER ADDRESSES	
		COUNTRY			
2. BIRTH INFORMATION					
DATE OF BIRTH		BIRTH CERTIFICATE NO.		PLACE OF BIRTH	
DISTRICT OF BIRTH		COUNTY OF BIRTH		COUNTRY OF BIRTH	
3. NATIONALITY					
Kenyan	Dual <input type="checkbox"/> (Provide details .....)				
4. MARITAL STATUS					
<input type="checkbox"/> SINGLE		<input type="checkbox"/> MARRIED		<input type="checkbox"/> SEPARATED	
<input type="checkbox"/> DIVORCED		<input type="checkbox"/> WIDOWED			
IF MARRIED GIVE NAMES OF THE SPOUSE (S) (Surname, First name, middle name, others)					
NATIONALITY OF SPOUSE					
NAMES OF CHILDREN UNDER THE AGE OF 18 YEARS					

FIRST SCHEDULE—*continued*

<b>5. EDUCATIONAK QUALIFICATIONS</b>				
<input type="checkbox"/> PRIMARY	<input type="checkbox"/> SECONDARY	<input type="checkbox"/> 'A' LEVEL	<input type="checkbox"/> CERTIFICATE	
<input type="checkbox"/> DIPLOMA	<input type="checkbox"/> DEGREE	<input type="checkbox"/> MASTERS	<input type="checkbox"/> PHD	
OTHERS _____				
<b>HIGHEST ACADEMIC QUALIFICATION OBTAINED</b>				
Qualification	Institution	Year		
<b>6. LANGUAGE SPOKEN</b>				
First Language	Second Language	Other		
<b>7. MEMBERSHIP OF PROFESSIONAL ORGANIZATION(S) (IF ANY)</b>				
Name of Organization	Date of Admission	Membership No.		
<b>8. REASON(S) FOR DECLARATION</b>				
Purpose for which declaration is required				
<input type="checkbox"/> Election				
<input type="checkbox"/> Employment				
<input type="checkbox"/> Others (Specify)				
State office for which the declaration is being submitted				
<b>9. MORAL AND ETHICAL QUESTIONS</b>				
Answers to the following questions are mandatory. If YES to any question you must provide additional information on a supplementary sheet.				
(a) Have you ever engaged in any form of dishonesty in the conduct of public affairs?	YES		NO	
(b) Have you ever abused a public office?				
(c) Have you ever misrepresented information to the public?				
(d) Have you ever engaged in wrongful conduct whilst in the furtherance of personal benefit?				

## FIRST SCHEDULE—continued

(e) Have you ever misused public resources?		
(f) Have you ever discriminated against anyone on any grounds other than as provided for under the Constitution or any other law?		
(g) Have you ever falsified official or personal records?		
(h) Have you ever been debarred or removed from the Register of Members of your professional organization?		
(i) Have you ever had any occupational or vocational license revoked and/or otherwise subjected to any other disciplinary action for cause in Kenya or any other country?		
(j) Have you ever been dismissed from employment on account of lack of integrity?		
(k) If you have been a public officer, have you ever failed to declare your Income, Assets and Liabilities as required under the Public Officer Ethics Act, 2003?		
(l) Have you ever been the subject of disciplinary or criminal proceedings for breach of the Public Officer Ethics Act, 2003 or a Code prescribed thereunder?		
(m) Have you ever been convicted of any offence and sentenced to serve imprisonment for a period of at least six month?		
(n) Have you ever had an application for a Certificate of Clearance or a Certificate of Good Conduct or for a visa or other document authorizing work in a public office denied and/or rejected for cause in Kenya or any other country?		

**10. EMPLOYMENT INFORMATION**

NAME OF EMPLOYER	POSITION/RANK	DATE OF FIRST APPOINTMENT	DATE OF PRESENT APPOINTMENT
WORKSTATION	NATURE OF EMPLOYMENT (Constitutional/Elective/Permanent/Contractual/Other)		

**OATH AND AFFIRMATION**

I solemnly swear (or affirm) and certify, under penalty of false declaration under the Oaths and Statutory Declarations Act (Cap. 15 of the Laws of Kenya), that all the foregoing statements in this declaration are true and correct to the best of my knowledge.

Dated at....., this ..... day of .....

FIRST SCHEDULE—*continued*

SIGNATURE OF DECLARANT: .....

SWORN/DECLARED BEFORE ME

This ..... day of ..... 20 ....., at .....

.....  
*Commissioner for Oaths/ Magistrate*

## SECOND SCHEDULE

[Section 16(12).]

## REGISTRABLE INTERESTS

1. Directorships in public or private companies, whether or not remunerated directly or indirectly.
2. Remunerated employment (including office, trade, profession or vocation which is remunerated or which the State officer has any pecuniary interest).
3. Securities (shares, bonds, debentures or any other similar holding) in a company or enterprise or undertaking the aggregate nominal or market value of which exceeds a prescribed value while the state officer was in office.
4. Contracts for supply of goods and services.
5. Plans or expectations for or offers of future employment.
6. Public affairs advice and services to clients.
7. Shareholdings (amounting or not amounting to a controlling interest).
8. Land and property.
9. Sponsorship (from companies, trade unions, professional bodies, charities, universities or other organizations or individuals).
10. Travel facilities and overseas visits (made by a State officer or the State officer's spouse or child substantially catered for by the office of the State officer).
11. Gifts, benefits and hospitality (to a State officer or the State officer's spouse or partner or child or any other material benefit of a prescribed value, from a company, organization or person within Kenya or overseas, which relates substantially to the membership of a state office to a state office or Parliament or County Assembly).
12. Miscellaneous financial interests (not falling within the above categories but which a reasonable member of the public would think might influence the conduct of a State Officer in his office).

- 13.** Non-financial interests (which may reasonably be thought to affect the way a member discharges the duties in a State Office (such as unremunerated directorships; membership of public bodies such as hospital trusts, governing bodies of universities, colleges or schools, and other spheres of government; trusteeships, etc.).
  - 14.** Pending civil and criminal cases touching on the State officer or business associate or firm.
  - 15.** Possession of dual citizenship or pending applications for dual citizenship and the status of such application.
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**NO. 19 OF 2012**

**LEADERSHIP AND INTEGRITY ACT**

SUBSIDIARY LEGISLATION

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*List of Subsidiary Legislation*

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1. Leadership and Integrity Regulations, 2015.....	29

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**LEADERSHIP AND INTEGRITY REGULATIONS, 2015**

[L.N. 13/2015.]

**PART I — PRELIMINARY****1. Citation**

These Regulations may be cited as the Leadership and Integrity Regulations, 2015.

**2. Interpretation**

In these Regulations unless the context otherwise requires—

- “Act” means the Leadership and Integrity Act, 2012 (No. 19 of 2012);
- “annually” means calendar period of January to December of each year;
- “Code” has the meaning assigned to it under section 2 of the Act;
- “Commission” has the meaning assigned to it under section 2 of the Act;
- “gift” means anything that confers a benefit to the recipient;
- “public entity” has the meaning assigned to it under section 2 of the Act;
- “public officer” has the meaning assigned to it under section 2 of the Act;
- “statement of account” means a document issued to a customer listing financial transactions undertaken over a specified period of time; and
- “value of gift” means the fair market value of the gift at the time and the place it is presented.

**3. Application of Regulations**

- (1) These Regulations shall apply to all public entities, State officers and public officers.
- (2) The Commission shall, in accordance with section 4(2) of the Act, oversee the implementation and enforcement of these Regulations.

**PART II — PROVISIONS RELATING TO FUNCTIONS AND POWERS OF PUBLIC ENTITIES AND GIFTS TO STATE OFFICERS OR PUBLIC OFFICERS****4. Commission may request public entity to carry out functions**

- (1) The Commission may, in undertaking its mandate under section 4 of the Act, and in writing, request a public entity to carry out a function or exercise certain powers.
- (2) The Commission shall, in making a request under paragraph (1), state—
  - (a) the function required or powers to be exercised by the public entity; and
  - (b) the period within which the entity shall report to the Commission.
- (3) The Commission may determine—
  - (a) the manner in which a public entity is to undertake a function or exercise a power under paragraph (2)(a);
  - (b) the format in which the public entity shall present the report under paragraph 2(b).
- (4) Where a public entity does not comply with a request made under paragraph (1) within the period stipulated in the request, the Commission shall make an application to the High Court under section 4(5) of the Act.

**5. Prohibition of gifts or other benefits to State officers and public officers**

- (1) Subject to the Act and provisions of these Regulations, a State officer or a public officer shall not solicit a gift including soliciting or acceptance of a non-monetary gift in the form of a gratuity, hospitality, free passages, services or favours.

[Subsidiary]

(2) Without limiting the generality of paragraph (1), a State officer or a public officer may receive a non-monetary gift in his or her official capacity if the value of that gift does not exceed twenty thousand shillings, but—

- (a) a state or public officer shall not receive such a gift if in the opinion of that officer the gift is given with the intention of compromising his or her integrity, objectivity, impartiality or create potential conflict of interest; or
- (b) a State officer or a public officer who receives a gift whose value exceeds twenty thousand shillings shall, within forty-eight hours of reporting to the office, surrender it to the public entity in which the officer is employed.

(3) A State officer or a public officer who receives a non monetary gift under paragraph (2) shall do so where—

- (a) the offer and receipt of the gift is done with utmost transparency and openness;
- (b) the offer and receipt of the gift is not done in secrecy or exclusivity of the donor and recipient;
- (c) the person making the offer is present at the time of presentation.

(4) A State officer or a public officer who receives a gift in terms of this regulation shall, irrespective of the monetary value of the gift, declare the gift received to the public entity which the public officer represents in a manner prescribed in Form A, in the Schedule.

(5) The public entity shall cause a gift declared under paragraph (4) to be entered in the register as required under section 14(6) (a) of the Act.

## **6. Gift register**

(1) Every public entity shall, and in accordance with section 14 (6) of the Act, keep and maintain registers of—

- (a) gifts received by State officers or public officers; and
- (b) gifts given by the public entity to State officers or public officers.

(2) The registers of gifts referred to under paragraph (1) shall be in a manner specified in Forms B - I and B - II respectively, in the Schedule.

## **7. Transportation, storage and disposal of gifts**

(1) Subject to internal policies of the relevant public entity, where a State officer, a public officer or a public entity has received a gift that cannot be immediately transported, the relevant public entity shall make arrangements for transportation of the gift.

(2) A public entity shall store any gift received and maintain it in good condition until such time as it is donated or otherwise utilized.

(3) A gift that is surrendered to a public entity under regulation 5 (5) shall be deemed to be public property and shall be received and disposed of in accordance with the provisions of Public Procurement and Asset Disposal Act, 2005 (No. 3 of 2005).

## **8. Public entity may utilize gift**

Where a public entity receives a gift under section 14 of the Act, and decides to utilize the gift, it shall register it in the same manner as any item procured by the public entity.

## **9. Reporting of gifts**

(1) A public entity shall at the close of every financial year furnish the Commission with a report specifying—

- (a) all gifts received;
- (b) any gifts the entity intends to dispose of; and
- (c) any gifts the public entity has disposed of.

(2) Where a public entity has not received, disposed of or intends to dispose of, any gift, it shall nonetheless make the report in accordance with paragraph (1).

(3) The report under paragraph (1) shall be submitted to the Commission within thirty days after the close of the financial year.

(4) The Commission shall review the report and if it ascertains that the State officer or the public officer has breached provisions relating to gifts, the Commission shall inform the public entity and require disciplinary measures to be taken against that officer.

### PART III — CONFLICT OF INTEREST

#### **10. Duty to declare conflict of interest**

(1) A State officer or a public officer shall declare a personal interest to the public entity where he or she is employed in a manner prescribed in Form C in the Schedule, if that personal interest conflicts with the officer's official duties.

(2) Notwithstanding paragraph (1), a declaration under this regulation may be made to the Commission where—

- (a) the accounting officer of a public entity has a conflict of interest;
- (b) the public entity is yet to open a register in accordance with regulation 13;
- (c) in the opinion of the State officer or public officer, it is prejudicial to his or her interest to declare the conflict of interest to the public entity;
- (d) the State officer or public officer is desirous of declaring the conflict of interest to both the public entity and the Commission.

(3) The Commission or the public entity shall give directions to the officer making a declaration under these Regulations.

#### **11. Duty to declare conflict of interest by members of Senate, National Assembly and County Assembly**

(1) A member of the National Assembly, Senate or a County Assembly who wishes to speak, participate or take part in any matter in which the member has a personal interest, pecuniary interest, proprietary interest, personal relationships or business relationships shall first declare that interest.

(2) The clerk of the Senate, the National Assembly or a county assembly shall maintain a register of conflicts of interest in accordance with section 16(10) of the Act.

#### **12. Register of conflict of interest**

(1) Every public entity shall open and maintain a register of Conflict of Interest in a manner prescribed in Form E in the Schedule.

(2) The Register referred to under paragraph (1) shall be in the custody of the accounting officer of the public entity or his or her nominee.

(3) The Register under this regulation shall contain—

- (a) name and address of the State officer or the public officer;
- (b) registrable interest;
- (c) nature of the conflict of interest;
- (d) date the conflict of interest is declared;
- (e) directions given by the commission or public entity to the officer making the declaration;
- (f) date of entry in the register;
- (g) signature of the officer giving directions on behalf of the Commission or the public entity.

#### **13. Inspection of register of conflict of interest**

(1) Any person may make an application to a public entity, the Commission, Clerk of the Senate, National Assembly or a County Assembly to inspect the Register of Conflict of Interest in a manner prescribed in Form F in the Schedule.

[Subsidiary]

(2) An application made under paragraph (1) shall contain—

- (a) the full names and address of the applicant;
- (b) the specific information that is sought; and
- (c) the purpose for which the information is intended to be used.

(3) A public entity, the Commission, the Clerk of the Senate, National Assembly or a County Assembly shall within seven days acknowledge receipt of an application under paragraph (2), and avail the register for inspection.

#### PART IV — BANK ACCOUNT OUTSIDE KENYA

#### **14. Application to open, operate or control a bank account outside Kenya**

(1) A State officer or public officer, who wishes to open, operate or control or continue to operate or control a bank account outside Kenya under section 19 of the Act, shall make an application to the Commission in a manner prescribed in Form G in the Schedule.

(2) An application under paragraph (1) shall specify—

- (a) applicant's personal details;
- (b) applicant's employment details;
- (c) details of the account;
- (d) estimated period for operating the account;
- (e) any other relevant information.

(3) An application under paragraph (1) shall be supported by certified copies of the following documents—

- (a) identity card or valid passport;
- (b) passport size photograph;
- (c) the beneficiary's identity card, birth certificate, valid passport, travel permit, (whichever is applicable);
- (d) documentary evidence for the purpose which the account is intended;
- (e) tax compliance certificate; and
- (f) any other relevant document.

(4) An applicant who wishes to continue operating an account shall, in addition to the application made under paragraph (1), attach a written and signed authority allowing the Commission to verify the statements and any other information from the financial institution outside Kenya in a manner prescribed in Form H in the Schedule.

(5) A State or public officer who operates or controls a bank account outside Kenya shall, not later than January of succeeding year, submit statements of the account annually to the Commission.

(6) The statements of the account referred to under paragraph (5) shall cover the period of January to December of each year.

(7) Notwithstanding the provisions of this regulation, the Commission may require an applicant to furnish additional information.

#### **15. Determination of application and approval of account**

(1) In determining an application to open or continue to operate a bank account outside Kenya, the Commission shall consider the following grounds—

- (a) whether an account is for educational purposes in respect of the benefit of the applying officer, his or her spouse, child or any other beneficiary; or
- (b) whether an account is for medical purposes in respect of the officer, his or her spouse, child or any other beneficiary; or
- (c) whether an account is for a public officer who works in a diplomatic mission abroad; or

(d) any other reasonable grounds that the Commission may determine.

(2) The Commission shall process an application as soon as practicable but in any event the process shall not exceed six months.

(3) Where the Commission approves an application it shall issue the applicant with an approval in writing to—

(a) open a new account;

(b) continue to operate an existing account.

(4) A State officer or a public officer who has obtained approval under paragraph (3) shall submit to the bank outside Kenya—

(a) a copy of the approval to open an account;

(b) a copy of the approval to continue to operate an existing account; and

(c) authority to verify account details.

(5) Notwithstanding the provisions of these Regulations, an approval given by the Commission shall be subject to the provisions of any other written law regarding the opening, operation or control of bank accounts outside Kenya.

## **16. Rejection or application**

(1) The Commission shall not approve an application made under regulation 16 unless the applicant has satisfied the conditions stated therein.

(2) Where the Commission declines to give an approval for opening or continuing to operate a bank account outside Kenya, it shall within fourteen days of the decision, inform the applicant stating the reasons thereof in writing.

(3) An applicant dissatisfied with the decision of the Commission under paragraph (2) may within twenty-one days from the date of notification of the decision, apply to the Commission for review.

(4) The Commission shall consider the application for review within thirty days from the date of lodging the application for review and within fourteen days inform the applicant of its decision.

(5) An applicant dissatisfied with the decision of the Commission under paragraph (4) may seek appropriate orders from the High Court.

## **17. Officer to operate account for specified purpose**

(1) Where approval is granted by the Commission to either open or continue to operate a bank account outside Kenya for a specific purpose, the account shall be used only for purpose for which the application was made.

(2) A State officer or a public officer operating an account outside Kenya who wishes to change the purpose or use the account for an additional purpose other than that for which the account is being operated shall make an application to the Commission.

## **18. Application for extension to operate a bank account outside Kenya**

A State officer or a public officer who has been operating a bank account outside Kenya may apply to the Commission for an extension where the period for which approval had been given is about to expire.

## **19. Unauthorized operation of an account**

(1) The Commission shall, in accordance with section 19 (3) of the Act, determine whether an account is being operated for purposes specified in the application.

(2) Where the Commission determines that an account is not being operated for the intended purpose, the Commission shall, by notice in writing, require the officer to close the said account within twenty-four hours and confirm the closure to the Commission.

(3) Where the duration of the approval issued to the officer to operate a bank account outside Kenya lapses and the officer has not applied for an extension, the Commission shall,

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[Subsidiary]

by notice in writing, require the officer to, within twenty-four hours, close the said account and confirm the closure to the Commission.

(4) An officer who operates an account for a purpose other than the one specified in the application, is in breach of the provisions of the Act or these Regulations and shall be subject to disciplinary proceedings in addition to any other action that may be preferred against the officer.

## **20. Notice of closure of a bank account outside Kenya**

A State officer or a public officer who has ceased to operate a bank account outside Kenya shall notify the Commission, in writing, within thirty days of closure of the account.

## **21. Register**

(1) The Commission shall open and maintain a register of all State officers and public officers operating bank accounts outside Kenya.

(2) The Register under paragraph (1) shall contain the following information—

- (a) the name, personal file (PF) or identity card (ID) number and address of the officer;
- (b) the bank name, address, and country in which the account is held;
- (c) the account name, and the bank code;
- (d) the name in which the account is being operated, if not that of the officer;
- (e) the purpose for operating the account;
- (f) the name of the institution to which monies will be transferred where the account is being operated for educational, medical or other purpose;
- (g) the duration of approval for operating the account;
- (h) name of the officer's spouse, child or beneficiary, if the account is operated for the benefit of one of such persons; and
- (i) any other relevant information.

## PART V — COMPLAINTS, INVESTIGATIONS AND DISCIPLINARY PROCESS

### **22. Lodging of complaints**

(1) A person wishing to lodge a complaint under the Act may do so orally, anonymously, or in writing to the relevant public entity or the Commission.

(2) Where a complaint under paragraph (1) public entity or the Commission shall reduce writing.

(3) A public entity or the Commission shall within sixty days of receipt of a complaint initiate and conclude any preliminary inquiry it may consider necessary, having regard to the nature of the complaint.

(4) On conclusion of a preliminary inquiry made under paragraph (3), a public entity or the Commission shall determine whether the compliant is legitimate and within its jurisdiction.

(5) Where a public entity or the Commission determines that the complaint does not have merit, it shall inform the complainant where the complainant is known, and the officer against whom the complaint was made.

(6) Where a public entity or the Commission determines that the complaint does not lie within its jurisdiction, it shall—

- (a) refer the matter to the relevant authority;
- (b) inform the complainant where he or she is known;
- (c) inform the officer against whom the complaint was made.

(7) A public entity or the Commission shall, if it determines that a complaint is legitimate and lies within its jurisdiction, commence an investigation.

(8) A person who lodges a complaint to a public entity under the Act shall not be subjected to harassment, suspension, transfer, verbal or other abuse or any other form of unfair treatment.

(9) Any officer who contravenes paragraph (8) commits a breach of the Code and shall be subject to disciplinary proceedings in addition to any other action that may be preferred against him.

### **23. Information regarding complaints**

Upon receipt of a complaint under regulation 23 (1), a public entity or the Commission may, if it is of the view that the complaint does not have sufficient details, call for more information regarding the complaint from any person, within fourteen days.

### **24. Investigations**

Where a public entity or the Commission initiates investigations into breach of Code in accordance with regulation 23(1) the investigations shall be conducted in accordance with the provisions of the Constitution, the Act and any other relevant law.

### **25. Suspension pending investigations**

- (1) Subject to paragraph (2), an officer who is under investigations may—
  - (a) if the public entity conducting the investigation is the officer's employer, be suspended by that public entity; or
  - (b) if employed by a public entity other than the one conducting the investigation be suspended on the recommendation of that public entity; or
  - (c) if the Commission conducts the investigation, be suspended on the recommendation of the Commission.
- (2) The provisions of paragraph (1) shall apply where the officer is likely to—
  - (a) conceal, alter, destroy, remove records, documents or evidence;
  - (b) intimidate, threaten or otherwise interfere with witnesses; or
  - (c) interfere with investigations in any other manner.
- (3) An officer under suspension shall be on half pay pending investigations and determination of the allegations made against the officer.

### **26. Conclusion of investigations**

(1) Where an officer is suspended under regulation 26(1), investigations shall be concluded within twelve (12) months of lodging of the complaint and the findings and the reasons thereof communicated to the complainant and the officer complained against within seven days from the date of the decision.

(2) Despite provisions of paragraph (2), in the event that an investigation against an officer who has been suspended has not been concluded within twelve months, the public entity or the Commission may on reasonable grounds seek for an extension to conclude the investigations from the High Court, with notice to the officer.

### **27. Investigation report**

A public entity or the Commission shall on conclusion of investigation prepare an investigation report containing—

- (a) a summary of the complaint;
- (b) a description of the investigation undertaken and evidence obtained;
- (c) findings; and
- (d) recommendations.

**28. Referrals**

Where a public entity or the Commission, after investigation, is of the opinion that civil or criminal proceedings ought to be preferred against an officer, the public entity shall refer the matter to the appropriate authority in accordance with section 43 of the Act.

**29. Clearance and reinstatement**

(1) Where on conclusion of investigations it is established that there was no violation of the code—

- (a) a public entity which is the employer of the officer under investigation shall within thirty (30) days inform the officer of that finding and if the officer had been suspended, re-instate, the officer within fourteen (14) days in accordance with the terms of service;
- (b) in the case of a public entity other than the employer of the officer or the Commission, it shall within thirty (30) days inform the officer of that finding and if the officer had been suspended recommend to the relevant public entity the reinstatement of the officer.

(2) Upon reinstatement, the officer's salary, benefits and any other entitlements withheld during the suspension shall be paid to the officer.

(3) The officer shall be reinstated to the position which the officer held immediately prior to suspension or to a reasonably suitable position on terms and conditions not less favourable than those which would have applied had the officer not been on suspension.

(4) In case it shall not be possible to reinstate the suspended officer for whatever reason, then the officer shall be paid benefits equivalent to the employment benefits for the remainder of the duration of the employment, from the date of suspension.

**30. Violation of Code**

(1) Where, on conclusion of investigations conducted under these Regulations, a public entity or the Commission establishes that there has been a violation of the Code by an officer, the Commission or a public entity may recommend—

- (a) warning or caution;
- (b) suspension;
- (c) dismissal; or
- (d) any other appropriate action against such officer.

(2) Notwithstanding the provisions of paragraph (1), where the Commission has investigated and established a violation of the Code by a State or public officer, the Commission shall require the public entity to take such action against the officer as it may recommend.

(3) The Commission or a public entity shall, when taking a disciplinary action under this regulation, observe the principles of fair administrative action in accordance with Article 47 of the Constitution.

**31. Review of decisions**

(1) Any person aggrieved by the decision of the public entity or the Commission made in accordance with regulation 31 may apply for review within fifteen days from the date of the decision.

(2) The public entity or the Commission shall review its decision within fifteen days after receipt of an application made under paragraph (1).

**32. Court Redress**

A person aggrieved by any decision made by a public entity or the Commission under these Regulations, may seek redress from the High Court.

### **33. Advisory opinion**

- (1) A State officer or a public entity that requires advice from the Commission on any issue relating to the application of Chapter six of the Constitution shall make such request in writing.
- (2) The Commission shall respond to the request made under paragraph (1) within thirty days.
- (3) The Commission shall treat the request and its response in confidence.

### **34. State Officer to commit to the code**

- (1) Where a public entity has not prescribed a specific leadership and integrity code, a State officer shall on appointment or election to a public office sign and commit to the General Leadership and Integrity Code as set out in Form I, in the Schedule.
- (2) Where a public entity has prescribed a specific leadership and integrity code, a State officer shall on appointment or election to a public office sign and commit to that specific leadership and integrity code as specified in Form J of the Schedule.
- (3) Subject to paragraph (2), a serving State Officer shall sign and commit to the specific and leadership integrity code seven (7) days after publication of the code.

### **35. Breach of Regulations**

A person who contravenes any provisions of these Regulations whose penalty is not provided for in the Act or these Regulations, commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding six (6) months, or both.

### **SCHEDULE**

#### **Form A**

[Rule 5(4).]

Serial No.....

#### **GIFT DECLARATION FORM**

*(To be submitted in duplicate. Attach relevant information or documentation relating to the gift)*

##### **PART 1**

Recipient's Name: .....

Recipient's designation: .....

National ID/Passport No. ....

Recipient's Employer: .....

Name of the donor institution: .....

Name and title of the presenter: .....

Description of the gift: .....

Estimated value of the gift: .....

Current location of the gift: .....

Date of receipt/issuance of the gift: .....

Date of declaration of the gift: .....

Date the gift was surrendered where applicable: .....

Function at which the gift was received/ issued: .....

Signature of declarant: .....

[Subsidiary]

**PART II — Recommendation of the Processing officer**Retain/Surrender (*strike as appropriate*)*Remarks of the Authorizing Officer*Name and Designation of the  
Authorized officer*Signature and Date***Form B - I**

[Rule 6(2).]

**REGISTER OF GIFTS RECEIVED**

Name of Entity: .....

Serial No.	Name of the officer receiving the gift	ID/PP No	Name of entity and officer giving the gift	Description of the gift	Estimated market value of the gift	Date of receipt the gift	Occasion or function in which the gift is offered	Date of declaration of the gift	Date of surrender of the gift to the public entity (where applicable)	Any other relevant information
1.										
2.										

**Form B - II**

[Rule 6(2).]

**REGISTER OF GIFTS RECEIVED**

Name of Entity: .....

Item No.	Name of the officer giving the gift on behalf of the entity	Name of officer given the gift	Designation of the officer given the gift	Description of the gift	Estimated market value of the gift	Date of giving the gift	Occasion or function in which the gift is given	Any other relevant information
1.								
2.								

**Form C**

[Rule 11(1).]

Serial No. ....

**DECLARATION OF CONFLICT OF INTEREST**

(To be submitted in duplicate)

Name of State Officer or Public officer: .....

Designation of the officer: .....

Personal File No: .....

**Description of the Conflict of Interest**

Name and Address of the person with whom the officer has an interest	Nature of interest	Estimated value of the interest	Date the interest was acquired	Date the interest ceased (if applicable)	Remarks(if any)

I, ..... the undersigned, holding the position of ..... at..... ID/PP No. ..... being aware of the provisions of 46 (1) (d) and 46 (2) of the Leadership and Integrity Act, 2012 declare the above information to be true to the best of my knowledge.

Signature of the Officer: .....

Date: .....

Submitted to: .....

Designation of the person submitted to: .....

Signature: ..... Date: .....

**Form D**

[Rule 12(2).]

Serial No. ....

**DECLARATION OF CONFLICT OF INTEREST BY MEMBERS OF SENATE, NATIONAL AND COUNTY ASSEMBLY**

(To be submitted in duplicate)

Name of Member (officer): .....

Designation of Member (of the officer): .....

Personal File No: .....

Name of County/Constituency/Ward: .....

Person or Organization with Interest: .....

Description of the Conflict of Interest .....

I, ..... the undersigned, holding the position of ..... at..... ID/PP No. ..... being aware of the provisions of 46 (1) (d) and 46 (2) of the Leadership and Integrity Act, 2012 declare the above information to be true to the best of my knowledge.

[Subsidiary]

Signature of the Member: ..... Date: .....

Submitted to: .....

Designation of the person submitted to: .....

Signature: ..... Date: .....

**Form E**

[Rule 13(1).]

**REGISTER OF CONFLICT OF INTEREST**

Serial No.	Name and address of the officer making the declaration	ID/PP No. of the officer making declaration	Registrable interest	Nature of Conflict	Date of Declaration	Name & signature of person making entry	Remarks or Directions issued	Date	Update of registered interests

**Form F**

[Rule 14(1).]

**APPLICATION FOR INSPECTION OF THE REGISTER OF CONFLICT OF INTEREST**

(To be submitted in duplicate)

To: .....

Name of Applicant: .....

Address: .....

Specific information that is sought: .....

Purpose for which information is intended to be used: .....

I, ..... the undersigned ID/PP No. ..... being aware of the provisions of sections 46 (1) (d) and 46 (2) of the Leadership and Integrity Act, 2012 declare the above information to be true to the best of my knowledge and undertake not to publish any information obtained through this application except with the written permission of the relevant public entity, Commission, Clerk of the Senate, National Assembly or County Assembly.

Signature of the Member: ..... Date: .....

Submitted to: .....

Designation of the person submitted to: .....

Signature: ..... Date: .....

**Form G**

[Rule 15(1).]



## THE ETHICS AND ANTI-CORRUPTION COMMISSION

**APPLICATION FOR APPROVAL TO OPEN AND  
OPERATE A BANK ACCOUNT OUTSIDE KENYA**

(To be submitted in duplicate)

**SECTION A: PERSONAL DETAILS**

Name: .....

ID/Passport No: ..... PIN: ..... Nationality: .....

Postal Address: .....

Residential Address: .....

Telephone/Mobile Number: ..... Email: .....

**SECTION B: EMPLOYMENT DETAILS**

Name of the Employer: .....

Employment type: ..... P/F No: .....

Ministry: ..... Department: ..... Position: ..... Station: .....

Employers Postal Address: ..... Postal Code ..... Town .....

Employers Physical Address: .....

Telephone ..... Email: .....

**SECTION C: ACCOUNT DETAILS**

Country in which the account is to be opened/operated: .....

Name of the Bank: .....

Address of the Bank: .....

Branch: .....

Account Number (where applicable): .....

Type of Account: .....

---

[Subsidiary]

Monthly Salary (Basic salary and allowances) .....

Expected Annual turn-over/expenditure (where applicable) .....

Reasons for opening/operating the account: .....

Bank statements for accounts already in operation (attach): .....

Duration for operating the account (where applicable): .....

Signatories if different from the applicant: .....

Particulars of the beneficiaries/nominee (where applicable): .....

Relationship of the applicant to the beneficiary/nominee: .....

Any other relevant information: .....

*(Attach copies of: Applicant's Identity Card/valid passport, beneficiary's identity card/birth certificate/ valid passport, travel permit, Certificate of Incorporation/Registration, admission letters from the relevant institutions, tax compliance certificate and any other relevant document).*

I ..... the undersigned holding the position of .....  
at ..... ID/PP No ..... being aware of the provisions of Section 46(1)(d)  
and (2) of Leadership and Integrity Act, 2012 declare the above information to be true to  
the best of my knowledge.

Signature of the Applicant: ..... Date: .....

**FOR OFFICIAL USE****PART I**(i) *Remarks of the Processing Officer*.....  
.....

Name: ..... Signature: .....

Date: .....

(ii) *Director Ethics and Leadership*

Remarks: .....

Signature: ..... Date: .....

**PART II***Approved/Not Approved (strike as appropriate)*

Name: ..... Signature: .....

Date and stamp: .....

Secretary/Chief Executive Officer  
ETHICS AND ANTI-CORRUPTION COMMISSION

**Form H**

[Rule 15(4).]

**AUTHORITY TO VERIFY ACCOUNT DETAILS**

(To be submitted in duplicate)

To: (Bank outside Kenya) .....

Address: ..... Branch: .....

Account Name: .....

Account Number: .....

Bank Code: .....

I, ..... the undersigned, Passport No. ..... in accordance with Sections 19 (3) of the Leadership and Integrity Act, 2012 do hereby authorize the Ethics and Anti-Corruption Commission (EACC) of Postal Office Box 61130 Code 00200, Nairobi, Kenya and of Telephone Number +254 020 310722 to verify statements of my account held in your Bank and any other relevant information.

Signed by the said ..... }  
 at ..... }  
 this ..... day of ..... 20 ..... } ..... }  
 Before Me }  
 Notary Public }

Signature of Account Holder

**Form I**

[Rule 35(1).]

**COMMITMENT TO THE GENERAL LEADERSHIP AND INTEGRITY CODE**

(where the public entity has not developed a specific code)

I, ..... confirm that I have read and understood the Leadership and Integrity Act No. 19 of 2012 and commit to abide by the General Leadership and Integrity Code as set out under Part II of the Act.

Sworn at ..... }  
 By the said ..... } .....  
 Before Me }  
 Commissioner for Oaths/Magistrate }

Deponent

this ..... day of ..... 20 ..... }

**Form J**

[Rule 35(2).]

**COMMITMENT TO SPECIFIC LEADERSHIP AND INTEGRITY CODE**

(where the public entity has not developed a specific code)

I ..... confirm that I have read and understood the Specific Leadership and Integrity Code for ..... (name of public entity) and hereby commit to abide by the provisions of the Code.

Sworn at .....}

By the said .....}

Deponent

this ..... day of ..... 20 .....

Before Me}

Commissioner for Oaths/Magistrate }

Made on the ..... , 20 .....

Mumo Matemu,  
Chairperson  
*Ethics and Anti-Corruption Commission*

Halakhe D.Waqo  
Secretary/Chief Executive Officer  
*Ethics and Anti-Corruption Commission*

Political Parties  
Act (No. 11 of 2011)



**THE REPUBLIC OF KENYA**

**LAWS OF KENYA**



**POLITICAL PARTIES ACT**

**NO. 11 OF 2011**

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**NO. 11 OF 2011****POLITICAL PARTIES ACT**  
**ARRANGEMENT OF SECTIONS**  
**PART I – PRELIMINARY***Section*

1. Short title.
2. Interpretation.

**PART II – REGISTRATION AND REGULATION OF POLITICAL PARTIES**

3. Formation of political parties.
4. Requirements of a political party.
5. Provisional registration of a political party.
6. Application for provisional registration.
7. Conditions of full registration.
8. Parties with certain names not to be registered.
9. Contents of Constitution or rules of a political party.
10. Coalitions.
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### *Section*

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## SCHEDULES

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SECOND SCHEDULE —	CONTENTS OF THE CONSTITUTION OR RULES OF A POLITICAL PARTY
THIRD SCHEDULE —	BASIC REQUIREMENTS FOR COALITION AGREEMENT
FOURTH SCHEDULE —	OATH OF OFFICE/SOLEMN AFFIRMATION OF REGISTRAR OF POLITICAL PARTIES/ ASSISTANT REGISTRAR OF POLITICAL PARTIES/CHAIRPERSON AND MEMBERS OF THE POLITICAL PARTIES DISPUTES TRIBUNAL
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SIXTH SCHEDULE—	PROCEDURES FOR APPOINTMENT OF THE REGISTRAR AND ASSISTANT REGISTRARS
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**NO. 11 OF 2011****POLITICAL PARTIES ACT**

[*Date of assent: 27th August, 2011.*]

[*Date of commencement: 1st November, 2011.*]

**An Act of Parliament to provide for the registration, regulation and funding of political parties, and for connected purposes**

[Act No. 11 of 2011, L.N. 160/2011, Act No. 12 of 2012, Corr. No. 18/2012, L.N. 19/2012, Act No. 47 of 2012, Act No. 50 of 2012, Act No. 18 of 2014, Act No. 14 of 2016, Act No. 21 of 2016, Act No. 36 of 2016.]

**PART I – PRELIMINARY****1. Short title**

This Act may be cited as the Political Parties Act.

**2. Interpretation**

In this Act, unless the context otherwise requires—

“branch” means any devolved unit of a political party;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to elections;

“coalition” means an alliance of two or more political parties formed for the purpose of pursuing a common goal and is governed by a written agreement deposited with the Registrar;

“Commission” means the Independent Electoral and Boundaries Commission established under Article 88 of the Constitution;

“election” means the act of selecting by vote, of a person or persons from among a number of candidates to fill an office or to membership of any political party and includes a presidential, parliamentary or county election;

“ethnic minorities” means a group that is not the dominant one in a given society;

“founding members of a political party” means the persons who form a political party and who have contributed or offered to contribute either in cash or in kind to the initial assets of the party in respect of the first year of its existence;

“Fund” means the Political Parties Fund established by section 23;

“Gazette” means the Kenya Gazette published by the authority of the national government, or a supplement of the Kenya Gazette;

“governing body” means the committee responsible for administering the affairs of a political party;

“marginalised community” has the meaning assigned to it under Article 260 of the Constitution;

“merger” means where two or more political parties consolidate their operations and combine all officers, structure, and other functions of the political parties;

**“office holder”** in relation to a political party means any person who is elected by the members of the political party to hold office and is registered with the Registrar of Political Parties;

**“part primary”** means the process through which a political party elects or selects its candidates for a forthcoming general election or for a forthcoming by-election;

**“political party”** has the meaning assigned to it in Article 260 of the Constitution;

**“public officer”** has the meaning assigned to it under Article 260 of the Constitution;

**“Registrar”** means the Registrar of political parties appointed under section 33;

**“special interest groups”** includes —

- (a) women;
- (b) persons with disabilities;
- (c) youth;
- (d) ethnic minorities; and
- (e) marginalized communities.

**“State”** when used as a noun, means the collectivity of offices, organs and other entities comprising the government of the Republic under the Constitution; and

**“Tribunal”** means the Political Parties Disputes Tribunal established under section 39;

**“youth”** has the meaning assigned to it under Article 260 of the Constitution.

[Act No. 21 of 2016, s. 2.]

## PART II – REGISTRATION AND REGULATION OF POLITICAL PARTIES

### 3. Formation of political parties

(1) Political parties may, subject to the provisions of the Constitution and this Act, be formed in Kenya to further purposes which are not contrary to the Constitution or any written law.

(1A) A political party shall promote inclusiveness, democracy and participation of the people in the—

- (a) formulation of its policies; and
- (b) nomination of candidates for elections.

(2) A citizen of Kenya who has attained the age of eighteen years may, subject to the provisions of this Act and any other law—

- (a) form or participate in the formation of a political party; or
- (b) contest for an elective position in a political party in which the person is a member.

[Act No. 21 of 2016, s. 3.]

**4. Requirements of a political party**

(1) An association of persons or an organisation shall not operate or function as a political party unless it has been registered in accordance with the provisions of this Act.

(2) The Registrar shall not register an association of persons or an organisation as a political party if such association or organisation does not meet the requirements set out in Article 91 of the Constitution.

**5. Provisional registration of a political party**

(1) An association of persons or organisation applying to be registered as a political party may apply to the Registrar for provisional registration.

(2) Upon receipt of an application for registration under subsection (1), the Registrar shall—

- (a) within fourteen days, publish a notice in the *Gazette* and in at least two newspapers with nationwide circulation, inviting objections from any person or any other political party concerning the registration of the name, symbol, colour of the political party, or any other issue relating to the registration of the political party;
- (b) within thirty days of the association or organisation fulfilling the conditions prescribed in section 6, issue that association or organisation with a certificate of provisional registration.

(3) A political party that has been provisionally registered under subsection (2) shall, not later than one hundred and eighty days from the date of provisional registration, apply to the Registrar for full registration.

(4) *Deleted by Act No. 21 of 2016, s. 4(b).*

(5) The provisional registration of a political party which has not applied for full registration shall lapse at the expiry of one hundred and eighty days from the date of issue of the certificate of the provisional registration.

(6) The provisional registration of a political party which has applied for full registration shall be valid until the political party is issued with a certificate of full registration, or until the application of the political party to be registered has been rejected.

(7) A political party that has been provisionally registered under subsection (2) shall not be entitled to participate in an election.

[Act No. 21 of 2016, s. 4.]

**6. Application for provisional registration**

(1) An application for the provisional registration of a proposed political party shall be in writing and be signed by the applicants, of whom not more than two-thirds shall be of the same gender.

(2) An application for provisional registration shall—

- (a) include signed minutes of the first meeting of the founding members of the political party;
- (b) set out the name of the political party;
- (c) if the political party wishes to use an abbreviation of its name for the purposes of this Act, set out that abbreviation;
- (d) be accompanied by a copy of the Constitution of the proposed political party which shall comply with the provisions of section 9;

- (e) include an undertaking to be bound by this Act and the Code of Conduct set out in the First Schedule; and
- (f) be accompanied by the prescribed fee.

(3) An application for provisional registration shall include a request for the registration of the symbol of the political party.

[Act No. 21 of 2016, s. 5.]

## 7. Conditions of full registration

(1) An application for full registration of a political party shall be in writing and shall be signed by an authorized official of the political party.

(2) A provisionally registered political party shall be qualified to be fully registered if—

- (a) it has recruited as members, not fewer than one thousand registered voters from each of more than half of the counties;
- (b) the members referred to in paragraph (a) reflect regional and ethnic diversity, gender balance and representation of special interest groups;
- (c) the composition of its governing body reflects regional and ethnic diversity, gender balance and representation of special interest groups;
- (d) not more than two-thirds of the members of its governing body are of the same gender;
- (e) it has demonstrated that members of its governing body meet the requirements of Chapter Six of the Constitution and the laws relating to ethics;
- (f) it has submitted to the Registrar—
  - (i) a list of the names, addresses and identification particulars of all its members;
  - (ii) the location of its head office, which shall be a registered office within Kenya and a postal address to which notices and other communication may be sent; and
  - (iii) the location and addresses of the branch offices of the political party, which shall be in more than half of the counties; and
  - (iv) the disaggregated data of its membership based on each of the components of the special interest groups;
- (g) it has undertaken to be bound by this Act and the Code of Conduct set out in the First Schedule.

(3) A person is disqualified from being a member of the governing body if that person—

- (a) is an undischarged bankrupt;
- (b) has been convicted of a criminal offence and sentenced to imprisonment for a period of not less than six months;
- (c) has been suspended for a period of six months for violating the code of conduct of the political party; or
- (d) has contravened the provisions of Chapter Six of the Constitution.

(4) The Registrar shall, within thirty days of an application under subsection (2), issue a certificate of full registration to a provisionally registered political party which has fulfilled the conditions of full registration.

(5) A person who is not a citizen of Kenya shall not be appointed to any office or be a member of a political party in Kenya.

[Act No. 21 of 2016, s. 6.]

#### **8. Parties with certain names not to be registered**

The Registrar may refuse an application for the registration of a political party if the name of the political party, the abbreviation of the name or the symbol that it wishes to use for the purposes of this Act—

- (a) is obscene or offensive;
- (b) is the name, or is an abbreviation of another political party that is registered under this Act; or
- (c) so nearly resembles the name or symbol, or an abbreviation of the name of another political party registered under this Act or any other legal entity registered under any other written law.

#### **9. Contents of Constitution or rules of a political party**

(1) The Constitution or rules of every political party shall provide for all the matters specified in the Second Schedule to this Act.

(1A) The constitution or rules of every political party shall ensure that not more than two-thirds of the membership of all party organs, bodies and committees, in aggregate, are of the same gender.

(2) The Registrar may, by notice in writing, require a political party to amend its name, Constitution or rules within three months after the date of the notice to comply with the Constitution, this Act and any other written law.

(3) The notice referred to in subsection (2) shall specify the areas of non-compliance, the nature of the amendment and the reason for such amendment.

(4) If a political party does not comply with a notice issued under subsection (2), that political party shall be deregistered.

[Act No. 21 of 2016, s. 7.]

#### **10. Coalitions**

(1) Two or more political parties may form a coalition before or after an election and shall deposit the coalition agreement with the Registrar.

(2) A coalition agreement entered into before an election shall be deposited with the Registrar at least three months before that election.

(3) A coalition agreement entered into after an election shall be deposited with the Registrar within twenty-one days of the signing of the coalition agreement.

(4) A coalition agreement shall set out the matters specified in the Third Schedule.

**11. Mergers**

- (1) A political party may merge with another political party by—
  - (a) forming a new political party; or
  - (b) merging into an already registered political party.
- (2) A political party shall not merge with another political party unless the merger is in accordance with the Constitution, rules and procedures of the political parties.
- (3) The decision to merge shall be in writing and shall be duly executed by the political party officials authorized to execute agreements on behalf of the political parties.
- (4) The governing body of each political party that intends to merge under subsection (2) shall—
  - (a) determine the Constitution, rules, regulations and the principles which shall form the basis of the merger in accordance with the constitutions of the respective political parties; and
  - (b) sign the merger agreement.
- (5) The merger agreement signed under subsection (4)(b) shall be deposited with the Registrar within twenty-one days of the signing of the agreement.
- (5A) Upon receipt of the merger instrument under subsection (1)(a), the Registrar shall immediately withdraw and cancel the certificates of registration of all the political parties that have merged and shall gazette the dissolution of the merged parties within seven days and a certificate of full registration issued to the new political party.
- (6) Upon receipt of the merger instrument under subsection (1)(b), the Registrar shall gazette within seven days the dissolution of the parties that have resolved to dissolve and the registered party the parties have merged into.
- (7) Where a party merges under this section, a member of the political party that has merged with another political party shall be deemed to be a member of the new political party.
- (8) Despite subsection (7), a member who is a President, Deputy President, Governor or Deputy Governor, Member of Parliament or member of a County Assembly, and who does not desire to be a member of the new political party registered after the merger shall continue to serve in such elected office for the remainder of the term, and may join another political party or choose to be an independent member within thirty days of the registration of the new party.
- (9) Where political parties have merged and are dissolved the particulars including their names, symbol, logo, slogan and colours shall be removed from the register of political parties and such names, symbols, logos, slogans and colours shall not be available for registration by any person as a political party in the subsequent election following the merger.
- (10) Despite subsection (9), where the merging parties wish to register and use any of the merging parties' names, symbols, logos, slogans and colours, such registration shall be permitted.
- (11) The records, assets and liabilities, rights and obligations of all the dissolved political parties shall be the records, assets and liabilities, rights and obligations of the new political party including their entitlement to the Political Parties Fund under section 25 of the Act.

[Act No. 21 of 2016, s. 8.]

**12. Restrictions on public officers in a political party**

- (1) A public officer shall not—
- (a) be eligible to be a founding member of a political party;
  - (b) be eligible to hold office in a political party;
  - (c) engage in political activity that may compromise or be seen to compromise the political neutrality of that person's office; or
  - (d) publicly indicate support for or opposition to any political party or candidate in an election.

(2) Subsection (1) shall not apply to the President, Deputy President, a Member of Parliament, Governor, Deputy Governor or a member of a county assembly.

(3) Until after the first elections under the Constitution, subsection (2) shall apply to the Prime Minister.

**13. Disqualification from holding office in a political party**

A person disqualified from holding public office under the Constitution, this Act or any other written law shall not hold office in the governing body of a political party or be its founding member.

**14. Resignation from political party**

(1) A member of a political party who intends to resign from the political party shall give a written notice prior to his resignation to—

- (a) the political party;
- (b) the clerk of the relevant House of Parliament, if the member is a member of Parliament; or
- (c) the clerk of a county assembly, if the member is a member of a county assembly.

(2) The resignation of the member of the political party shall take effect upon receipt of such notice by the political party or clerk of the relevant House or county assembly.

(3) The political party of which the person is a member, the member, or the clerk of the relevant House of Parliament or of a county assembly of which the person is a member shall notify the Registrar of such resignation within seven days of the resignation.

(3A) Upon receiving the notification under subsection (3), the Registrar shall cause the name of such member to be removed from the membership list of that political party.

(4) A person shall not be a member of more than one political party at the same time.

(5) A person who, while being a member of a political party—

- (a) forms another political party;
- (b) joins in the formation of another political party;
- (c) joins another political party;
- (d) in any way or manner, publicly advocates for the formation of another political party; or

(e) promotes the ideology, interests or policies of another political party, shall, notwithstanding the provisions of subsection (1) or the provisions of any other written law, be deemed to have resigned from the previous political party.

(5A) A political party whose member is deemed to have resigned under subsection (5), shall in accordance with the procedure set out in the constitution of that political party, notify the Registrar of such decision within seven days.

(6) Subject to specific provisions of a coalition or merger agreement, subsection (5)(c), (d) and (e) shall not apply to a member of a political party which enters into a merger or a coalition with another party.

(7) A member of a political party may only be expelled from that political party if the member has infringed the Constitution of the political party and after the member has been afforded a fair opportunity to be heard in accordance with the internal party disputes resolution mechanisms as prescribed in the Constitution of the party.

(8) A person who suppresses or attempts to suppress any lawful political activity of another person commits an offence and shall, on conviction be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years or to both.

[L.N. 19/2012, Act No. 12 of 2012, Sch., Act No. 21 of 2016, s. 9.]

## **15. Rights and privileges of a provisionally registered political party**

(1) A political party which has been provisionally registered shall be entitled—

- (a) to hold and address public meetings in any area in Kenya for the purposes of publicising the political party and recruiting members;
- (b) to the protection and assistance of the State security agencies for the purposes of facilitating peaceful and orderly meetings; and
- (c) to the provision by the State, of fair opportunity to present the political party's programmes to the public by ensuring equitable access to the State owned media.

(2) Provisional registration shall not entitle any political party to organise or hold public meetings in connection with any election, or to propose or campaign for any candidate in any election.

(3) A political party which contravenes the provision of subsection (2) shall not qualify for full registration.

[Act No. 21 of 2016, s. 10.]

## **16. Corporate status of political party and declaration of assets, etc.**

(1) A political party which has been fully registered under this Act shall be a body corporate with perpetual succession and a common seal and shall be capable, in its own name, of—

- (a) acquiring and disposing of property;
- (b) suing and being sued; and
- (c) doing or performing all such acts and things as a body corporate may by law do or perform.

(2) A political party shall, within sixty days after being issued with a certificate of full registration under section 7, submit to the Registrar a written declaration giving details of all assets and expenditure including all contributions, donations or pledges of contributions or donations, whether in cash or in kind, made or to be made to the initial assets of the political party by its founding members in respect of the first year of its existence.

(3) A declaration submitted to the Registrar under subsection (2) shall—

- (a) state the sources of all funds and other assets of the political party;
- (b) contain such other relevant particulars as the Registrar may prescribe; and
- (c) be supported by a statutory declaration made by the person designated to issue such a declaration by the governing body of the political party.

(4) The Registrar shall, within thirty days after the receipt of the declaration required under subsection (2), cause the declaration to be published in the *Gazette* and in at least one daily newspaper having nationwide circulation.

(5) Notwithstanding any other penalty prescribed by this Act or any other written law, the Registrar shall, subject to section 21(2), deregister a political party which—

- (a) fails to comply with this section; or
- (b) submits a declaration which is false in any material particular.

(5A) A fully registered political party shall be deregistered if it has not presented a candidate in two consecutive general elections.

(5B) Upon deregistration under subsection (5A), the Registrar shall publish a notice in the *Gazette* and notify the Attorney-General in accordance with section 48, for purposes of winding up of the political party.

[Act No. 21 of 2016, s. 11, Act No. 21 of 2016, s. 11.]

## 17. Records of political party

(1) A political party shall maintain at its head office and at each of its county office in the prescribed form, an accurate and authentic record of—

- (a) a register of its members in a form prescribed in the Second Schedule;
- (b) a copy of the Constitution of the political party;
- (c) a copy of the policies and plans of the political party;
- (d) particulars of any contribution, donation or pledge of a contribution or donation, whether in cash or in kind, made by the founding members of the political party;
- (e) estimates of the expenditure of the political party in accordance with the laws relating to public finance management;
- (f) particulars of any property that belongs to the political party and the time and mode of acquisition of the property;
- (g) the latest audited books of accounts of the political party which shall be in accordance with the principles of accounting having regard to the purpose of this Act, showing—

- (i) the sources of the funds of the political party and names, addresses and such other contact details as the Registrar may require of any persons who have contributed thereto;
  - (ii) membership dues paid;
  - (iii) donations in cash or in kind;
  - (iv) indirect contributions to the party and all receipts and disbursements, including income and expenditure transactions of the political party;
  - (v) all the financial transactions and records of assets and liabilities of the political party; and
- (h) such other relevant particulars as the Registrar may prescribe.

(2) A person, who interferes with, damages or destroys the records of a registered political party commits an offence.

(3) A member of a political party may, during working hours and on payment of the prescribed fee, inspect and obtain copies of the records of a political party maintained at its head office or county office.

#### **18. Inspection of records of political parties**

(1) The Registrar may issue a written notice, in the prescribed form, to the Chairperson or Secretary-General of a political party to furnish for inspection by the Registrar, the records required to be maintained under section 17, or such other information as is reasonably required by the Registrar to ensure compliance with the provisions of this Act.

(2) The Registrar may make copies of, or take extracts from, any records or other information furnished to the Registrar under this section.

(3) The Chairperson or Secretary-General of a political party shall comply with a notice issued by the Registrar under subsection (1).

(4) A Chairperson or Secretary-General of a political party who fails to comply with the notice under this section commits an offence.

[Act No. 21 of 2016, s. 12.]

#### **19. Public meetings of political party**

(1) A fully registered political party shall hold meetings of the party organs at national and county level in accordance with the party constitution.

(2) A political party intending to hold a public meeting shall comply with the provisions of the laws relating to public meetings.

[Act No. 21 of 2016, s. 13.]

#### **20. Notification of changes, alterations in Constitution, etc., of political party**

- (1) Where a fully registered political party intends to change or amend—
  - (a) its Constitution;
  - (b) its rules and regulations;
  - (c) the title, name or address of any party official
  - (d) its name, symbol, slogan or colour; or
  - (e) the address and physical location of the head office or county office,

it shall notify the Registrar of its intention and the Registrar shall, within fourteen days after the receipt of the notification, cause a notice of the intended change or alteration to be published in the *Gazette*.

(2) The political party giving notification under subsection (1) shall publish such notification in at least two daily newspapers having nationwide circulation.

(3) Upon the expiry of fourteen days from the date of publication of the notice in subsection (2), the political party may, after taking into account any representations received from the public, effect the change or alteration in accordance with its constitution and rules.

(3A) The political party shall after the expiry of the period specified under subsection (3), notify the Registrar of the decision taken and the actual changes given effect.

[Act No. 47 of 2012, Sch., Act No. 21 of 2016, s. 14.]

## **21. Deregistration of a political party**

- (1) The Registrar may deregister a political party if the political party—
  - (a) has contravened the provisions of Article 91 of the Constitution;
  - (b) does not promote free and fair nomination of candidates;
  - (c) does not adhere to the law relating to the nomination of candidates;
  - (d) does not respect the national values and principles of the Constitution;
  - (e) obtained its registration in a fraudulent manner;
  - (f) has instigated or participated in the commission of an election offence; or
  - (g) has acted contrary to the provisions of section 26;
  - (h) does not have representation of special interest groups;
  - (i) does not maintain the requirements set out under section 7;
  - (j) has contravened the provisions of Article 81(b) of the Constitution.

- (2) The Registrar shall, before deregistering a political party—
  - (a) inform the political party, in writing, of the particulars of the breach or contravention;
  - (b) inform the political party, in writing, of the intention to deregister the political party; and
  - (c) direct the political party to remedy the breach or contravention within ninety days or otherwise show cause why the party should not be deregistered.

(3) The Registrar may suspend the registration of a political party to enable that political party to remedy the breach specified in the notice issued by the Registrar under subsection (2).

(4) A political party that has been suspended under subsection (3) shall not be entitled to any of the rights and privileges specified in section 15.

(5) The Registrar shall deregister a political party which has not remedied the breach or complied with the Act as required by the Registrar under subsection (2).

(6) The Registrar shall deregister a political party which has been declared to be a prohibited organisation under the provisions of any written law.

(6A) The Registrar shall, within fourteen days after deregistration of a political party under subsection (5), cause a notice of the deregistration to be published in the *Gazette*.

[Act No. 21 of 2016, s. 15.]

## 22. Effect of deregistration

- (1) Where a political party is deregistered under this Act, no person shall—
  - (a) summon a meeting of members or officers of the political party other than for purposes of winding up the political party or for purposes of challenging the deregistration of the political party;
  - (b) attend or make a person attend a meeting in the capacity of a member or officer of the political party;
  - (c) publish a notice or advertisement relating to a meeting of the political party except for purposes of a meeting under paragraph (a);
  - (d) invite persons to support the political party;
  - (e) make a contribution or loan to funds held or to be held by or for the benefit of the political party or accept a contribution or loan; or
  - (f) give a guarantee in respect of such funds.
- (2) Where a political party that has been deregistered under section 21 had representatives elected to Parliament, or county assembly, such representatives shall continue to serve for the remainder of their term as independents or as members of other political parties.
- (3) Notwithstanding subsection (2), where the de-registration of a political party is occasioned by a willful act or willful omission of a person who is a member of Parliament or of a county assembly, that person shall cease to be a member of Parliament or of the county assembly.

## PART III – FUNDING AND ACCOUNTS OF POLITICAL PARTIES

### 23. Political Parties Fund

There is established a Fund to be known as the Political Parties Fund, which shall be administered by the Registrar.

### 24. Sources of moneys in the Fund

- (1) The sources of the Fund are—
  - (a) such funds not being less than zero point three per cent of the revenue collected by the national government as may be provided by Parliament; and
  - (b) contributions and donations to the Fund from any other lawful source.
- (2) The balance of the Fund at the end of the financial year shall be retained for the purposes for which the Fund is established, subject to any law relating to public finance.

### 25. Distribution of the Fund

- (1) The Fund shall be distributed as follows—
  - (a) eighty per cent of the Fund proportionately by reference to the total number of votes secured by each political party in the preceding general election;

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- (aa) fifteen per cent of the Fund proportionately to political parties qualifying under paragraph (a) based on the number of candidates of the party from special interest groups elected in the preceding general election; and
  - (b) five per cent for the administration expenses of the Fund.
- (2) Notwithstanding subsection (1), a political party shall not be entitled to receive funding from the Fund if—
- (a) the party does not secure at least three per cent of the total number of votes at the preceding general elections; or
  - (b) more than two-thirds of its registered office bearers are of the same gender;
  - (ba) the party does not have, in its governing body, representation of special interest groups;
  - (c) the party does not have at least —
    - (i) twenty elected members of the National Assembly; and
    - (ii) three elected members of the Senate; and
    - (iii) three elected members who are Governors; and
    - (iv) forty members of County Assemblies.

(2A) For purposes of this section, "**office bearers**" means national and county officials elected or nominated by a political party in accordance with the party constitution.

(3) For purposes of subsections (1)(a) and (2)(a), the total number of votes secured by a political party shall be computed by adding the total number of votes obtained in the preceding general election by a political party in the election for the President, members of Parliament, county governors and members of county assemblies.

[Act No. 14 of 2016, s. 2, Act No. 21 of 2016, s. 16, Act No. 36 of 2016, s. 28.]

## 26. Purposes of the Fund

- (1) Moneys allocated to a registered political party from the Fund shall be used for purposes compatible with democracy including—
- (a) promoting the representation in Parliament and in the county assemblies of women, persons with disabilities, youth, ethnic and other minorities and marginalised communities;
  - (b) promoting active participation by individual citizens in political life;
  - (c) covering the election expenses of the political party and the broadcasting of the policies of the political party;
  - (d) the organisation by the political party of civic education in democracy and other electoral processes;
  - (e) bringing the political party's influence to bear on the shaping of public opinion; and
  - (f) administrative and staff expenses of the political party which shall not be more than thirty per cent of the moneys allocated to the political party:

Provided that not less than thirty per cent of the moneys allocated to a political party under section 25 shall be used for the purposes referred to in subsection (1)(a).

(2) The moneys allocated to a political party shall not be used for any other purposes other than those specified in this Act.

(3) Moneys allocated to a political party from the Fund shall not be used—

- (a) for paying directly or indirectly remuneration, fees, rewards, allowances or any other benefit to a member or supporter of the political party, other than a member of staff;
- (b) to finance or as a contribution to any matter, cause, event or occasion directly or indirectly in contravention of any code of ethics binding on public officers;
- (c) directly or indirectly for the purposes of establishing any business or acquiring or maintaining any right or financial interest whatsoever in any business or in any immovable property; or
- (d) for any other purpose incompatible with the promotion of a multiparty democracy and the electoral processes, or with the Constitution.

(4) A political party shall ensure accountability and transparency in its procurement processes.

(5) A person who contravenes the provisions of this section commits an offence.

## **27. Other sources of funds**

(1) The sources of other funds for a political party are—

- (a) membership fees;
- (b) voluntary contributions from a lawful source;
- (c) donations, bequests and grants from any other lawful source, not being from a non-citizen, foreign government, inter-governmental or non-governmental organisation; and
- (d) the proceeds of any investment, project or undertaking in which the political party has an interest.

(2) A foreign agency, or a foreign political party which shares an ideology with a political party registered in Kenya, may provide technical assistance to that political party.

(3) Technical assistance under subsection (2) shall not include provision of any assets to the political party.

(4) A political party shall disclose to the Registrar full particulars of all funds or other resources obtained by it from any source.

## **28. Offences related to sources of funds**

(1) A political party which receives funds from a non-citizen contrary to section 27(1)(c), commits an offence.

(2) Subject to subsection (6), no person or organisation shall, in any one year, contribute to a political party an amount, whether in cash or in kind exceeding five per cent of the total expenditure of the political party.

(3) The total expenditure referred to in subsection (2) shall be in relation to the audited accounts of the political party, of previous year.

(4) A person who or an organisation which contravenes subsection (2) commits an offence.

(5) A political party that receives an amount exceeding the amount specified in subsection (2) commits an offence and shall, in addition to the penalty imposed by this Act, forfeit that amount to the State.

(6) Subsections (2) and (5) shall not apply to any contribution or donation whether in cash or kind, made by any founding member of the political party as his contribution to the initial assets of the party within the first year of its existence.

(7) An official of a political party or other person required to disclose to the Registrar, on behalf of a political party, the funds or other resources of that political party, who fails to disclose, or gives false information in relation to the funds or resources obtained by the political party, commits an offence and shall on conviction be liable to a fine equal to the amount or the value of the resources not disclosed or in relation to which false information was given, or to imprisonment for a term not exceeding two years or to both.

## **29. Publishing sources of funds**

(1) A political party shall, within ninety days of the end of its financial year, publish—

- (a) the sources of its funds stating—
  - (i) the amount of money received from the Fund;
  - (ii) the amount of money received from its members and supporters; and
  - (iii) the amount and sources of the donations given to the party;
- (b) the income and expenditure of the political party; and
- (c) the assets and liabilities of the political party.

(2) The publication referred to in subsection (1) shall be in at least two newspapers having nationwide circulation.

(3) A political party which contravenes this section commits an offence.

(4) Notwithstanding the provisions of subsection (3), a political party that fails to comply with this section shall, during the period of non-compliance, be disqualified from receiving moneys from the Fund.

## **30. Declaration of assets, liabilities and expenditure in relation to elections**

(1) A political party shall, at least sixty days before a general election, submit to the Registrar a register of its members and a statement of its assets and liabilities in the prescribed form.

(2) Notwithstanding any other penalty provided in this Act or in any other written law, the Registrar shall deregister a political party which—

- (a) fails to comply with this section; or
- (b) submits a statement which is false in any material particulars.

[Act No. 47 of 2012, Sch.]

**31. Audit of political parties accounts**

- (1) A political party shall keep proper books and records of account of the income, expenditure, assets and liabilities of the political party.
- (2) A political party shall, within three months after the end of each financial year submit to the Auditor-General the accounts of the political party in respect of that year.
- (3) The accounts of every political party shall be audited annually by the Auditor-General and shall be submitted to the Registrar and tabled in the National Assembly.
- (4) The Registrar may at any time request the Auditor-General to carry out an audit of the accounts of a political party.

(5) Any person shall be entitled to inspect the audited accounts filed by a political party and, upon payment of a fee prescribed by the Registrar be issued copies of the audited accounts.

**32. Accounts and audit of the Office of Registrar**

- (1) The Office of Registrar of Political Parties shall keep proper books of account of the income, expenditure and assets of the Office.
- (2) Within a period of three months after the end of a financial year, the Office of Registrar of Political Parties shall submit to the Auditor-General, the accounts of the Office together with—
  - (a) a statement of the income and expenditure of the Office during that year; and
  - (b) a statement of the assets and liabilities of the Office during that year.
- (3) All accounts kept under this Act shall be audited by the Auditor-General at least once in every financial year.

**PART IV – OFFICE OF THE REGISTRAR OF POLITICAL PARTIES****33. Establishment of the Office of Registrar**

- (1) There is established, the Office of the Registrar of Political Parties which shall be a body corporate with perpetual succession and a seal and which shall be capable of suing and being sued in its corporate name.
- (2) The Registrar shall be deputised by three Assistant Registrars, not more than two of whom shall be of the same gender.
- (3) The Office of the Registrar shall be a State office within the meaning of Article 260 of the Constitution.
- (4) The Office of the Registrar may engage such staff, experts or consultants as are necessary for the proper and effective discharge of its functions under this Act and any other written law.
- (5) The Office of Registrar shall be independent and shall not be subject to direction or control of any person or authority.
- (6) A person shall be qualified for appointment as Registrar or as an Assistant Registrar if the person—
  - (a) holds a degree from a university recognised in Kenya;

- 
- (b) has proven knowledge and experience in any of the following fields—
    - (i) finance;
    - (ii) management;
    - (iii) political science;
    - (iv) law;
    - (v) governance; or
    - (vi) public administration;
  - (c) has, in the case of the Registrar, at least fifteen years post qualification experience in the relevant areas of expertise and, in the case of an Assistant Registrar, has at least ten years post qualification experience in the relevant area of expertise; and
  - (d) is a person of high moral character and integrity and has satisfied the requirements of Chapter Six of the Constitution.

(7) A person shall not be qualified for appointment as a Registrar or Assistant Registrar if the person has, at any time within the preceding five years, held office or stood for election as a member of Parliament or a county assembly or as a member of a governing body of a political party.

(8) The Registrar and Assistant Registrars shall, before assuming office, take and subscribe to the oath or affirmation prescribed in the Fourth Schedule.

(9) The Registrar and Assistant Registrars shall serve for a non-renewable term of six years and shall not be eligible for re-appointment.

(10) A person who serves as a Registrar or Assistant Registrar shall not be eligible to contest for election as a member of Parliament or a county assembly, or as a member of a governing body of a political party within five years of the person ceasing to be Registrar or Assistant Registrar.

#### **34. Functions of the Registrar**

The functions of the Registrar shall be to—

- (a) register, regulate, monitor, investigate and supervise political parties to ensure compliance with this Act;
- (b) administer the Fund;
- (c) ensure publication of audited annual accounts of political parties;
- (d) verify and make publicly available the list of all members of political parties;
- (e) maintain a register of political parties and the symbols of the political parties;
- (f) ensure and verify that no person is a member of more than one political party and notify the Commission of his findings;
- (g) investigate complaints received under this Act; and
- (h) perform such other functions as may be conferred by this Act or any other written law.

**34A. Vacancy in the Office of the Registrar of Political Parties or the Assistant Registrar**

Whenever a vacancy arises in the Office of the Registrar of Political Parties or the Assistant Registrar, the President shall, with the approval of the National Assembly, appoint the Registrar of Political Parties or the Assistant Registrar from the names of nominees forwarded by the Public Service Commission in accordance with the Sixth Schedule to this Act.

[Act No. 21 of 2016, s. 17.]

**35. Deleted by Act No. 12 of 2012, Sch.****36. Procedure for appointment of the Registrar and Assistant Registrars**

The Sixth Schedule shall apply to the procedure for the appointment of the Registrar and Assistant Registrars.

**37. Removal of Registrar or Assistant Registrar**

(1) The Registrar or an Assistant Registrar may be removed from office only on grounds of—

- (a) serious violation of the Constitution or of this Act;
- (b) non-compliance with Chapter Six of the Constitution;
- (c) inability to perform the functions of office arising from mental or physical incapacity;
- (d) bankruptcy;
- (e) incompetence; or
- (f) gross misconduct.

(2) A person desiring the removal of the Registrar or an Assistant Registrar shall present a petition to the Public Service Commission which shall be in writing, setting out the alleged facts constituting the grounds for the removal of the Registrar or of the Assistant Registrar.

(3) The Public Service Commission shall consider the petition and, if it is satisfied that it discloses the existence of a ground under subsection (1), it shall send the petition to the President.

(4) On receipt and examination of the petition, the President shall—

- (a) suspend the Registrar or Assistant Registrar pending the outcome of the petition; and
- (b) appoint a Tribunal in accordance with subsection (5).

(5) The President shall appoint a Tribunal consisting of—

- (a) a Chairperson who shall be nominated by the Judicial Service Commission and who shall be a person who is qualified to hold office as a judge of a superior court;
- (b) two other persons, a man and a woman, who shall be nominated by the Law Society of Kenya and who shall be qualified to hold office as a judge of a superior court;
- (c) two persons, a man and a woman, who shall be nominated by the Association of Professional Societies in East Africa and who have knowledge and experience in public affairs and are competent to assess the facts in respect of the particular ground for removal.

(6) The Tribunal shall investigate the matter expeditiously, report on the facts and make a binding recommendation to the President who shall act in accordance with the recommendation within thirty days.

(7) A person who is suspended under this section shall continue, while on suspension, to receive one-half of the remuneration and benefits of the office.

### **38. Establishment of Political Parties Liaison Committee**

(1) There is established a Political Parties Liaison Committee.

(2) The Political Parties Liaison Committee shall be established at the national and county levels.

(3) The principal function of the Political Parties Liaison Committee is to provide a platform for dialogue between the Registrar, Commission and political parties.

(4) The Political Parties Liaison Committee shall perform such other functions as may be prescribed by the Registrar.

## PART VI – POLITICAL PARTIES DISPUTES TRIBUNAL

### **39. Establishment of Tribunal**

(1) There is established a Tribunal to be known as the Political Parties Disputes Tribunal.

(2) The Tribunal shall consist of the following members, appointed by the Judicial Service Commission—

(a) a Chairperson who shall be a person qualified to be appointed a judge of the High Court; and

(b) six other members, three of whom shall be Advocates of the High Court of seven years standing and three other professionals with outstanding governance, administrative, social, political, economic and other record.

(3) The Chairperson and members of the Tribunal shall serve on part-time basis.

(4) The Chairperson and the members shall hold office for a non-renewable term of six years.

(5) A person shall not be qualified to be appointed as a member of the Tribunal if that person is a member of the public service or takes an active part in the activities of a political party.

(6) A person shall not qualify for appointment under this section unless the person has met the requirement of Chapter Six of the Constitution.

(7) The quorum of the Tribunal shall be three members one of whom shall be an advocate.

[Act No. 21 of 2016, s. 18.]

### **40. Jurisdiction of Tribunal**

(1) The Tribunal shall determine—

(a) disputes between the members of a political party;

(b) disputes between a member of a political party and a political party;

(c) disputes between political parties;

(d) disputes between an independent candidate and a political party;

- 
- (e) disputes between coalition partners; and
  - (f) appeals from decisions of the Registrar under this Act;
  - (fa) disputes arising out of party primaries.

(2) Notwithstanding subsection (1), the Tribunal shall not hear or determine a dispute under paragraphs (a), (b), (c) or (e) unless the dispute has been heard and determined by the internal political party dispute resolution mechanisms.

[Act No. 21 of 2016, s. 19.]

#### **41. Determination of disputes**

(1) The Tribunal shall determine any dispute before it expeditiously, but in any case shall determine a dispute within a period of three months from the date the dispute is lodged.

(2) An Appeal shall lie from the decision of the Tribunal to the High Court on points of law and facts and on points of law to both the Court of Appeal and the Supreme Court.

(3) A decision of the Tribunal shall be enforced in the same manner as a decision of a Magistrates Court.

(3A) The Chief Justice may, in consultation with the Tribunal, prescribe regulations for determination of disputes under this section.

(4) The Tribunal shall apply the rules of evidence and procedure under the Evidence Act (Cap. 80) and the Civil Procedure Act (Cap. 75), with the necessary modifications, while ensuring that its proceedings do not give undue regard to procedural technicalities.

[Act No. 12 of 2012, Sch., Act No. 47 of 2012, Sch., Act No. 21 of 2016, s. 20.]

#### **42. Removal of member of Tribunal**

The Judicial Service Commission may remove a member of the Tribunal if the member—

- (a) becomes an undischarged bankrupt;
- (b) is convicted of a criminal offence;
- (c) is incapacitated by reason of prolonged physical or mental illness from performing the duties of the office;
- (d) violates the Constitution; or
- (e) is otherwise unable or unfit to discharge the functions of the office.

#### **43. Staff of the Tribunal**

The Judicial Service Commission shall appoint the Secretary and such other staff of the Tribunal necessary for the proper functioning of the Tribunal.

#### **44. Expenses of the Tribunal**

(1) The remuneration of the staff of the Tribunal and the expenses of the Tribunal shall be paid out of monies allocated by the National Assembly to the Judiciary Fund.

(2) The Chairperson and members of the Tribunal shall be paid such allowances and be reimbursed such expenses as shall be determined by the Judicial Service Commission on the recommendation of the Salaries and Remuneration Commission.

(3) Pending the establishment of the Salaries and Remuneration Commission, the Chairperson and members of the Tribunal shall be paid such allowances and be reimbursed such expenses as shall be determined by the Judicial Service Commission in consultation with Treasury.

## PART VI – GENERAL PROVISIONS

### 45. Offences

- (1) A person who—
- (a) fails to furnish particulars or information required to be furnished by a political party or by him under this Act;
  - (b) makes a statement which he knows to be false or which he has no reason to believe to be true; or
  - (c) recklessly makes a false statement under this Act,
- commits an offence.
- (2) Where a political party commits an offence under this Act, every office holder of that political party shall also be deemed to have committed the offence.
- (3) Where an offence under this Act is committed by a body of persons other than a political party—
- (a) in the case of a body corporate other than a partnership, every director and the secretary of the body corporate shall also be deemed to have committed the offence; and
  - (b) in the case of a partnership, every partner shall be deemed to have committed the offence.
- (4) A person does not commit an offence under subsection (1) or (2) if that person proves to the satisfaction of the court or tribunal that the act in respect of which such person is charged was committed without his consent or connivance, and that he exercised all diligence to prevent the commission of that act as he ought to have exercised, having regard to all the circumstances.
- (5) Where a political party commits an offence under this Act, the Registrar shall have the power to—
- (a) issue a warning and require the political party to conform to this Act within a specified period;
  - (b) suspend the registration of the political party for a period not exceeding twelve months;
  - (c) withhold funds to the political party for a period not exceeding twelve months; or
  - (d) subject to section 21, deregister a political party.
- (6) Despite subsection (5), an elected person who is a member of a political party whose registration has been suspended, shall continue in office for the unexpired term.
- (7) The Registrar or an employee of the Office of the Registrar commits an offence where the Registrar or the employee of the Office of the Registrar of Political Parties knowingly subverts the objectives of the Constitution and of this Act.

[Act No. 47 of 2012, Sch., Act No. 21 of 2016, s. 21.]

**46. General penalty**

A person convicted of an offence under this Act for which no penalty is prescribed shall be liable, on conviction, to a fine of not less than one million shillings or to imprisonment for a term of not less than two years, or to both.

**47. Cognizable offence**

An offence under this Act shall be cognizable by the police.

**48. Winding up political party**

(1) The Registrar shall, upon the deregistration of a political party or its declaration as a prohibited organisation under any law, notify the Attorney-General.

(2) The Attorney-General shall, upon receipt of such notice, make an application for the winding up and dissolution of that political party, and the disposition of the property, assets, rights and liabilities of the political party.

(3) The High Court shall make such orders as appears to it to be just and equitable in the circumstances of the case.

**49. Regulations**

(1) The Registrar may make regulations generally for the better carrying out of provisions of this Act.

(2) In particular and without prejudice to the generality of the power conferred by subsection (1), the Registrar may make regulations—

- (a) prescribing the manner of registration of political parties;
- (b) regulating the activities of political parties that are registered under this Act as provided under this Act;
- (c) regulating or restricting the use or changes of names, symbols or colours of political parties;
- (d) prescribing the forms, which may be used for carrying out the provisions of this Act;
- (e) for securing the submission, to the Registrar, of the audited accounts and financial accounts relating to the assets and liabilities, income and expenditure of political parties;
- (f) prescribing the fees in respect of anything to be done under this Act; or
- (g) requiring the submission, to the Registrar, of annual or other periodical returns relating to the Constitution, objects and membership of political parties.

**50. Repeal of No. 10 of 2007**

The Political Parties Act, 2007 (No. 10 of 2007) is repealed.

**51. Transitional provisions**

(1) Notwithstanding the provisions of this Act—

- (a) a political party existing immediately before the commencement of this Act shall be required to comply with the provisions of this Act, within one hundred and eighty days from the commencement date; but shall be exempt from payment of the initial registration fees;

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- (b) section 8 shall not apply to a political party existing immediately before the commencement of this Act;
  - (c) the register of Political Parties and the Register of members of the Political parties maintained under the repealed Political Parties Act shall be deemed to have been prepared under this Act;
  - (d) the Registrar of Political Parties holding office immediately before the commencement of this Act, shall continue to hold office until a Registrar is appointed under this Act;
  - (e) the Chairperson and members of the Tribunal appointed under the repealed Act shall continue to hold office for their unexpired term;
  - (f) all records, assets and liabilities of the former office of the Registrar and the Tribunal shall be records, assets and liabilities for the respective offices established under this Act;
  - (g) all proceedings that were pending before the Tribunal under the repealed Act shall continue as proceedings before the Tribunal established under this Act;
  - (h) the provisions of section 9(4) shall not apply until after the first elections after the commencement of this Act;
  - (i) the criteria for distribution of the Fund provided under section 30(3) of the Political Parties Act, 2007, shall apply until after the first general elections under the Constitution; and
  - (j) until after the first elections under the Constitution, references in this Act to the expression "**Cabinet Secretary**" shall be construed to mean "**Minister**".
- (2) Where this Act requires a nomination or appointment to be made by the President, until after the first general elections held under the Constitution, the President shall, as provided in the Constitution, nominate or appoint a person after consultation with the Prime Minister.

[Corr. No. 18/2012.]

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**FIRST SCHEDULE**

[Section 6(2)(e), Act No. 21 of 2016, s. 22.]

**CODE OF CONDUCT FOR POLITICAL PARTIES**

**1.** Political parties shall, pursuant to Articles 91 and 92 of the Constitution and section 8 of this Act, subscribe and observe this code of conduct.

**2.** This code of conduct shall regulate the behaviour of members and office holders of political parties, aspiring candidates, candidates and their supporters, promote good governance and eradicate political malpractices.

**3.** Political competition and co-operation shall be regulated under this code of conduct on the basis of rule of law and universally accepted best practices.

**4.** Political parties shall—

- (a) promote policy alternatives responding to the interests, concerns and needs of the citizens of Kenya;
- (b) respect and uphold the democratic process as they compete for political power so as to implement their policies;
- (c) promote consensus building in policy decision making on issues of national importance;
- (d) develop and implement measures for the progressive realisation of representation and participation of the special interest groups in decision-making organs; and
- (e) implement the affirmative action programmes, policies and strategies relating to political representation contemplated under Article 27(6) of the Constitution.

[Act No. 21 of 2016, s. 22 (a).]

**5.** Every political party shall—

- (a) respect the right of all persons to participate in the political process including special interest groups;
- (b) respect and promote gender equity and equality, human rights and fundamental freedoms; and
- (c) be tolerant and inclusive in all their political activities.

[Act No. 21 of 2016, s. 22 (b).]

**6.** Every political party shall—

- (a) respect, uphold and defend the Constitution of Kenya;
- (b) respect and uphold this Act and any other written law relating to elections and political parties;
- (c) respect, uphold and defend their respective political party Constitutions, political party election rules, political party nomination rules and any other political party rules and regulations developed and agreed upon in accordance with this code of conduct;
- (d) respect, uphold and promote human dignity, equity, social justice, inclusiveness and non-discrimination and protection of the marginalized;
- (e) respect, uphold and promote human rights and the rule of law;

- 
- (f) promote national patriotism and national unity;
  - (g) respect, uphold and promote democratic values and principles, performing inclusive participation of party members and accountable representation in governance for the development of the country;
  - (h) respect, uphold and promote good governance, integrity, respect, tolerance, transparency and accountability;
  - (i) promote co-operation in the political competition;
  - (j) promote sharing and devolution of power and resources;
  - (k) respect, uphold and promote democratic practices through regular free, fair and credible elections within the political party and among others have a democratically elected governing body and political party organs;
  - (l) respect, uphold and promote democratic practices through free, fair and credible political party nominations;
  - (m) respect, uphold and promote leadership and integrity as prescribed in the Constitution of Kenya; and
  - (n) perform transparency and accountability in all its legislation and regulations, structures, procedures and performance.

**7. A political party shall not—**

- (a) engage in or encourage violence by its members or supporters;
- (b) engage in or encourage any kind of intimidation of opponents, any other person or any other political party;
- (c) engage in influencing peddling, bribery or any other form of corruption;
- (d) accept or use illicit or illegal money;
- (e) accept or use public resources other than those allocated to the political party through the political party fund;
- (f) advocate hatred that constitutes ethnic incitement, vilification of others or incitement to cause harm;
- (g) obstruct, disrupt, break-up or in any other way whatsoever interfere with a meeting, rally or demonstration of another political party or its leadership;
- (h) establish or maintain a para-military force, militia or similar organisation or having any links with such organisations; and
- (i) use State resources for partisan campaigns.

**8. A political party shall promote inter-party relations by—**

- (a) ensuring free competition among political parties in respect of different political views and principles;
  - (b) fostering trust and confidence through mechanisms for co-operation;
  - (c) managing and mitigating political differences through constructive dialogue enhancing harmony among the parties; and
  - (d) promoting national reconciliation and building national unity.
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**SECOND SCHEDULE**

[Section 9(1), Act No. 21 of 2016, s. 23.]

**CONTENTS OF THE CONSTITUTION OR RULES OF A POLITICAL PARTY**

1. The name of the political party and any abbreviation.
2. The logo and symbol of the political party and party colours.
3. The objects of the political party.
4. Clearly defined vision, mission, guiding principles and values.
5. The physical and postal address of the registered office.
6. Membership requirements including—
  - (a) the eligibility criteria;
  - (b) subscription fees for joining the party and for being a member of the party;
  - (c) the criteria for resignation from party membership or ceasing to be a member; and
  - (d) the rights and duties of members of the party;
  - (e) membership details to be contained in the register including identification details, region, ethnicity, disability, gender and county; and
  - (f) the procedure for conducting the annual general meeting or the other general meetings of the political party, including matters which may only be decided upon by a meeting of the party members or, as the case may be, of the county representatives of the party;
  - (fa) the requirement for continuous updating of the membership register.

[Act No. 21 of 2016, s. 23 (a).]

**7. Governing body requirements—**

- (a) the name of the governing body;
- (b) the eligibility criteria for election to the governing body;
- (c) the positions, titles and term of office;
- (d) the rights and duties of members of the governing body;
- (e) the procedure for the election of members of the governing body and other political party organs, including committees;
- (f) guidelines for the operations of the governing body and its committees;
- (g) quorum;
- (h) frequency of meetings;
- (i) decision making powers; and
- (j) guidelines for meetings; procedures of convening meetings; procedure of meetings and the official recording of resolutions passed at meetings.

**8.** A list of political party management structure of the political party and systems to be documented at the political party offices including—

- (a) the employee details and terms of employment;
- (b) the party human resource, financial and audit and administration and management policies and procedures; and
- (c) the party sub-branches within each county.

**9.** The forming of political party branches, including in the diaspora, and their roles and responsibilities.

**10.** The financial structure and system including—

- (a) the roles and responsibilities of individual political party officials, organs and governing bodies with regard to the finances of the political party;
- (b) the annual statutory and other audits of accounts of the political party; and
- (c) the purposes for which the funds may be used, and in particular the prohibition against the distribution of funds among members.

**11.** The general organisation structure and management of the political party, including the county structures and systems and county governing bodies.

**12.** The establishment and management of National Assembly, Senate and County Assemblies Caucuses.

**13.** The disciplinary measures against a member or official of a political party including—

- (a) the methods and procedure of disciplinary action in accordance with Articles 47 and 50 of the Constitution;
- (b) possible disciplinary actions and reasons;
- (c) criteria for various disciplinary actions; and
- (d) consequences of each action for the national and county levels.

[Act No. 21 of 2016, s. 23 (b).]

**14.** The right to inspect the books or list of members of the political party by a member of the party or a member of the public.

**15.** The authorized officials of a political party shall sign on behalf of the political party—

- (a) documents presented to the Registrar including membership register, mergers, and other reports to the Registrar;
- (b) the accounts and bank accounts of the political party;
- (c) the audited annual accounts and financial statements of the political party;
- (d) any report or document of the political party required under this Act or any other written law; and
- (e) the nomination certificates for any nomination or election of a member of the political party.

**16.** The policy documents which the political party will develop and on which the political party will perform including the manner and procedures in which they will be developed, approved and implemented.

**17.** The policy reporting documents and their regularity which the political party will produce including the manner and the procedures in which they will be developed, approved and publicized.

**18.** Asset management policies and procedures, the custody and investment of the funds and property of the political party, and the designation of the persons responsible for them.

**19.** The political party rules and regulations with respect to—

- (a) elections of the party officials;
- (b) nomination of candidates for elections; and
- (c) nomination of candidates to political party lists.

[Act No. 21 of 2016, s. 23 (c).]

**20.** Provisions for the amendment of the name, symbol, party colours, Constitution, and rules of the political party.

[Act No. 21 of 2016, s. 23 (d).]

**21.** Rules for mergers including—

- (a) the circumstances and criteria for mergers; and
- (b) the procedure and guidelines for such mergers as approved by an annual general meeting of the political party.

**21A.** Rules for entering into coalitions.

[Act No. 21 of 2016, s. 23 (e).]

**22.** Provisions on dissolution of the political party, including—

- (a) provisions on the disposal of the property of the political party; and
- (b) the manner of and procedures to be followed for the dissolution of the political party or any branch of the party.

**23.** Internal party dispute resolution mechanism in accordance with Article 47 and 50 of the Constitution.

[Act No. 21 of 2016, s. 23 (f).]

**24.** Democratic practices that cover gender, affirmative action for minorities and marginalized groups.

**25.** Reflect democratic practices covering human rights and gender.

**26.** The manner of implementing national values and principles of governance as provided in the Constitution.

**THIRD SCHEDULE**

[Section 10(4), Act No. 21 of 2016, s. 24.]

**BASIC REQUIREMENTS FOR COALITION AGREEMENT**

- 1.** A Coalition agreement shall adhere to the rules and procedures of the political parties relating to the formation of coalitions.
- 2.** A coalition agreement shall be sanctioned by the governing body of the political parties entering into the coalition and shall—
  - (a) be in writing and duly executed by authorized national party officials; and
  - (b) be commissioned by a Commissioner of Oaths.
- 3.** Coalition agreement shall state—
  - (a) the parties which are members of the coalition;
  - (b) the policies and objectives of the coalition;
  - (c) the overall structure of the coalition;
  - (d) the general organisation structure and management of the coalition, including the county structures and systems and county governing bodies;
  - (e) the criteria or formula for sharing of positions in the coalition structure, roles and responsibilities within the coalition;
  - (f) the coalition election rules;
  - (g) the coalition nomination rules;
  - (h) the decision making structure, rules and procedures;
  - (ha) the process and mechanisms upon which the coalition agreement may be amended;
  - (i) the policy initiation, policy consultation and policy decision making structure, rules and procedures;
  - (j) the Code of Conduct of the coalition including the values and the principles guiding the performance of the individuals and the members parties within the coalition;
  - (k) the dispute resolution mechanisms and procedures;
  - (l) the enforcement and sanction mechanisms and procedures for breach of any of the provisions of the agreement;
  - (m) procedures for appeal to the Tribunal;
  - (n) the role of the governing body and political party organs of the individual member parties of the coalition in the running of the affairs of the coalition including the links and the mechanisms and procedures accordingly;
  - (o) the formula and the mechanisms for sharing of funds from the Political Party Fund to the respective member of the coalition; and
  - (p) the grounds upon which the coalition may be dissolved including the mechanisms and procedures to be followed.

[Act No. 21 of 2016, s. 24.]

## FOURTH SCHEDULE

[Section 33(8), Act No. 21 of 2016, s. 25.]

### OATH OF OFFICE/SOLEMN AFFIRMATION OF REGISTRAR OF POLITICAL PARTIES/ASSISTANT REGISTRAR OF POLITICAL PARTIES/CHAIRPERSON AND MEMBERS OF THE POLITICAL PARTIES DISPUTES TRIBUNAL

I ..... having been appointed as ..... do solemnly (swear/declare and affirm) that I will at all times obey, respect and uphold the Constitution of Kenya and all other laws of the Republic of Kenya, and that I will faithfully and fully, impartially and to the best of my ability, discharge the trust and perform the functions and exercise the powers devolving upon me by virtue of this appointment without fear, favour, bias, affection, ill-will or prejudice.

(So help me God).

Sworn/declared by the said .....

Before me this ..... day of .....

.....  
*Chief Justice*

## FIFTH SCHEDULE

[Section 35(4), Corr. No. 18/2012, Act 12 of 2012, Sch., Act No. 21 of 2016, s. 26.]

***Deleted by Act No. 21 of 2016, s. 26.***

## SIXTH SCHEDULE

[Section 36, Act No. 12 of 2012, Sch., Act No. 50 of 2012, s. 3, Act No. 21 of 2016, s. 27.]

### PROCEDURES FOR APPOINTMENT OF THE REGISTRAR AND ASSISTANT REGISTRARS

1. The Public Service Commission shall, within seven days of its appointment and whenever a vacancy arises, by notice in the Gazette, in at least two newspapers of national circulation and in at least two radio and television stations with national coverage, invite applications for the positions of the Registrar and the Assistant Registrar.

[Act No. 12 of 2012, Sch., Act No. 50 of 2012, s. 3(a), Act No. 21 of 2016, s. 27(a) & (b).]

2. The Public Service Commission shall, within seven days of the end of the period prescribed for receipt of applications under paragraph 1, consider the applications, shortlist qualified applicants and interview the shortlisted applicants.

[Act No. 12 of 2012, Sch., Act No. 50 of 2012, s. 3(b), Act No. 21 of 2016, s. 27(a).]

3. The Public Service Commission shall conduct the interviews under paragraph 2 in public.

[Act No. 12 of 2012, Sch., Act No. 50 of 2012, s. 3(c), Act No. 21 of 2016, s. 27(a).]

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**4.** The Public Service Commission shall, following the conclusion of the interviews under paragraph 2, nominate and forward to the President the names of three nominees for appointment to the Office of Registrar of Political Parties and the names of nine nominees for appointment to the office of Assistant Registrar.

[Act No. 12 of 2012, Sch., Act No. 50 of 2012, s. 3(d), Act No. 21 of 2016, s. 27(a).]

**5.** The President shall, within fourteen days of receipt of the names of the nominees under paragraph 4, nominate one of the three persons for appointment to the Office of Registrar of Political Parties and three persons for appointment as Assistant Registrar of Political Parties and forward the names of the nominees to the National Assembly for approval.

[Act No. 21 of 2016, s. 27(c).]

**6.** The National Assembly shall, within twenty one days of the receipt of the names of the nominees under paragraph 5, consider the nominees and approve or reject the nominations.

[Act No. 21 of 2016, s. 27(d).]

**7.** Where the National Assembly approves the nominations, the Clerk of the National Assembly shall, within three days of the approval, forward the name of the approved persons to the President for appointment.

**8.** Where a name is forwarded to the President under paragraph 7, the President shall, within seven days of receipt of the name, by notice in the Gazette, appoint the person as Registrar of Political Parties or as Assistant Registrar of Political Parties.

**9.** Where the National Assembly rejects the name of a nominee, the Clerk of the National Assembly shall, within three days of the rejection, communicate the decision of the National Assembly to the President who shall submit a fresh nomination from among the persons nominated under paragraph 4.

**10.** If the National Assembly rejects a subsequent nomination under paragraph 9, the provisions of paragraphs 1 to 9 shall, with necessary modifications, apply to the process of nomination and approval of a new nominee.

**11.** In shortlisting, nominating, approving or appointing the Registrar or the Assistant Registrars, the Public Service Commission, the National Assembly, and the President shall ensure that the appointments reflect the regional and ethnic diversity of the people of Kenya and that not more than two-thirds of the appointees are of the same gender.

[Act No. 21 of 2016, s. 27(e).]

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## SEVENTH SCHEDULE

[Section 34A (4), Act No. 50 of 2012, s. 4, Act No. 21 of 2016, s. 28.]

***Deleted by Act No. 21 of 2016, s. 28.***

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**NO. 11 OF 2011**

**POLITICAL PARTIES ACT**

SUBSIDIARY LEGISLATION

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*List of Subsidiary Legislation*

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**POLITICAL PARTIES DISPUTES TRIBUNAL (PROCEDURE) REGULATIONS, 2017****PART I – PRELIMINARY***Regulation*

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## POLITICAL PARTIES DISPUTES TRIBUNAL (PROCEDURE) REGULATIONS, 2017

[L.N. 67/2017.]

### PART I – PRELIMINARY

#### 1. Citation

These Regulations may be cited as the Political Parties Disputes Tribunal (Procedure) Regulations, 2017.

#### 2. Interpretation

In these Regulations, unless the context otherwise requires—

“**Act**” means the Political Parties Act, 2011;

“**complainant**” means a person who lodges a dispute pursuant to section 40 of the Act;

“**Commission**” means the Independent Electoral Boundaries Commission established under Article 88 of the Constitution;

“**complaint**” means a dispute filed under section 40 of the Act;

“**Chairperson**” means the Chairperson appointed under section 39 of the Act;

“**deputy registrar**” means a person designated by the Judicial Service Commission for the discharge of judicial functions of the Tribunal and includes any person performing the duties of the office;

“**hearing**” means a sitting of the Tribunal duly constituted for the purposes of conducting proceedings under these Regulations;

“**interested party**” means a person named and enjoined as a party in proceedings before the Tribunal;

“**member**” means a person appointed under section 39 (2) (b) of the Act;

“**political party**” has the meaning assigned to it in Article 260 of the Constitution;

“**respondent**” means the person against whom the complaint is made; and

“**Secretary**” means the Secretary to the Tribunal appointed under section 43 of the Act.

#### 3. Application

These Regulations apply in the determination of disputes filed with the Tribunal pursuant to section 40 of the Act.

#### 4. Object and guiding principles

(1) The object of these Regulations is to set out the procedure to facilitate just, expeditious and impartial determination of disputes affecting political parties.

(2) In exercising its authority, the Tribunal shall be guided by the following principles—

(a) justice shall be administered to all, irrespective of status;

(b) justice shall not be delayed;

(c) alternative forms of dispute resolution including reconciliation, mediation, arbitration and traditional dispute resolution mechanisms shall be promoted;

(d) justice shall be administered without undue regard to procedural technicalities; and

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[Subsidiary]

- (e) the national values and principles of governance in the Constitution.
- (3) A party to a dispute shall assist the Tribunal to realize the object and guiding principles of these Regulations.

## PART II – ORGANIZATION AND ADMINISTRATION OF THE TRIBUNAL

### 5. Constitution of the Tribunal

- (1) Subject to sub-regulation (3), the Tribunal shall be properly constituted despite any vacancy in its membership.
- (2) The Chairperson shall be responsible for—
- (a) the constitution of panels of three or more members whenever circumstances demand;
  - (b) the overall administration and management of the Tribunal; and
  - (c) ensuring the orderly and prompt conduct of business of the Tribunal.
- (3) Pursuant to section 39 (7) of the Act, the Tribunal shall be properly constituted for purposes of any proceedings before it if it is comprised of three members, one of whom shall be an advocate of the High Court.
- (4) A sitting of the Tribunal shall be presided over by the Chairperson or, in the absence of the Chairperson, such other member being an advocate designated in writing by the Chairperson.
- (5) Without prejudice to sub-regulation (3), a single member of the Tribunal designated by the Chairperson for that purpose may hear applications and make orders with regard to—
- (a) change of representation;
  - (b) admission and recording of consent;
  - (c) consolidation of matters;
  - (d) correction of errors on the face of the record;
  - (e) withdrawal of documents;
  - (f) leave to file additional documents;
  - (g) grant of interim orders; or
  - (h) admission of documents for filing in the registry.
- (6) A party aggrieved by the decision of a single member of the Tribunal may file an application for review of the decision to the Tribunal.

### 6. Sittings of the Tribunal

- (1) Sittings of the Tribunal may, unless the Chairperson otherwise directs, be held at a designated place between the hours of 8:00 a.m. and 5:00 p.m.
- (2) Despite sub-section (1), sittings of the Tribunal may, where circumstances demand, be held at such place and time as the Tribunal may deem necessary for the expedient and proper exercise of its authority.
- (3) In determining the sittings of the Tribunal under this regulation, the Chairperson shall give reasonable notice and opportunity to all parties to appear before the Tribunal.

## PART III – PROCEDURES FOR DETERMINATION OF DISPUTES

### 7. Filing of disputes

- (1) A dispute to the Tribunal shall be commenced by filing a complaint within thirty days from the date of making the decision complained of, if the dispute is between—
- (a) the members of a political party;
  - (b) a member of a political party and a political party;
  - (c) political parties;

- (d) an independent candidate and a political party;
- (e) coalition partners; or
- (f) appeals from decisions of the Registrar of Political Parties.

(2) A complaint under sub-regulation (1) shall be filed in the registry in Form 1A set out in the First Schedule.

(3) An appeal to the Tribunal against the decision of the Registrar of Political Parties shall be in Form 1B set out in the First Schedule.

## **8. Disputes relating to party primaries**

(1) A complaint against the decision of an internal political party dispute resolution mechanism arising out of political party primaries shall be filed with the Tribunal not more than fourteen days from the date of the decision, and in any case, at least one day before the day set aside by the Commission for submission of names of the party candidates who have been selected to participate in the general elections pursuant to section 31 (2A) of the Elections Act (No. 24 of 2011).

(2) The Tribunal shall, with regard to disputes arising out of party primaries, exercise its powers under Regulation 37 to extend or reduce the time prescribed for the doing of any act under these Regulations to ensure that the ends of justice are met and, in particular, to enable parties to comply with the requirements of the Elections Act, the Political Parties Act (No. 11 of 2011) and any other law relating to elections.

(3) Where, after the lodging of a complaint an internal political party dispute resolution mechanism has not made a determination, an aggrieved party may, after the lapse of the thirty days contemplated under section 13 (2A) of the Elections Act or such other period as the Tribunal may allow, file a complaint with the Tribunal.

(4) A dispute arising out of party primaries shall be heard and determined on priority basis and in any case not later than one day before the day set aside by the Commission for submission of names of the party candidates who have been selected to participate in the general elections pursuant to section 31 (2A) of the Elections Act.

## **9. Form and contents of a complaint**

(1) A complaint under regulation 7 shall state—

- (a) the name and address of the complainant;
- (b) the name and address of the respondent;
- (c) the date when the decision or action upon which the complaint is based arose;
- (d) the decision, if any, complained against;
- (e) the grounds on which the complaint is presented; and
- (f) the name and address of the advocate for the complainant, if any, which shall be the address for service.

(2) A complaint shall be—

- (a) supported by an affidavit by the complainant containing the grounds on which relief is sought and setting out the facts relied on by the complainant;
- (b) accompanied by witness statements signed by the witnesses;
- (c) accompanied by copies of any supporting documents to be relied on at the hearing; and
- (d) signed by the complainant or by a person duly authorized by the complainant.

(3) There shall be as many copies of the complaint filed as there are persons to be served, and a copy for the Tribunal.

(4) The complaint shall conclude with a prayer, requesting the Tribunal to make the appropriate relief.

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[Subsidiary]

(5) Where an aggrieved party makes a complaint in writing to the Tribunal other than in the prescribed form, the Tribunal may, after holding a preliminary hearing with the complainant, require that the complaint be reduced into the prescribed form and proceed with it in accordance with these Regulations.

## **10. Service on the respondent**

(1) The complainant shall serve the complaint on the respondent within seven days of filing the complaint with the Tribunal.

(2) A complaint shall be served by—

- (a) direct service; or
- (b) advertisement in a newspaper of national circulation.

(3) Service on a political party or Registrar of Political Parties shall be by—

- (a) delivery at the registered office; or
- (b) advertisement in a newspaper of national circulation.

## **11. Proof of service**

The person serving a document under these Regulations shall swear and annex or cause to be annexed to the original document an affidavit of service stating the time and manner in which the document was served and the name and address of the person, if any, witnessing the delivery.

## **12. Response by the respondent**

(1) Upon being served with a complaint under regulation 10, the respondent may oppose the complaint by filing and serving a response within seven days from the date of service.

(2) The response to a complaint filed under sub-regulation (1) shall be in Form IC set out in the First Schedule and shall be—

- (a) supported by an affidavit verifying contents in the form;
- (b) accompanied by witness statements signed by the witnesses;
- (c) accompanied by copies of any supporting documents to be relied on at the hearing; and
- (d) signed by the respondent or by a person duly authorized by the respondent.

(3) There shall be as many copies of the response filed as there are persons to be served, and a copy for the Tribunal.

(4) Unless otherwise ordered by the Tribunal, every response to a complaint shall be served by the respondent as set out in regulation 10 within seven days from the date of filing that response.

(5) A response shall respond to each claim made in the complaint.

(6) A respondent who has not filed a response as provided under this regulation shall not be allowed to take part in the proceedings.

## **13. Close of pleadings**

(1) After the response is filed by the respondent, the complainant shall be at liberty to file a reply to the response within four days of service or such period as may be directed by the Tribunal.

(2) Pleadings shall close five days after the filing of the reply by the complainant or such other period as may be directed by the Tribunal.

**14. Acknowledgement by the registry**

Upon receipt of the documents filed under regulations 7, 8 and 12, the registry shall—

- (a) acknowledge receipt of the documents by stamping and endorsing the date on which the documents were received;
- (b) enter the name of the complainant, respondent and their advocates in a register;
- (c) inform the person of the case file number as entered in the case register; and
- (d) advise the person of any steps required to be performed to enable the Tribunal to determine the matter.

**15. Scheduling conference**

- (1) After close of pleadings, the Tribunal may hold a scheduling conference to—
  - (a) determine the possibility of alternative dispute resolution;
  - (b) determine whether there are any documents that the Tribunal may order to be produced before or during the hearing;
  - (c) consider compliance with these Regulations;
  - (d) identify contested and uncontested issues;
  - (e) create a timetable for the proceedings;
  - (f) consider consolidation of complaints or appeals; and
  - (g) consider any other form of settlement.
- (2) Where the parties reach an agreement and the Tribunal is satisfied that it is the will and intention of the parties to so agree, the Tribunal shall record a settlement on the terms agreed upon by the parties.
- (3) A scheduling conference shall be presided over by a member of the Tribunal, who shall be an advocate of the High Court designated by the Chairperson for that purpose.

**16. Notice of hearing**

- (1) Where the parties fail to reach an agreement after the scheduling conference and alternative dispute resolution is not an option, the Tribunal shall fix a hearing date and notify the parties.
- (2) The deputy registrar shall give the parties not less than seven days notice of the date fixed for the hearing.

**17. Procedure at the hearing**

- (1) The evidence of the complainant shall be heard first, followed by that of his or her witnesses, if any, unless the Tribunal orders otherwise.
- (2) At the close of the evidence of the complainant and each of the witnesses, the respondent shall be given an opportunity to examine each of them.
- (3) At the close of the evidence of the complainant and the witnesses, the evidence of the respondent shall be heard and the complainant shall be given an opportunity to examine the respondent and each of the respondent's witnesses.
- (4) The Tribunal may, at any time during the proceedings, examine either party or any witness and may, in its discretion, call any additional evidence it considers necessary.
- (5) The Tribunal may at its discretion require parties to file written submissions either in addition to or in lieu of taking oral evidence.

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[Subsidiary]**18. Hearing to be open to the public**

- (1) The proceedings of the Tribunal shall be open to the public.
- (2) The Tribunal may, if it thinks fit, order that the public generally or any particular person shall not have access to the proceedings.

**19. Hearing to be on day to day basis**

- (1) The Tribunal shall, as far as practicable, hear the case on a day-to-day basis once the proceedings have commenced.
- (2) Despite sub-regulation (1), the Tribunal may, where sufficient cause is shown, upon the application of any of the parties, adjourn the proceedings from time to time.

**20. Non-appearance of complainant**

Where, on the date fixed for the hearing, the respondent appears and the complainant does not appear, the Tribunal shall, if it is satisfied that the hearing notice was duly served, ask the respondent whether he or she admits the claim and if—

- (a) the respondent admits the claim or any part of the claim, the Tribunal may make a ruling against the respondent for the claim or for the part of the claim so admitted and dismiss the part not admitted; or
- (b) the respondent does not admit the claim, the Tribunal may dismiss the matter.

**21. Non-appearance of respondent**

Where on the date fixed for the hearing, the complainant appears, but the respondent does not appear, the Tribunal may—

- (a) if satisfied that the hearing notice notifying the respondent of the place and time of the hearing was duly served, proceed to receive the evidence and submissions; and
- (b) if satisfied that the complainant has established a case, in whole or in part, make a decision in favour of the complainant accordingly.

**22. Non-appearance of both parties**

- (1) Where on the date fixed for the hearing both parties do not appear, the Tribunal may dismiss the complaint.
- (2) Where a complaint is dismissed under sub-regulation (1), the Tribunal may reinstate the complaint if the complainant shows sufficient cause for non-appearance.

**23. Withdrawal of pleadings**

- (1) A party may, at any time before or during the hearing apply to withdraw any pleadings filed by the party.
- (2) Upon receipt of an application under sub-regulation (1), the Tribunal shall consider the application and make a determination.
- (3) Where pleadings are withdrawn under sub-regulation (1)—
  - (a) the Tribunal shall, by notice, inform all the parties of such withdrawal; and
  - (b) a party may request the Tribunal to order costs to be paid by the party withdrawing the pleadings.

**24. Setting aside judgments**

- (1) A party against whom a decision has been made under regulations 20 and 21 may apply to the Tribunal to set aside the decision.
- (2) The Tribunal shall not set aside any decision unless it is satisfied that the party has given sufficient cause for non-appearance.

## **25. Disclosure of interest**

Where a member of the Tribunal has an interest in any matter before the Tribunal, that member shall declare the interest in the matter which shall be recorded and the member shall not participate in the hearing or decision making process of the Tribunal in relation to that matter.

## **26. Language of the Tribunal**

- (1) The official languages of the Tribunal are English and Kiswahili.
- (2) Translation of the proceedings may be provided by the Tribunal in appropriate cases.

## **27. Burden and standard of proof**

- (1) A complainant shall have the burden of proving their case.
- (2) Where any party asserts any fact or claim, he or she shall prove that fact or claim.
- (3) An issue before the Tribunal shall be proved on the balance of probabilities.

## **28. Rejection of an application**

- (1) The Tribunal may, at any stage in the proceedings, after giving the parties an opportunity to be heard, reject an application in whole or in part if it considers that the application discloses no valid ground or that it is vexatious.
- (2) Where the Tribunal rejects an application, it may make any consequential order it considers appropriate.

## **29. Decisions of the Tribunal**

- (1) The decision of the Tribunal may be unanimous or determined by majority verdict.
- (2) The decision of the Tribunal shall be written by the Chairperson or the person presiding over the proceedings.
- (3) The decision of the Tribunal shall contain the following—
  - (a) the nature of the complaint;
  - (b) the number of the complaint;
  - (c) the names of the parties;
  - (d) a summary of all the relevant evidence produced before the Tribunal and the reasons for accepting or rejecting the evidence;
  - (e) the order or decision and the reasons thereof;
  - (f) the relief or remedy to which the parties are entitled; and
  - (g) an order as to costs.
- (4) The decision of the Tribunal shall be read out in open court.
- (5) The members of the panel, with the exception of any dissenting member, shall sign the decision.
- (6) The Chairperson, the member presiding over any proceedings or the deputy registrar may certify orders, directions or decisions of the Tribunal.

## PART IV – PROVISIONS RELATING TO WITNESSES

## **30. Competence of Witnesses**

A person is competent to testify unless the Tribunal considers that the person is prevented from understanding the questions put to him or her or is not capable of giving rational answers, due to his or her tender age or infirmity, whether of body, mind or any cause.

**31. Power to summon material witness or re-examine person present**

- (1) The Tribunal may at any stage of the proceedings—
  - (a) summon any person to appear before it as a witness;
  - (b) examine any person in attendance though not summoned as a witness; or
  - (c) recall and re-examine any person, if the Tribunal deems his or her evidence essential.
- (2) The complainant or respondent shall have the right to cross examine any person examined under sub-regulation (1) and the Tribunal may, upon request by a party, adjourn the hearing for such time as it thinks necessary to enable the party to adequately prepare for cross examination.
- (3) A witness before the Tribunal shall have the same immunities and privileges as if the person was a witness before the High Court.
- (4) Where a witness, without sufficient cause, does not appear in response to the summons, the Tribunal may, on proof of proper service of summons in reasonable time before the hearing date, issue a warrant to bring the witness before the Tribunal at the time and place specified in the warrant.

**32. Penalty for non-attendance of witnesses**

A person summoned to attend as a witness who—

- (a) fails to attend as required by the summons;
- (b) having attended, departs without having obtained the permission of the Tribunal; or
- (c) fails to attend after adjournment of the Tribunal after having been ordered to attend,

commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings or imprisonment for a term not exceeding six months or to both such fine and imprisonment.

**PART V – REVIEWS AND APPEALS****33. Reviews**

- (1) The Tribunal may, of its own motion or upon application by an aggrieved party, review its decisions or orders.
- (2) A person aggrieved by a decision of the Tribunal may, within fourteen days from the date of the decision or order, apply to the Tribunal for a review.
- (3) The law applicable to reviews before the High Court in civil matters shall, with the necessary modifications, apply in reviews before the Tribunal.

**34. Appeals**

- (1) A person aggrieved by a decision of the Tribunal may, within thirty days from the date of the decision or order, appeal to the High Court.
- (2) The law applicable to appeals before the High Court in civil matters shall, with the necessary modifications, apply in appeals before the Tribunal.
- (3) A decision of the High Court shall be final.

## PART VI – MISCELLANEOUS PROVISIONS

**35. Registry**

- (1) The principal registry of the Tribunal is located in Nairobi.
- (2) The Tribunal may establish registries in other parts of the Republic as appropriate.
- (3) The Secretary shall be responsible for—
  - (a) the establishment and maintenance of the registry;
  - (b) the acceptance, transmission, service and custody of documents; and
  - (c) keeping records of proceedings of the Tribunal.
- (4) There shall be a register which shall contain the following particulars—
  - (a) the serial number of the complaint;
  - (b) the date of filing the complaint;
  - (c) the name and address of the complainant, or where there is more than one complainant, the names and addresses of all the complainants;
  - (d) the nature of the complaint;
  - (e) the date of hearing;
  - (f) a list of documents, either produced or filed , including those requested by the Tribunal;
  - (g) the decision or order of the Tribunal and the date it was made;
  - (h) the date on which the remedy was executed;
  - (i) the particulars and details of execution of the decision or order; and
  - (j) the final disposition of the complaint.

**36. Production of documents**

The Tribunal shall have the power to order any person to produce documents relevant to a matter before it.

**37. Extension and reduction of time**

The Tribunal may, for sufficient reason, extend or reduce the time prescribed by these Regulations for the doing of any act upon such terms and conditions as may appear to it just and expedient.

**38. Copies of Tribunal documents**

- (1) A person affected by an order or decision of the Tribunal who requires a copy of the order or decision shall, on applying for the copy, be issued with the copy upon payment of the prescribed fee set out in the Second Schedule.
- (2) The Tribunal may waive the prescribed fee where sufficient reason is given for the waiver.
- (3) A person, other than a person affected by the decision or order of the Tribunal, may obtain copies of documents of the Tribunal on payment of the fee prescribed in the Second Schedule.

**39. Application of Civil Procedure Rules**

Where an issue is not provided for under these Regulations, the Civil Procedure Rules shall apply with such modifications as the Tribunal shall deem necessary.

**40. Tribunal not to be bound by technicalities**

The Tribunal is, in the resolution of disputes under these Regulations, not bound by technicalities or legal rules of procedure and may waive any rules or procedural requirements.

**41. Immunity of the Tribunal**

(1) A member of the Tribunal is not liable to be sued in any civil court or Tribunal for any act done or ordered to be done by the member in the discharge of judicial functions.

(2) An officer of the Tribunal or any other person designated to execute any order or warrant of the Tribunal is not liable to be sued in any civil court or Tribunal in respect of any lawful act done in the execution of the warrant.

**42. Conservatory or Interim orders**

(1) Notwithstanding anything contained in these Regulations, the Tribunal may hear and determine an application for conservatory or interim orders.

(2) Any such order may be discharged, varied or set aside by the Tribunal on application made thereto by any party dissatisfied with such order.

**43. Taxation of costs**

(1) The costs of any matter before the Tribunal shall be determined by the Chairperson or the person presiding over a panel who shall have power to determine by whom and out of what property such costs are to be paid.

(2) The costs of any complaint, cause or other matter shall follow the event unless the Tribunal, for good reason, otherwise orders.

(3) Where the Tribunal does not determine the amount of costs to be paid, any party may apply to the deputy registrar for taxation of the costs and the deputy registrar shall notify all parties of the date fixed for such taxation.

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## FIRST SCHEDULE

**FORM 1A**

[Rule 7(2).]

**COMPLAINT FORM**

REPUBLIC OF KENYA

IN THE POLITICAL PARTIES DISPUTES TRIBUNAL

COMPLAINT No. .... OF 20 .....

..... COMPLAINANT

-VERSUS-

..... RESPONDENT  
AND (*where applicable*)

..... INTERESTED PARTY

(Tick as appropriate)

- Dispute between members of a political party.
- Dispute between a member and a political party.
- Dispute between political parties.
- Dispute between an independent candidate and a political party.
- Dispute between coalition partners.
- Dispute arising from party primary.

Address of the complainant: .....

Name and address of the Respondent: .....

1. Nature of Complaint .....

.....

2. Grounds on which the complaint is presented .....

.....

3. Have there been any efforts to resolve this matter within the Party? (Please indicate the date of the decision taken, if any by the party's internal dispute resolution mechanism)

.....

.....

4. Prayers sought from the Tribunal .....

.....

.....

Drawn and filed by:

.....

To be served upon:

.....

[Subsidiary]

**FORM 1B**

[Rule 7(3).]

**APPEAL FORM**

REPUBLIC OF KENYA

IN THE POLITICAL PARTIES DISPUTES TRIBUNAL

APPEAL NO. .... OF 20 .....

..... APPELLANT

-VERSUS-

THE REGISTRAR OF POLITICAL PARTIES ..... RESPONDENT  
AND (*where applicable*)

..... INTERESTED PARTY

Address of the Appellant:

.....  
.....  
.....  
.....

Name and address of the interested party: .....

1. Claim by Appellant:

.....  
.....  
.....

2. Grounds on which the appeal is presented:

.....  
.....  
.....

3. Prayers sought from the Tribunal:

.....  
.....

Drawn and filed by:

.....

To be served upon:

.....

**FORM 1C**

[Rule 12(2).]

**RESPONSE FORM**

REPUBLIC OF KENYA

IN THE POLITICAL PARTIES DISPUTES TRIBUNAL

RESPONSE TO A COMPLAINT NO. .... OF 20 .....

..... COMPLAINANT/APPELLANT

-VERSUS-

..... RESPONDENT

AND (*where applicable*)

..... INTERESTED PARTY

Name and address of the Respondent: .....

1. Nature of the Response .....

.....

.....

2. Grounds on which the response to the complaint is presented

.....

.....

3. Prayers sought from the Tribunal:

.....

.....

Drawn and filed by:

.....

To be served upon:

.....

[Subsidiary]

## SECOND SCHEDULE

[Rules 38(1) &amp; 38(3).]

**FEES**

No.	Nature of Documents	Fees in KSh.
.		
	Filing of complaint/statement of claim	1,500
	Declaratory orders	6,000
	Notice of motion or chamber summons	250
	Order in each prayer therein i.e. in the notice of motion	150 per prayer
	Affidavits	100
	Annexures	10 per annexure
	Submissions	250
	Preliminary Objection	250
	Hearing Notice	100
	Mention Notice	100
	Proceedings original (certified)	60 per page
	Uncertified proceedings	30 per page
	Making copies of records other than proceedings in the Tribunal's file (copying fees)	10 per page and the party to bear their own copying charges

These fees guidelines are applicable as per the Judiciary's Guide to Assessment of Court Fees 1995 and are subject to change by the Judiciary of Kenya.

Public Officer Ethics  
Act (No. 4 of 2003)



**THE REPUBLIC OF KENYA**

**LAWS OF KENYA**



**PUBLIC OFFICER ETHICS ACT**

**NO. 4 OF 2003**

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**NO. 4 OF 2003****PUBLIC OFFICER ETHICS ACT****ARRANGEMENT OF SECTIONS****PART I – PRELIMINARY***Section*

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3. Determination of responsible Commission.
4. Certain delegations by Public Service Commission.

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**Section**

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SCHEDULE —

DECLARATION OF INCOME, ASSETS AND  
LIABILITIES

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**NO. 4 OF 2003****PUBLIC OFFICER ETHICS ACT**

[*Date of assent: 30th April, 2003.*]

[*Date of commencement: 2nd May, 2003.*]

**An Act of Parliament to advance the ethics of public officers by providing for a Code of Conduct and Ethics for public officers and requiring financial declarations from certain public officers and to provide for connected purposes**

[Act No. 4 of 2003, Act No. 7 of 2007, Act No. 31 of 2016, Act No. 11 of 2017.]

**PART I – PRELIMINARY****1. Short title**

This Act may be cited as the Public Officer Ethics Act, 2003.

**2. Interpretation**

In this Act, unless the context otherwise requires—

**“Code of Conduct and Ethics”** means, for a public officer, the Code of Conduct and Ethics established under Part II for that public officer;

**“Commission”** means a commission, committee or other body having functions under this Act by virtue of section 3;

**“Minister”** means the Minister responsible for integrity issues;

**“public officer”** means any officer, employee or member, including an unpaid, part-time or temporary officer, employee or member, of any of the following—

- (a) the Government or any department, service or undertaking of the Government;
- (b) the National Assembly or the Parliamentary Service;
- (c) a local authority;
- (d) any corporation, council, board, committee or other body which has power to act under and for the purposes of any written law relating to local government, public health or undertakings of public utility or otherwise to administer funds belonging to or granted by the Government or money raised by rates, taxes or charges in pursuance of any such law;
- (e) a co-operative society established under the Co-operative Societies Act (No. 12 of 1997);

Provided that this Act shall apply to an officer of a co-operative society within the meaning of that Act;

- (f) a public university;
- (g) any other body prescribed by regulation for the purposes of this paragraph;

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**“responsible Commission”**, in relation to a public officer, means the Commission determined under section 3 to be the responsible Commission in relation to that public officer.

[Act No. 7 of 2007, Sch.]

### **3. Determination of responsible Commission**

(1) This section determines what body is the responsible Commission for a public officer for the purposes of this Act.

(2) The committee of the National Assembly responsible for the ethics of members is the responsible Commission for—

- (a) members of the National Assembly including, for greater certainty, the President, the Speaker and the Attorney-General;
- (b) members of the Electoral Commission and the Public Service Commission; and
- (c) the Controller and Auditor-General;
- (d) Directors and Assistant Directors of the Kenya Anti-Corruption Commission.

(3) The Public Service Commission is the responsible Commission for the public officers in respect of which it exercises disciplinary control and for the public officers described in paragraphs (d) and (e) of section 107(4) of the Constitution and for public officers who are officers, employees or members of state corporations that are public bodies.

(4) The Judicial Service Commission is the responsible Commission for judges, magistrates and the public officers in respect of which it exercises disciplinary control.

(5) The Parliamentary Service Commission is the responsible Commission for the public officers in respect of which it exercises disciplinary control.

(6) The Electoral Commission is the responsible Commission for councillors of local authorities.

(7) The Teachers Service Commission established under the Teachers Service Commission Act (Cap. 212) is the responsible Commission for teachers registered under that Act.

(8) The Defence Council established under the Armed Forces Act (Cap. 199) is the responsible Commission for members of the armed forces, within the meaning of that Act.

(9) The National Security Intelligence Council established under the National Security Intelligence Service Act, 1998 (No. 11 of 1998) is the responsible Commission for members of the National Security Intelligence Service established under that Act.

(9A) The Witness Protection Advisory Board established under the Witness Protection Act, 2003 shall be the responsible commission for the members of the Witness Protection Agency established under that Act.

(10) The responsible Commission for a public officer for which no responsible Commission is otherwise specified under this section is the commission, committee or other body prescribed by regulation.

(11) A body that is the responsible Commission for a public officer by virtue of exercising disciplinary control over that public officer remains the responsible Commission notwithstanding the delegation of any disciplinary powers with respect to that public officer.

[Act No. 7 of 2007, Sch., Act No. 11 of 2017, Sch.]

#### **4. Certain delegations by Public Service Commission**

(1) Subject to subsection (2), the Public Service Commission may, by notice in the *Gazette* delegate to another person or body any of its powers and functions under Part IV or Part V with respect to classes of public officers specified by the Public Service Commission and that person or body shall be deemed to be the responsible Commission with respect to such delegated powers and functions.

(2) The Public Service Commission may delegate powers and functions only with respect to public officers in a job group below job group "M" or its equivalent.

[Act No. 7 of 2007, Sch.]

### **PART II – SPECIFIC CODES OF CONDUCT AND ETHICS**

#### **5. Establishment of specific Codes**

(1) Each Commission shall establish a specific Code of Conduct and Ethics for the public officers for which it is the responsible Commission.

(2) The specific Code established by a Commission shall include all the requirements in the general Code of Conduct and Ethics under Part III and may—

- (a) include requirements beyond what is required under the general Code of Conduct and Ethics under Part III; and
- (b) set out how any requirements of the specific or general Code may be satisfied.

(3) No requirement shall be included in a specific Code that would infringe any independence of a public officer provided for by the Constitution or an Act and any requirement of the specific Code or in the general Code of Conduct and Ethics under Part III is of no effect that it would do so.

(4) Until a Commission has established a specific Code under this section, the general Code of Conduct and Ethics under Part III shall apply as though it were the specific Code established by the Commission.

#### **6. Publication of specific Codes**

(1) Each Commission shall publish the specific Code of Conduct and Ethics established by it in the *Gazette* within ninety days after the Commencement of this Act.

(2) In relation to a Commission that is prescribed by regulation under section 3(10) as a responsible Commission, this section shall apply as though the reference in subsection (1) to the commencement of this Act were a reference to the commencement of the regulation.

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## PART III – GENERAL CODE OF CONDUCT AND ETHICS

### 7. Part sets out general Code

(1) This Part sets out a general Code of Conduct and Ethics for public officers.

### 8. Performance of duties, general

A public officer shall, to the best of his ability, carry out his duties and ensure that the services that he provides are provided efficiently and honestly.

### 9. Professionalism

A public officer shall—

- (a) carry out his duties in a way that maintains public confidence in the integrity of his office;
- (b) treat the public and his fellow public officers with courtesy and respect;
- (c) to the extent appropriate to his office, seek to improve the standards of performance and level of professionalism in his organisation;
- (d) if a member of a professional body, observe the ethical and professional requirements of that body;
- (e) observe official working hours and not be absent without proper authorisation or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

### 10. Rule of law

(1) A public officer shall carry out his duties in accordance with the law.

(2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

### 11. No improper enrichment

(1) A public officer shall not use his office to improperly enrich himself or others.

(2) Without limiting the generality of subsection (1), a public officer shall not—

- (a) except as allowed under subsection (3) or (4), accept or request gifts or favours from a person who—
  - (i) has an interest that may be affected by the carrying out, or not carrying out, of the public officer's duties;
  - (ii) carries on regulated activities with respect to which the public officer's organisation has a role; or
  - (iii) has a contractual or similar relationship with the public officer's organisation;
- (b) improperly use his office to acquire land or other property for himself or another person, whether or not the land or property is paid for; or

- 
- (c) for the personal benefit of himself or another, use or allow the use of information that is acquired in connection with the public officer's duties and that is not public.
  - (3) A public officer may accept a gift given to him in his official capacity but, unless the gift is a non-monetary gift that does not exceed the value prescribed by regulation, such a gift shall be deemed to be a gift to the public officer's organisation.
  - (4) Subsection (2)(a) does not prevent a public officer from accepting a gift from a relative or friend on a special occasion recognised by custom.
  - (5) Subsection (2)(c) does not apply to the use of information for educational or literacy purposes, research purposes or other similar purposes.

## **12. Conflict of interest**

- (1) A public officer shall use his best efforts to avoid being in a position in which his personal interests conflict with his official duties.
- (2) Without limiting the generality of subsection (1), a public officer shall not hold shares or have any other interest in a corporation, partnership or other body, directly or through another person, if holding those shares or having that interest would result in the public officer's personal interests conflicting with his official duties.
- (3) A public officer whose personal interests conflict with his official duties shall—
  - (a) declare the personal interests to his superior or other appropriate body and comply with any directions to avoid the conflict; and
  - (b) refrain from participating in any deliberations with respect to the matter.
- (4) Notwithstanding any directions to the contrary under subsection (3)(a), a public officer shall not award a contract, or influence the award of a contract, to
  - (a) himself;
  - (b) a spouse or relative;
  - (c) a business associate; or
  - (d) a corporation, partnership or other body in which the officer has an interest.
- (5) The regulations may govern when the personal interests of a public officer conflict with his official duties for the purposes of this section.
- (6) In this section, "**personal interest**" includes the interest of a spouse, relative or business associate.

## **13. Collections and harambees**

- (1) A public officer shall not—
  - (a) use his office or place of work as a venue for soliciting or collecting harambees; or

- (b) either as a collector or promoter of a public collection, obtain money or other property from a person by using his official position in any way to exert pressure.

(2) In this section, “**collection**”, “**collector**” and “**promoter**” have the same meanings as in section 2 of the Public Collections Act (Cap. 106).

#### **14. Acting for foreigners**

(1) No public officer shall, in a manner that may be detrimental to the security interests of Kenya, be an agent for, or further the interests of, a foreign government, organisation or individual.

(2) For the purposes of this section—

- (a) an individual is foreign if the individual is not a citizen of Kenya;
- (b) an organisation is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organisations or individuals.

#### **15. Care of property**

(1) A public officer shall take all reasonable steps to ensure that property that is entrusted to his care is adequately protected and not misused or misappropriated.

(2) A person who contravenes subsection (1) shall be personally liable for losses resulting from the contravention.

#### **16. Political neutrality**

(1) A public officer shall not, in or in connection with the performance of his duties as such—

- (a) act as an agent for, or so as to further the interest of, a political party; or
- (b) indicate support for or opposition to any political party or candidate in an election.

(2) A public officer shall not engage in political activity that may compromise or be seen to compromise the political neutrality of his office.

(3) This section does not apply to a member of the National Assembly or a councillor of a local authority.

#### **17. Nepotism, etc**

A public officer shall not practice nepotism or favouritism.

#### **18. Giving of advice**

A public officer who has a duty to give advice shall give honest and impartial advice without fear or favour.

#### **19. Misleading the public, etc**

A public officer shall not knowingly give false or misleading information to members of the public or to any other public officer.

**20. Conduct of private affairs**

- (1) A public officer shall conduct his private affairs in a way that maintains public confidence in the integrity of his office.
- (2) A public officer shall not evade taxes.
- (3) A public officer shall not neglect his financial obligations or neglect to settle them.

**21. Sexual harassment**

- (1) A public officer shall not sexually harass a member of the public or a fellow public officer.
- (2) In subsection (1), “**sexually harass**” includes doing any of the following, if the person doing it knows or ought to know that it is unwelcome—
  - (a) making a request or exerting pressure for sexual activity or favours;
  - (b) making intentional or careless physical contact that is sexual in nature; and
  - (c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.

**22. Selection, etc. of public officers**

A public officer shall practice and promote the principle that public officers should be—

- (a) selected on the basis of integrity, competence and suitability; or
- (b) elected in fair elections.

**23. Submitting of declarations, etc.**

A public officer shall submit any declaration or clarification required under Part IV to be submitted or made by him.

**24. Acting through others**

- (1) A public officer contravenes the Code of Conduct and Ethics if—
  - (a) he causes anything to be done through another person that would, if the public officer did it, be a contravention of the Code of Conduct and Ethics; or
  - (b) he allows or directs a person under his supervision or control to do anything that is a contravention of the Code of Conduct and Ethics.
- (2) Subsection (1)(b) does not apply with respect to anything done without the public officer’s knowledge or consent if the public officer took reasonable steps to prevent it.

**25. Reporting improper orders**

If a public officer considers that anything required of him is a contravention of the Code of Conduct and Ethics or is otherwise improper or unethical, he shall report the matter to an appropriate authority.

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## PART IV – DECLARATIONS OF INCOME, ASSETS AND LIABILITIES

### **26. Declaration required**

(1) Every public officer shall, once every two years as prescribed by section 27, submit to the responsible Commission for the public officer a declaration of the income, assets and liabilities of himself, his spouse or spouses and his dependent children under the age of 18 years.

(2) The declaration shall be in the form set out in the Schedule and shall include the information required by the form.

[Act No. 7 of 2007, Sch.]

### **27. When declarations must be made**

(1) The declaration shall be submitted in December of every second year.

(2) The statement date of a declaration under subsection (1) shall be the first day of November of the year in which the declaration is required.

(3) Within thirty days after becoming a public officer, the public officer shall submit an initial declaration.

(4) The statement date of an initial declaration under subsection (3) shall be the date the public officer became a public officer.

(5) Within thirty days after ceasing to be a public officer, the former public officer shall submit a final declaration.

(6) The statement date of a final declaration under subsection (5) shall be the date the public officer ceased to be a public officer.

(7) The following shall apply with respect to a person who is a public officer on the day the administrative procedures relevant to that public officer are first published under section 33—

(a) the public officer shall submit an initial declaration within sixty days after the administrative procedures are published; and

(b) the statement date of an initial declaration under paragraph (a) shall be the date the administrative procedures are published.

[Act No. 7 of 2007, Sch.]

### **28. Clarifications**

(1) A person who has submitted a declaration to a Commission shall provide, without undue delay, any clarification requested by the Commission if the request is in writing and is made within six months after the declaration was submitted to the Commission.

(2) Without limiting what a request for clarification may include, such a request may include—

(a) a request that any information that may have been omitted be provided; or

(b) a request that any discrepancy or inconsistency, including a discrepancy or inconsistency arising because of information other than information included on the declaration, be explained or corrected.

**29. Information to be correct**

A person submitting a declaration or providing a clarification shall ensure that the declaration or clarification is correct, to the best of his knowledge.

**30. Access to declarations**

(1) The contents of a declaration or clarification under this Act shall be accessible to any person upon application to the responsible Commission in the prescribed manner if the applicant shows to the satisfaction of the responsible Commission that he or she has a legitimate interest and good cause in furtherance of the objectives of this Act, in such declaration or clarification:

Provided that prior to the responsible Commission making an affirmative decision under this section, it shall grant the opportunity to the affected party to make representations on the matter.

(2) No information obtained pursuant to subsection (1) shall be published or in any way made public except with prior written authority of the responsible Commission.

(3) Any person who—

- (a) publishes or in any way makes public any information obtained under the foregoing sections without prior permission of the responsible Commission;
- (b) knowingly republishes or otherwise disseminates or discloses to another person information to which this section relates where—
  - (i) such information was disclosed to himself or to some other person; or
  - (ii) such information was obtained in contravention of this Act,

shall be guilty of an offence and liable on conviction to imprisonment for five years or to a fine not exceeding five hundred thousand shillings, or to both.

[Act No. 7 of 2007, Sch.]

**31. Retention of information**

A Commission shall keep information collected under this Part concerning a person for at least five years after the person ceased to be a public officer.

[Act No. 7 of 2007, Sch.]

**32. Offences**

A person who fails to submit a declaration or clarification as required under this Part or who submits, in such a declaration or clarification, information that he knows, or ought to know, is false or misleading, is guilty of an offence and is liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year or to both.

**33. Administrative procedures**

(1) Each Commission shall establish procedures for the administration of this Part with respect to the public officers for which it is the responsible Commission.

(2) The administrative procedures shall be established and published in the *Gazette* within ninety days after the commencement of this Act.

(3) In relation to a Commission that is prescribed by regulation under section 3(10) to be a responsible Commission, subsection (2) shall apply as though the reference in that subsection to the commencement of this Act were a reference to the commencement of the regulation.

(4) Nothing in section 27 requires a public officer to submit a declaration before publication, under this section, of the relevant administrative procedures by the responsible Commission.

#### **34. Amendment of Schedule**

(1) Subject to subsection (2), the Minister may, by notice in the *Gazette*, amend the Schedule to this Act.

(2) The Minister may not amend the Schedule to this Act unless a draft of the amendment has been laid before, and has been approved by resolution of, the National Assembly.

### PART V – ENFORCEMENT OF CODE OF CONDUCT AND ETHICS

#### **35. Investigations**

(1) The responsible Commission for a public officer may investigate to determine whether the public officer has contravened the Code of Conduct and Ethics.

(2) An investigation may be made on the Commission's own initiative or pursuant to a complaint by any person.

(3) The Commission may refer a matter to another appropriate body for investigation and that body shall investigate the matter within a reasonable time and submit a report to the Commission on its findings.

(4) An investigation may be conducted even if the subject of the investigation has ceased to be a public officer.

#### **36. Disciplinary action**

(1) If an investigation discloses that the public officer has contravened the Code of Conduct and Ethics, the responsible Commission shall, within the time period prescribed by subsection (2)—

- (a) take the appropriate disciplinary action; or
- (b) if the responsible Commission does not have the power to take the appropriate disciplinary action, refer the matter to a body or person who does have that power.

(2) The time period referred to in subsection (1) is—

- (a) within thirty days after the completion of the investigation; or
- (b) if another body investigated the matter under section 35(3), within thirty days after the responsible Commission receives the report of that body.

(3) The responsible Commission shall inform the public officer concerned of any action it takes or intends to take under subsection (1) either before it takes the action or within thirty days after it does so.

(4) Subsection (3) does not affect any legal requirement to inform a public officer earlier than is required under that subsection.

---

(5) The regulations made under section 42 may govern what disciplinary action is appropriate for the purposes of subsection (1).

[Act No. 7 of 2007, Sch.]

### **37. Publication of actions**

(1) A Commission shall ensure that any action it takes under section 36(1) is made public in the manner prescribed.

(2) In making its action public the Commission shall ensure that at least the following is made public—

- (a) a description of the public officer's contravention of the Code of Conduct and Ethics including the circumstances of the contravention and the degree of the public officer's culpability;
- (b) a summary of the evidence upon which the finding that there was a contravention was based; and
- (c) a description of the disciplinary action the Commission took against the public officer or, if the Commission referred the matter to another body or person, the disciplinary action the Commission considered appropriate and the disciplinary action taken by that other body or person.

### **38. Referral for possible civil or criminal proceedings**

If, as a result of an investigation under this Part, the Commission is of the view that civil or criminal proceedings ought to be considered, the Commission shall refer the matter to the Attorney-General or other appropriate authority.

### **39. Exceptions**

This Part (section 35 excepted) does not apply with respect to offices for which the Constitution provides a procedure for removal for misbehaviour.

## PART VI – GENERAL

### **40. Obstruction or hindering persons under Act**

A person who, without lawful excuse, obstructs or hinders a person acting under this Act is guilty of an offence and is liable, on conviction, to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years or to both.

### **41. Divulging information acquired under Act**

A person who, without lawful excuse, divulges information acquired in the course of acting under this Act is guilty of an offence and is liable, on conviction, to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years or to both.

Provided that the provision of this section as to divulging of information without lawful excuse shall only apply to exempt information provided for in section 6.

[Act No. 31 of 2016, Sch.]

### **42. Regulations**

The Minister may make regulations for the better carrying out of the provisions of this Act.

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## SCHEDULE

[Section 26.]

## DECLARATION OF INCOME, ASSETS AND LIABILITIES

## 1. Name of public officer

(Surname) (First name) (Other names)

.....

## 2. Birth information:

(a) Date of birth .....

(b) Place of birth .....

3. Marital status .....

## 4. Address:

(a) Postal address .....

(b) Physical address .....

## 5. Employment information:

(a) Designation .....

(b) Name of employer .....

(c) Nature of employment (permanent, temporary, contract, etc.) .....

## 6. Names of spouse or spouses:

(Surname) (First name) (Other names)

.....

## 7. Names of dependent children under the age of 18 years:

(Surname) (First name) (Other names)

.....

## 8. Financial statement for .....

(A separate statement is required for the officer and each spouse and dependent child under the age of 18 years. Additional sheets should be added as required.)

(a) Statement date .....

(b) Income, including emoluments, for periods from ..... to .....

(Including, but not limited to, salary and emoluments and income from investments. The period is from the previous statement date to the current statement date. For an initial declaration, the period is the year ending on the statement date.)

Description	Approximate amount
.	
.	
.	

## (c) Assets (as of the statement date)

(Including, but not limited to, land, buildings, vehicles, investments and financial obligations owed to the person for whom the statement is made.)

Description (include location of asset where applicable)	Approximate value
.	
.	
.	
.	
.	

## (d) Liabilities (as of the statement date)

Description	Approximate amount
.	
.	
.	

## 9. Other information that may be useful or relevant:

I solemnly declare that the information I have given in this declaration is, to the best of my knowledge, true and complete.

Signature of officer: .....

Date:.....

## WITNESS:

Signature: .....

Name: .....

Address: .....

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## NO. 4 OF 2003

### PUBLIC OFFICER ETHICS ACT

#### SUBSIDIARY LEGISLATION

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**JUDICIAL SERVICE CODE OF CONDUCT AND ETHICS, 2003**

[L.N. 50/2003.]

**PREAMBLE**

The legal system of the Republic of Kenya is based on the principle that an independent, fair and competent Judicial Service will interpret and apply the laws of the land. The role of the Judicial Service is central to the concepts of justice and the rule of law. Intrinsic to all parts of this Code are the precepts that judicial officers individually and collectively, must respect and honour the judicial office they hold as a public trust and strive to enhance and maintain public confidence in the system. A judicial officer is an arbiter of facts and law for the resolution of disputes and a highly visible symbol of government under the rule of law.

The Code is intended to establish standards of ethical conduct of judicial officers and to be applied consistently with constitutional requirements, statutes, court rules and legal authorities and in the context of all relevant circumstances. The Code is to be construed so as not to impinge on the essential independence of judicial officers in the making of judicial decisions or to limit their legal rights.

While regulations governing the discipline and general conduct of judicial officers and the procedure to be followed in cases of breach of Discipline may be found in the Judicial Service Commission Regulations, this Code contains general rules of conduct and ethics to be observed by judicial officers so as to maintain the integrity and independence of the Judicial Service.

It should always be remembered that each judicial officer occupies a special and revered position which must be protected both in public and private life, so as not to bring the Judicial Service generally, into disrepute. It is imperative, therefore, that every judicial officer should adhere to this Code with scrupulous care.

A judicial calling is one of sacrifice and restricted lifestyle. A lifestyle which is automatically accepted on appointment to the bench.

**Title**

This Code may be cited as the Judicial Service Code of Conduct and Ethics.

**Interpretation**

In this Code, unless the context otherwise requires—

**“judicial officer”** shall mean and include any Judge, Magistrate, Registrar or Kadhi of all grades employed in the Judicial Service of Kenya.

Reference to the masculine gender includes females.

**Rules**

In the performance of his duties a judicial officer shall strictly observe the following Rules of this Code

**RULE 1**

A judicial officer and any other officer in respect of which the Judicial Service Commission exercises disciplinary control shall comply with all the requirements of the General Code of Conduct and Ethics set out in Part III of the Public Officer Ethics Act, 2003 (No. 4 of 2003). Those requirements are set out in Appendix I and form part of this Code.

**RULE 2 – OATH OF OFFICE**

A judicial officer shall be true and faithful both to his Oath of Allegiance and the Judicial Oath, taken on appointment. He should respect and faithfully apply the laws of the land in the performance of his judicial functions.

**RULE 3 – INDEPENDENCE, INTEGRITY AND IMPARTIALITY**

- 1.** Due to the complexity, sensitivity and vitality of the courts' jurisdiction in both criminal and civil cases, judicial officers shall be free and seen to be free from external influence from any quarter, as everyone is equal before the law.
- 2.** They shall not be improperly influenced by—
  - (a) the sex, ethnic or national origin, religious belief or political association of the victim of a crime, witness, accused person, plaintiff or defendant;
  - (b) personal feelings concerning the plaintiff, defendant, victim of a crime or accused person; or
  - (c) pressure from any individual or group of people, claiming to have an interest in a particular case.
- 3.** Consequently judicial officers must refrain from consulting, discussing or seeking views outside judicial circles on matters which are before them or indeed any other court.
- 4.** An independent and honourable Judicial Service is indispensable to achieving justice in our society. A judicial officer should participate in establishing, maintaining, and enforcing high standards of judicial conduct. The provisions of this Code are intended to preserve the integrity and the independence of the Judicial Service; the Code should be construed and applied to further these objectives.
- 5.** In all activities, a judicial officer shall exhibit respect for the rule of law, comply with the law, avoid impropriety and the appearance of impropriety, and act in a manner that promotes public confidence in the integrity and the impartiality of the Judicial Service.
- 6.** A judicial officer shall not allow family, social, political, or other relationships to influence his conduct or judgment. A judicial officer shall not use or lend the prestige of his judicial office to advance his private interests or those of others. A judicial officer shall not knowingly convey or permit others to convey the impression that anyone is in a special position to influence him.
- 7.** A judicial officer shall not hold membership in any organisation that he knows practices discrimination on the basis of race, sex, religion or ethnic or national origin.
- 8.** The judicial duties of a judicial officer take precedence over all his other activities. His judicial duties include all the duties of his office prescribed by law. In the performance of these duties, the following standards shall apply—
  - (a) a judicial officer shall consider and decide all matters assigned to him except those in which his disqualification is required;
  - (b) a judicial officer shall maintain professional competence in the law;
  - (c) a judicial officer shall be faithful to the law and shall not deviate from the law to appease public clamour, to avoid criticism, or to advance an improper interest;
  - (d) a judicial officer shall take reasonable steps to maintain and ensure order and decorum in judicial proceedings before him;
  - (e) a judicial officer shall be patient, dignified, and courteous to litigants, assessors, witnesses, lawyers and others with whom he deals in an official capacity, taking reasonable steps to maintain and ensure similar conduct from lawyers and from court staff and others subject to his direction and control; and
  - (f) a judicial officer shall dispose of all judicial matters promptly, efficiently and fairly.

**RULE 4 – REPORTING RESPONSIBILITIES**

- 1.** A judicial officer having information establishing a likelihood that another judicial officer has violated this Code or reflecting the other judicial officer's lack of fitness to hold judicial office shall inform the Chief Justice unless the judicial officer reasonably believes that the

misconduct or lack of fitness has been or will otherwise be reported. Conduct reflecting lack of fitness to hold judicial office includes, without limiting the generality of the foregoing, physical or mental infirmity; soliciting or accepting a bribe or otherwise acting dishonestly in reaching a judicial or administrative decision; improperly using or threatening to use the judicial officer's judicial power in a manner adverse to someone else's interests for the purpose of inducing that person to bestow a benefit upon the judicial officer or upon someone else pursuant to the judicial officer's wishes; or commission of a felony.

**2.** A judicial officer possessing non privileged information pertaining to another judicial officer's potential violation of this Code shall fully reveal this information upon proper request of the appropriate disciplinary authority or of any other tribunal empowered to investigate or act upon judicial misconduct.

#### RULE 5 – DISQUALIFICATION

A judicial officer shall disqualify himself in proceedings where his impartiality might reasonably be questioned including but not limited to instances in which—

- (a) he has a personal bias or prejudice concerning a party or his lawyer or personal knowledge of facts in the proceedings before him;
- (b) he has served as a lawyer in the matter in controversy;
- (c) he or his family or a close relation has a financial or any other interest that could substantially affect the outcome of the proceedings; or
- (d) he, or his spouse, or a person related to either of them or the spouse of such person or a friend is a party to the proceedings.

#### RULE 6 – SOCIAL AND RECREATIONAL ACTIVITIES

A judicial officer may engage in the arts, sports and other social and recreational activities, if such activities do not adversely affect the dignity of his office or interfere with the performance of his judicial duties.

#### RULE 7 – FIDUCIARY ACTIVITIES

**1.** A judicial officer should not serve as administrator, executor or trustee of any estate, except for the estate or trust of a member of his family and only if such service will not interfere with the proper performance of his judicial duties.

**2.** A member of the family of a judicial officer includes his spouse, child, grandchild, parent, grandparent or other relative or person with whom the judicial officer maintains a close family relationship.

#### RULE 8 – CIVIL AND CHARITABLE ACTIVITIES

**1.** A judicial officer is part and parcel of the society in which he lives. Whereas, he should not be isolated, he is expected to remain within dignified limits. Above all, a judicial officer should regulate his extra-judicial activities to minimize the risk of conflict with judicial duties.

**2.** A judicial officer may only participate in a "Harambee" if the same does not reflect adversely upon his impartiality and so long as it does not interfere with the performance of his judicial duties.

**3.** A judicial officer may contribute towards or attend a "Harambee" but should not play a central part in its organisation or preside over the same.

**4.** No judicial officer shall use his office to solicit for funds for a "Harambee" or any other purpose.

#### RULE 9 – PRACTICE LAW

A judicial officer may engage in activities to improve the law, the legal system and the administration of justice. A judicial officer should, however, not practice law either by offering legal advice or drafting legal documents or pleadings to litigants or members of the public whether for a fee or free of charge.

**RULE 10 – PRIVATE INTEREST**

Every Judicial officer and any other officer in the judicial service is required to observe the following general principles in relation to his private interests—

- (a) to ensure that he does not subordinate his judicial or administrative duties to his private interests or put himself in a position where there is conflict between his official duties and his private interests;
- (b) to undertake not to associate outside his official duties with any financial or other activities in circumstances where there could be suspicion that his official position or official information available to him was being turned to his private gain or that of his associates;
- (c) to undertake not to engage in any occupation or business which might prejudice his status as a member of the Judicial Service or being the Judicial Service into disrepute; and
- (d) to maintain at all times the professional and ethical standards which the public expects of him in transacting official business with efficiency, integrity and impartiality.

**RULE 11 – PROHIBITED CONDUCT**

- 1.** A judicial officer and any officer in the Judicial Service shall neither ask for nor accept any property or benefit of any kind, for himself or for any person, on account of anything to be done, done or omitted to be done, by him in the discharge of his duties or by virtue of his official position.
- 2.** Subject to this Rule, a judicial officer and any officer in the Judicial Service or members of his family shall not solicit or accept any gifts, gratuity, hospitality, free passages or favours from any person or any body corporate or unincorporated that might reasonably be thought to influence, or intended to influence, him in the performance of his duties.
- 3.** The provisions of subrule 2 apply not only to the judicial officer himself but also to the members of his family, and a judicial officer will be held responsible for their observance by the members of his family.
- 4.** For the purposes of subrules 2 and 3 the members of the family of an officer shall be as defined in rule 7.2.
- 5.** Subject to subrule 7 a gift or donation to a judicial officer or any other officer in the Judicial Service on any public or ceremonial occasion shall be treated as a gift to the Government.
- 6.** Where a gift or donation of the nature specified in subrule 2 is given without the knowledge of the officer or it would be offensive to custom or good public relations to refuse the gift, such officer shall forthwith report the matter to the Chief Justice who shall direct the appropriate mode of disposal of any such gift or donation and the officer shall comply with such direction.
- 7.** Notwithstanding any other provisions of this Rule to the contrary, but subject to section 11(3) of the General Code of Conduct and Ethics set out in Appendix I an officer may—
  - (a) accept gifts which are occasional and inexpensive or in the form of a souvenir; and
  - (b) accept personal gifts or donations from relatives or friends on such special occasions as may be recognised by custom.
- 8.** When presents are exchanged between officers acting on behalf of the Government in ceremonial intercourse with other Governments or their representatives, the presents received will be handed over to the Chief Justice, who shall direct the appropriate mode of disposal, and any reciprocal presents will be given at the expense of the Judicial Service.

**RULE 12 – PROFESSIONALISM AND COURTESY**

1. A judicial officer and any other officer in the Judicial Service shall ensure that his official and private conduct upholds at all times, the dignity and integrity of the Judicial Service by conducting himself, both officially and in private, in a dignified, honest and impeccable manner.
2. For the purposes of section 25 of the General Code of Conduct and Ethics set out in Appendix I, the appropriate authority to whom the officer shall report the matter under that section is the Chief Justice.
3. A judicial officer and any other officer in the Judicial Service shall, at all times, be disciplined whether or not on official duty and shall, in particular—
  - (a) maintain a standard of dressing and personal hygiene befitting the dignity and image of the Judicial Service;
  - (b) observe official working hours, be punctual and meet deadlines;
  - (c) not be absent from duty without proper authorisation or reasonable cause;
  - (d) perform his duties in an efficient and competent manner;
  - (e) exercise diligence, care and attention and seek to achieve high standards of professionalism in the delivery of services;
  - (f) practice and promote adherence to meritocratic principles and practices in appointments to the Judicial Service whereof the guiding principles shall be qualifications, merit, competence and experience; and
  - (g) seek to contribute and enhance the standards of performance and level of professionalism in the Judicial Service.

4. A judicial officer and any other officer in the Judicial Service shall actively and personally promote a culture in the public service that aims at providing fast, friendly, responsive and efficient service and shall be courteous to all persons in the provision of such service.

**RULE 13 – PRIVATE AGENCIES**

No judicial officer may undertake any private agency in any matter connected with the exercise of his public duties.

**RULE 14 – PUBLIC STATEMENTS AND COMMUNICATION WITH THE PRESS**

1. A judicial officer and any officer in the Judicial Service shall not make public statements on matters affecting Government programmes or policies of the Judicial Service without the specific authority of the Chief Justice. A public statement includes communicating with the press.
2. A judicial officer shall not, without the express permission of the Chief Justice—
  - (a) act as the editor of any newspaper or take part directly or indirectly in the management thereof; nor
  - (b) publish in any manner anything which may be reasonably regarded as of a political or administrative nature, whether under his own name, under a pseudonym or anonymously.
3. A judicial officer, and any officer in the Judicial Service whether on duty or on leave of absence, should not allow himself to be interviewed on questions of public policy affecting Kenya or any other country without the permission of the Chief Justice.
4. Whilst it is not desired to interfere with a judicial officer's liberty of free speech, any lack of discretion on his part likely to embarrass the Government or the Judicial Service may result in appropriate consequences for the officer responsible.

**RULE 15 – PROHIBITION OF STANDING FOR ELECTION AS A MEMBER OF THE NATIONAL ASSEMBLY OR A LOCAL AUTHORITY**

A judicial officer shall not stand for election as a Member of the National Assembly or a Local Authority or hold any political office.

**RULE 16 – POLITICAL ACTIVITY AND ATTENDANCE AT POLITICAL MEETINGS**

A judicial officer or any other officer in the Judicial Service is entitled to his own views on political matters but shall not be permitted to express those views publicly.

**RULE 17 – CANVASSING**

Judicial officers or other officers in Judicial Service shall not canvass either directly or indirectly for any favours in the Judicial Service or in any other organisation.

**RULE 18 – ABSENCE FROM KENYA**

A judicial officer and any other officer in the Judicial Service, who at any time wishes to travel outside Kenya shall obtain the prior permission of the Chief Justice.

**RULE 19 – REPORT IN CASES OF BANKRUPTCY, JUDGMENT-DEBTORS**

Deputy Registrars of the High Court and Court of Appeal and Magistrates will report to the Chief Justice every instance in which a judicial officer becomes a judgment-debtor or proceedings are taken against a judicial officer in bankruptcy.

**RULE 20 – DECLARATION OF INCOME, ASSETS AND LIABILITIES**

Every judicial officer and any officer in the Judicial Service shall complete the declaration of assets and liabilities form in Appendix II of this Code in accordance with the provisions of Part IV of the Public Officer Ethics Act, 2003( No. 4 of 2003).

**RULE 21 – REPORTS IN CASES OF CRIMINAL PROCEEDINGS**

Deputy Registrars of the High Court and Court of Appeal and Magistrates will report to the Chief Justice every instance in which an officer is charged with a serious offence. Proceedings for minor offences under, for example, the Traffic Act and local by-laws may be disregarded, and the report should be confined to proceedings under the Penal Code and other Acts where a prison sentence may be imposed other than in default of payment of a fine.

**RULE 22 – BREACH OF CODE**

Where an officer has committed a breach of this Code, appropriate action will be taken in accordance with the provisions of the Public Officer Ethics Act 2003 (No. 4 of 2003), Judicial Service Commission Regulations or the Constitution as the case may be.

## APPENDIX 1

## PUBLIC OFFICER ETHICS ACT

## PART III – GENERAL CODE OF CONDUCT AND ETHICS

**7. Part sets out general Code**

This Part sets out a general Code of Conduct and Ethics for public officers.

**8. Performance of duties, general**

A public officer shall, to the best of his ability, carry out his duties and ensure that the services that he provides are provided efficiently and honestly.

**9. Professionalism**

A public officer shall—

- (a) carry out his duties in a way that maintains public confidence in the integrity of his office;
- (b) treat the public and his fellow public officers with courtesy and respect;
- (c) to the extent appropriate to his office, seek to improve the standards of performance and level of professionalism in his organisation;
- (d) if a member of a professional body, observe the ethical and professional requirements of that body;
- (e) observe official working hours and not be absent without proper authorisation or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

**10. Rule of law**

(1) A public officer shall carry out his duties in accordance with the law.

(2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

**11. No improper enrichment**

(1) A public officer shall not use his office to improperly enrich himself or others.

(2) Without limiting the generality of subsection (1), a public officer shall not—

- (a) except as allowed under subsection (3) or (4), accept or request gifts or favours from a person who—
  - (i) has an interest that may be affected by the carrying out, or not carrying out, of the public officer's duties;
  - (ii) carries on regulated activities with respect to which the public officer's organisation has a role; or
  - (iii) has a contractual or similar relationship with the public officer's organisation;
- (b) improperly use his office to acquire land or other property for himself or another person, whether or not the land or property is paid for; or
- (c) for the personal benefit of himself or another, use or allow the use of information that is acquired in connection with the public officer's duties and that is not public.

(3) A public officer may accept a gift given to him in his official capacity but, unless the gift is a non-monetary gift that does not exceed the value prescribed by regulation, such a gift shall be deemed to be a gift to the public officer's organisation.

[Subsidiary]

(4) Subsection (2)(a) does not prevent a public officer from accepting a gift from a relative or friend given on a special occasion recognised by custom.

(5) Subsection (2)(c) does not apply to the use of information for educational or literary purposes, research purposes or other similar purposes.

## 12. Conflict of interest

(1) A public officer shall use his best efforts to avoid being in a position in which his personal interests conflict with his official duties.

(2) Without limiting the generality of subsection (1), a public officer shall not hold shares or have any other interest in a corporation, partnership or other body, directly or through another person, if holding those shares or having that interest would result in the public officer's personal interests conflicting with his official duties.

(3) A public officer whose personal interests conflict with his official duties shall—

- (a) declare the personal interests to his superior or other appropriate body and comply with any directions to avoid the conflict; and
- (b) refrain from participating in any deliberations with respect to the matter.

(4) Notwithstanding any directions to the contrary under subsection (3)(a), a public officer shall not award a contract, or influence the award of a contract, to—

- (a) himself;
- (b) a spouse or relative;
- (c) a business associate; or
- (d) a corporation, partnership or other body in which the officer has an interest.

(5) The regulations may govern when the personal interests of a public officer conflict with his official duties for the purposes of this section.

(6) In this section, “**personal interest**” includes the interest of a spouse, relative or business associate.

## 13. Collections and harambees

(1) A public officer shall not—

- (a) use his office or place of work as a venue for soliciting or collecting harambees; or
- (b) either as a collector or promoter of a public collection, obtain money or other property from a person by using his official position in any way to exert pressure.

(2) In this section, “**collection**”, “**collector**” and “**promoter**” have the same meanings as in section 2 of the Public Collections Act (Cap. 106).

## 14. Acting for foreigners

(1) No public officer shall, in a manner that may be detrimental to the security interests of Kenya, be an agent for, or further the interests of, a foreign government, organisation or individual.

(2) For the purposes of this section—

- (a) an individual is foreign if the individual is not a citizen of Kenya;
- (b) an organisation is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organisation or individuals.

## **15. Care of property**

(1) A public officer shall take all reasonable steps to ensure that property that is entrusted to his care is adequately protected and not misused or misappropriated.

(2) A person who contravenes subsection (1) shall be personally liable for losses resulting from the contravention.

## **16. Political neutrality**

(1) A public officer shall not, in or in connection with the performance of his duties as such—

- (a) act as an agent for, or so as to further the interest of, a political party; or
- (b) indicate support for or opposition to any political party or candidate in an election.

(2) A public officer shall not engage in political activity that may compromise or be seen to compromise the political neutrality of his office.

(3) This section does not apply to a member of the National Assembly or a councillor of a local authority.

## **17. Nepotism, etc.**

A public officer shall not practice nepotism or favouritism.

## **18. Giving of advice**

A public officer who has a duty to give advice shall give honest and impartial advice without fear or favour.

## **19. Misleading the public, etc.**

A public officer shall not knowingly give false or misleading information to members of the public or to any other public officer.

## **20. Conduct of private affairs**

(1) A public officer shall conduct his private affairs in a way that maintains public confidence in the integrity of his office.

(2) A public officer shall not evade taxes.

(3) A public officer shall not neglect his financial obligations or neglect to settle them.

## **21. Sexual harassment**

(1) A public officer shall not sexually harass a member of the public or a fellow public officer.

(2) In subsection (1), “**sexually harass**” includes doing any of the following, if the person doing it knows or ought to know that it is unwelcome—

- (a) making a request or exerting pressure for sexual activity or favours;
- (b) making intentional or careless physical contact that is sexual in nature; and
- (c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.

## **22. Selection, etc. of public officers**

A public officer shall practice and promote the principle that public officers should be—

- (a) selected on the basis of integrity, competence and suitability; or
- (b) elected in fair elections.

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[Subsidiary]**23. Submitting of declarations, etc.**

A public officer shall submit any declaration or clarification required under Part IV to be submitted or made by him.

**24. Acting through others**

- (1) A public officer contravenes the Code of Conduct and Ethics if—
  - (a) he causes anything to be done through another person that would, if the public officer did it, be a contravention of the Code of Conduct and Ethics; or
  - (b) he allows or directs a person under his supervision or control to do anything that is a contravention of the Code of Conduct and Ethics.
- (2) Subsection (1)(b) does not apply with respect to anything done without the public officer's knowledge or consent if the public officer took reasonable steps to prevent it.

**25. Reporting improper orders**

If a public officer considers that anything required of him is a contravention of the Code of Conduct and Ethics or is otherwise improper or unethical, he shall report the matter to an appropriate authority.

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## APPENDIX II

[Section 26.]

## PUBLIC OFFICER ETHICS ACT, 2003

## PART IV – DECLARATION OF INCOME, ASSETS AND LIABILITIES

1. Name of public officer:  
(Surname) ..... (First name) ..... (Other names) .....
2. Birth information:
  - (a) Date of birth .....
  - (b) Place of birth .....
3. Marital status .....
4. Address:
  - (a) Postal address .....
  - (b) Physical address .....
5. Employment information:
  - (a) Designation .....
  - (b) Name of employer .....
  - (c) Nature of employment (permanent, temporary, contract, etc.)  
.....
6. Names of spouse or spouses:  
(Surname) ..... (First name) ..... (Other names) .....
7. Names of dependent children under the age of 18 years.  
(Surname) ..... (First name) ..... (Other names) .....

## 8. Financial statement for .....

(A separate statement is required for the officer and each spouse and dependent child under the age of 18 years. Additional sheets should be added as required.)

(a) Statement date .....

(b) Income, including emoluments, for periods from .....  
to .....

(Including, but not limited to, salary and emoluments and income from investments. The period is from the previous statement date to the current statement date. For an initial declaration, the period is the year ending on the statement date.)

Description	Approximate amount
.	
.	
.	

(c) Assets (as of the statement date)

(Including, but not limited to, land, buildings, vehicles, investments and financial obligations owed to the person for whom the statement is made.)

Description <i>(include location of asset where applicable)</i>	Approximate value
.	
.	
.	

(d) Liabilities (as of the statement date)

Description	Approximate amount
.	
.	
.	

## 9. Other information that may be useful or relevant:

I solemnly declare that the information I have given in this declaration is, to the best of my knowledge, true and complete.

Signature of officer: .....

Date: .....

WITNESS:

Signature: .....

Name: .....

Address: .....



**NATIONAL SECURITY INTELLIGENCE SERVICE PROCEDURES  
FOR THE ADMINISTRATION OF PART IV OF THE ACT, 2003**

ARRANGEMENT OF REGULATIONS

*Regulation*

1. Citation.
  2. Interpretation.
  3. Scope of procedures.
  4. Administration officer.
  5. To whom declarations submitted.
  6. Who may make requests for clarifications.
  7. Review of declarations, etc.
  8. Authorization of staff under Section. 30(4)(a).
  9. Condition for certain disclosures to police, etc.
  10. Condition for disclosures to representatives
  11. Administration officer to report non-compliance.
-

## **NATIONAL SECURITY INTELLIGENCE SERVICE PROCEDURES FOR THE ADMINISTRATION OF PART IV OF THE ACT, 2003**

[L.N. 117/2003.]

### **1. Citation**

These procedures may be cited as the National Security Intelligence Service Procedures for the Administration of Part IV of the Act.

### **2. Interpretation**

In these Procedures, unless the context otherwise requires—

“**administration officer**” means the Director-General of the National Security Intelligence Service;

“**Council**” means the National Security Intelligence Council.

### **3. Scope of procedures**

These Procedures are for the administration of Part IV of the Act with respect to the public officers for whom the Council is the responsible Commission under the Act.

### **4. Administration officer**

The administration officer shall be responsible for the administration of Part IV of the Act by the Council.

### **5. To whom declarations submitted**

Declarations to be submitted to the Council under Part IV of the Act shall be submitted to the administration officer.

### **6. Who may make requests for clarifications**

Requests for clarifications under section 28 of the Act shall be made, on behalf of the Council, by the administration officer or by staff of the National Security Intelligence Service authorised in writing by him for that purpose.

### **7. Review of declarations, etc.**

(1) The administration officer, or staff of the National Security Intelligence Service authorised by him for the purpose, shall review each declaration to ascertain if, in the opinion of the administration officer or staff, any of the following conditions are satisfied—

- (a) on the face of the declaration, or in light of any other information the Council may have, there is reason to suspect the declaration may be false or incomplete;
- (b) the assets of the person who submitted the declaration are disproportionate to his income; or
- (c) the income, assets or liabilities of the person who submitted the declaration raise concerns of impropriety or conflict of interest.

(2) If it is ascertained that any of the conditions in subparagraph (1) are satisfied, the person who submitted the declaration shall be given an opportunity to give an explanation.

(3) If, after considering any explanation the person who submitted the declaration may give, the administration officer is of the opinion that any of the conditions in subparagraph (1) are still satisfied, the administration officer shall bring the matter to the attention of the Council.

(4) The Council may, with respect to a matter brought to its attention under paragraph (3), take such action as it considers appropriate including, without limiting the generality of the foregoing, notifying the Kenya Anti-Corruption Commission and giving the Kenya Anti-Corruption Commission particulars of the condition that is satisfied and a copy of the declaration.

**8. Authorization of staff under Section 30(4)(a)**

(1) The Council or the administration officer may authorize staff of the National Security Intelligence Service for the purposes of section 30(4)(a) of the Act.

(2) An authorization under paragraph (1) shall be in writing.

**9. Condition for certain disclosures to police, etc.**

Except as provided under paragraph 7(4) information shall not be disclosed, under section 30(4)(b) of the Act, to the police or any other law enforcement agency unless a written request is provided.

**10. Condition for disclosures to representatives**

Information shall not be disclosed, under section 30(4)(d) of the Act, to a representative of the person who provided the information unless the representative provides copies of documents that establish the representative's authority to receive the information.

**11. Administration officer to report non-compliance**

The administration officer shall ensure that failures by public officers to comply with the requirements of Part IV of the Act are brought to the attention of the Council.

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**NATIONAL SECURITY INTELLIGENCE SERVICE  
CODE OF CONDUCT AND ETHICS, 2003**

ARRANGEMENT OF CODE

PREAMBLE

PART I – PRELIMINARY

*Code*

1. Citation.
2. Interpretation.
3. Application of Code

PART II – REQUIREMENTS

4. Compliance with General Code.
5. Faithfulness to oaths or affirmations.
6. Prohibition against standing for election.
7. Political neutrality.
8. Canvassing for favours in Service.
9. Public comments.
10. Private affairs – outside activities.
11. Endorsing of private activities, etc.
12. Private affairs – financial dealings.
13. Potential conflicts of interest.
14. Gifts.
15. Harambees.
16. Safeguarding of information.
17. Contact with foreign governments, etc.
18. Security of premises.
19. Public officer as expert witness.
20. Absence from Kenya.
21. Certificate if absent due to illness.
22. Reporting of charges against a public officer.
23. Appropriate person to whom improper orders to be reported.
24. Breach of Code.

APPENDIX –

GENERAL CODE OF CONDUCT AND ETHICS

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**NATIONAL SECURITY INTELLIGENCE SERVICE  
CODE OF CONDUCT AND ETHICS, 2003**

[L.N. 118/2003.]

**PREAMBLE**

Public service is a public trust requiring employees to place loyalty to the Constitution, other laws and ethical principles above their own personal interests.

This Code is intended to establish standards of ethical conduct and behavior for members of the National Security Intelligence Service. This Code contains rules of conduct and ethics to be observed by members of the service so as to maintain public confidence in the integrity of the Service. The Code does not in any way replace the regulations governing the discipline and general conduct of members of the Service. Members must obey those regulations and all other applicable laws.

**PART I — PRELIMINARY****1. Citation**

This Code may be cited as the National Security Intelligence Service Code of Conduct and Ethics.

**2. Interpretation**

In this Code, unless the context otherwise requires—

“**Director-General**” means the Director-General of the National Security Intelligence Service;

“**Public officer**” means a public officer to whom this code applies under rule 3.

**3. Application of Code**

This Code applies with respect to the members of the National Security Intelligence Service.

**PART II — REQUIREMENTS****4. Compliance with General Code**

(1) A public officer shall comply with all the requirements of the General Code of Conduct and Ethics set out in Part III of the Act.

(2) The General Code of Conduct and Ethics set out in Part III of the Act is set out in the Appendix to this Code and shall form part of this Code.

**5. Faithfulness to oaths or affirmations**

A public officer shall be true and faithful to the oaths or affirmations taken, as required under the National Security Intelligence Service Act, 1998 (No. 11 of 1998), on being appointed to the National Security Intelligence Service.

**6. Prohibition against standing for election**

A public officer shall not stand for election as a member of the National Assembly or a local authority or hold a political office.

**7. Political neutrality**

Regardless of his political opinions, a public officer shall serve impartially, with loyalty, honesty and objectivity.

**8. Canvassing for favours in Service**

A public officer shall not canvass or lobby, either directly or indirectly, for any favors in the National Security Intelligence Service.

## **9. Public comments**

A public officer—

- (a) shall not make public comments that support or criticize a political party;
- (b) shall not make public comments that may seem to compromise, or may reasonably be seen to compromise, the political neutrality of his office;
- (c) shall not publicly comment, except in furtherance of his official duties, on matters in relation to which he has been professionally involved or on matters that relate to Kenya's foreign policy or national security and shall not publicly comment on such matters even in furtherance of his official duties, without the authority of the Director-General;
- (d) shall not, expressly or by implication, represent that any public comments he makes reflect the views or opinions of the National Security Intelligence Service if that is not the case.

## **10. Private affairs – outside activities**

(1) While a public officer should not be isolated from the society of which he is a part, he shall ensure that his non-official activities do not interfere with his official duties or affect the dignity of his office and that the risk of conflict with his official duties is minimized.

(2) A public officer shall not engage in private business during official working hours.

## **11. Endorsing of private activities, etc.**

A public officer shall not use his position or title or any authority associated with his public office in a manner that could reasonably be construed to imply that the National Security Intelligence Service or the Government sanctions or endorses any activities, either by him or by any other person, that are not activities of the National Security Intelligence Service.

## **12. Private affairs – financial dealings**

A public officer shall live within his means and avoid incurring any financial liability that he cannot satisfy.

## **13. Potential conflicts of interest**

If, because of a public officer's duties, there is a likelihood that the public officer will be assigned a matter that would result in the public officer having a conflict of interest, the public officer shall inform his superior officer of that likelihood.

## **14. Gifts**

(1) If a public officer is given a gift described in paragraph (2), then, even if the gift is not deemed, under section 11(3) of the General Code of Conduct and Ethics set out in the Appendix to this Code, to be a gift to the public officer's organization—

- (a) the public officer shall report the matter to the Director-General who shall direct the appropriate mode of disposal of the gift; and
- (b) The public officer shall comply with such direction.

(2) The gifts referred to in paragraph (1) are—

- (a) a gift from a person described in subparagraph (i), (ii) or (iii) of section 11(2) (a) of the General Code of Conduct and Ethics set out in the Appendix to this Code; or
- (b) a gift given to the public officer on a public or ceremonial occasion.

(3) A gift that a public officer is otherwise allowed to accept from a relative or friend because it is given on a special occasion recognized by custom shall not be accepted by the public officer in a public office.

[Subsidiary]

(4) A public officer shall not—

- (a) give a gift to a superior officer;
- (b) make a contribution, or solicit contributions, for a gift to a superior; or
- (c) solicit contributions from a public officer for a gift to a superior officer of that public officer.

## **15. Harambees**

(1) A public officer shall not preside over a harambee, play a central role in its organization or play the role of "guest of honour".

(2) A public officer shall not participate in a harambee in such a way as to reflect adversely on his integrity or impartiality or to interfere with the performance of his official duties.

## **16. Safeguarding of information**

(1) A public officer shall ensure that confidential or secret information or documents entrusted to his care are adequately protected from improper or inadvertent disclosure.

(2) A public officer shall follow the National Security Intelligence Service procedures and directives for safeguarding information and documents and shall not disclose any information in contravention of such procedures and directives.

## **17. Contact with foreign governments, etc.**

A public officer shall not have contact with foreign governments or organizations in contravention of the National Security Intelligence Service procedures and directives relating to such contacts.

## **18. Security of premises**

A public officer shall follow the National Security Intelligence Service procedures and directives for ensuring the security of National Security Intelligence Service premises.

## **19. Public officer as expert witness**

(1) Unless authorized in writing by the Director-General, a public officer shall not agree to be an expert witness, other than on behalf of the National Security Intelligence Service or the Government, in a proceeding in which the National Security Intelligence Service or the Government is a party or has a substantial interest.

(2) Nothing in paragraph (1) prevents a public officer who has been summoned by the court or other appropriate authority from appearing as an expert witness but the public officer shall, before appearing, notify his superior that he has been so summoned.

## **20. Absence from Kenya**

A public officer shall not leave Kenya without the permission of the Director-General.

## **21. Certificate if absent due to illness**

A public officer who is absent because of illness shall provide a certificate from a medical practitioner with respect to his illness.

## **22. Reporting of charges against a public officer**

(1) A public officer who is charged with an offence described in paragraph (3) shall forthwith report the matter to the Director-General.

(2) A public officer who discovers that a public officer under his supervision has been charged with an offence described in paragraph (3) shall either ensure that the matter is reported under paragraph (1) or report the matter to the Director-General directly.

(3) An offence referred to in paragraph (1) or (2) is an offence that may be punished by imprisonment, other than in default of payment of a fine.

**23. Appropriate person to whom improper orders to be reported**

For the purposes of section 25 of the General Code of Conduct and Ethics set out in the Appendix to this Code, the appropriate authority to whom a public officer shall report a matter under that section is the Director-General.

**24. Breach of Code**

Where a public officer has committed a breach of this Code, appropriate action will be taken in accordance with the Act and other applicable laws.

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**APPENDIX****[Rule 4(2).]****PART III – GENERAL CODE OF CONDUCT AND ETHICS****7. Part sets out general Code**

This Part sets out a general Code of Conduct and Ethics for public officers.

**8. Performance of duties, general**

A public officer shall, to the best of his ability, carry out his duties and ensure that the services that he provides are provided efficiently and honestly.

**9. Professionalism**

A public officer shall—

- (a) carry out his duties in a way that maintains public confidence in the integrity of his office;
- (b) treat the public and his fellow public officers with courtesy and respect;
- (c) to the extent appropriate to his office, seek to improve the standards of performance and level of professionalism in his organisation;
- (d) if a member of a professional body, observe the ethical and professional requirements of that body;
- (e) observe official working hours and not be absent without proper authorisation or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

**10. Rule of law**

(1) A public officer shall carry out his duties in accordance with the law.

(2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

**11. No improper enrichment**

(1) A public officer shall not use his office to improperly enrich himself or others.

(2) Without limiting the generality of subsection (1), a public officer shall not—

- (a) except as allowed under subsection (3) or (4), accept or request gifts or favours from a person who—
  - (i) has an interest that may be affected by the carrying out, or not carrying out, of the public officer's duties;
  - (ii) carries on regulated activities with respect to which the public officer's organisation has a role; or

[Subsidiary]

- (iii) has a contractual or similar relationship with the public officer's organisation;
  - (b) improperly use his office to acquire land or other property for himself or another person, whether or not the land or property is paid for; or
  - (c) for the personal benefit of himself or another, use or allow the use of information that is acquired in connection with the public officer's duties and that is not public.
- (3) A public officer may accept a gift given to him in his official capacity but, unless the gift is a non-monetary gift that does not exceed the value prescribed by regulation, such a gift shall be deemed to be a gift to the public officer's organisation.
- (4) Subsection (2)(a) does not prevent a public officer from accepting a gift from a relative or friend given on a special occasion recognized by custom.
- (5) Subsection (2)(c) does not apply to the use of information for educational or literary purposes, research purposes or other similar purposes.

## 12. Conflict of interest

- (1) A public officer shall use his best efforts to avoid being in a position in which his personal interests conflict with his official duties.
- (2) Without limiting the generality of subsection (1), a public officer shall not hold shares or have any other interest in a corporation, partnership or other body, directly or through another person, if holding those shares or having that interest would result in the public officer's personal interests conflicting with his official duties.
- (3) A public officer whose personal interests conflict with his official duties shall—
  - (a) declare the personal interests to his superior or other appropriate body and comply with any directions to avoid the conflict; and
  - (b) refrain from participating in any deliberations with respect to the matter.
- (4) Notwithstanding any directions to the contrary under subsection (3)(a), a public officer shall not award a contract, or influence the award of a contract, to—
  - (a) himself;
  - (b) a spouse or relative;
  - (c) a business associate; or
  - (d) a corporation, partnership or other body in which the officer has an interest.
- (5) The regulations may govern when the personal interests of a public officer conflict with his official duties for the purposes of this section.
- (6) In this section, "**personal interest**" includes the interest of a spouse, relative or business associate.

## 13. Collections and harambees

- (1) A public officer shall not—
  - (a) use his office or place of work as a venue for soliciting or collecting harambees; or
  - (b) either as a collector or promoter of a public collection, obtain money or other property from a person by using his official position in any way to exert pressure.
- (2) In this section, "**collection**", "**collector**" and "**promoter**" have the same meanings as in section 2 of the Public Collections Act (Cap. 106).

**14. Acting for foreigners**

(1) No public officer shall, in a manner that may be detrimental to the security interests of Kenya, be an agent for, or further the interests of, a foreign government, organisation or individual.

(2) For the purposes of this section—

- (a) an individual is foreign if the individual is not a citizen of Kenya;
- (b) an organisation is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organisation or individuals.

**15. Care of property**

(1) A public officer shall take all reasonable steps to ensure that property that is entrusted to his care is adequately protected and not misused or misappropriated.

(2) A person who contravenes subsection (1) shall be personally liable for losses resulting from the contravention.

**16. Political neutrality**

(1) A public officer shall not, in or in connection with the performance of his duties as such—

- (a) act as an agent for, or so as to further the interest of, a political party; or
- (b) indicate support for or opposition to any political party or candidate in an election.

(2) A public officer shall not engage in political activity that may compromise or be seen to compromise the political neutrality of his office.

(3) This section does not apply to a member of the National Assembly or a councillor of a local authority.

**17. Nepotism, etc.**

A public officer shall not practice nepotism or favouritism.

**18. Giving of advice**

A public officer who has a duty to give advice shall give honest and impartial advice without fear or favour.

**19. Misleading the public, etc.**

A public officer shall not knowingly give false or misleading information to members of the public or to any other public officer.

**20. Conduct of private affairs**

(1) A public officer shall conduct his private affairs in a way that maintains public confidence in the integrity of his office.

(2) A public officer shall not evade taxes.

(3) A public officer shall not neglect his financial obligations or neglect to settle them.

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[Subsidiary]**21. Sexual harassment**

- (1) A public officer shall not sexually harass a member of the public or a fellow public officer.
- (2) In subsection (1), “**sexually harass**” includes doing any of the following, if the person doing it knows or ought to know that it is unwelcome—
- (a) making a request or exerting pressure for sexual activity or favours;
  - (b) making intentional or careless physical contact that is sexual in nature; and
  - (c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.

**22. Selection, etc. of public officers**

A public officer shall practice and promote the principle that public officers should be—

- (a) selected on the basis of integrity, competence and suitability; or
- (b) elected in fair elections.

**23. Submitting of declarations, etc.**

A public officer shall submit any declaration or clarification required under Part IV to be submitted or made by him.

**24. Acting through others**

- (1) A public officer contravenes the Code of Conduct and Ethics if—
- (a) he causes anything to be done through another person that would, if the public officer did it, be a contravention of the Code of Conduct and Ethics; or
  - (b) he allows or directs a person under his supervision or control to do anything that is a contravention of the Code of Conduct and Ethics.
- (2) Subsection (1)(b) does not apply with respect to anything done without the public officer's knowledge or consent if the public officer took reasonable steps to prevent it.

**25. Reporting improper orders**

If a public officer considers that anything required of him is a contravention of the Code of Conduct and Ethics or is otherwise improper or unethical, he shall report the matter to an appropriate authority.

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**PUBLIC OFFICER ETHICS REGULATIONS, 2003**

## ARRANGEMENT OF REGULATIONS

## PRELIMINARY

*Regulation*

1. Citation and commencement.
2. Definitions.

## ADDITIONAL PUBLIC OFFICERS COVERED BY ACT

3. Extension of Act to all state corporations.

## RESPONSIBLE COMMISSIONS

4. Members of Teachers Service Commission.
5. Staff of Teachers Service Commission.
6. Responsible Commission for public university employees, etc.
7. Commission for co-operative society officers, etc.
8. Commission for government controlled bank employees, etc.
9. Commission for others not specified.

## REGULATIONS RELATING TO THE CODE OF CONDUCT AND ETHICS

10. Maximum value of gifts under section 11(3) of the Act.
11. Conflict of interest under section 12 of the Act.

## REGULATIONS RELATING TO THE ENFORCEMENT OF THE CODE

12. Confirmation that complaint received.
13. Publication of actions relating to discipline.

**PUBLIC OFFICER ETHICS REGULATIONS, 2003**

[L.N. 120/2003, L.N. 64/2010.]

## PRELIMINARY

**1. Citation and commencement**

- (1) These Regulations may be cited as the Public Officer Ethics Regulations, 2003.
- (2) Regulations 10 and 11 shall be deemed to have come into force on the 2nd May, 2003.

**2. Definitions**

In these Regulations—

**“state corporation”** means a state corporation within the meaning of the State Corporations Act (Cap. 446).

## ADDITIONAL PUBLIC OFFICERS COVERED BY ACT

**3. Extension of Act to all state corporations**

State corporations are prescribed for the purposes of paragraph (g) of the definition of “public officer” in section 2 of the Act.

## RESPONSIBLE COMMISSIONS

**4. Members of Teachers Service Commission**

The committee of the National Assembly responsible for the ethics of members is the responsible Commission for the members of the Teachers Service Commission.

**5. Staff of Teachers Service Commission**

The Teachers Service Commission is the responsible Commission for the officers and employees of the Teachers Service Commission.

**6. Responsible Commission for public university employees, etc.**

The Commission for Higher Education, established under the Universities Act, is prescribed as the responsible Commission for officers and employees of a public university, including the members of a council of a public university other than members who are members of the public service for whom the Public Service Commission is the responsible Commission.

**7. Commission for co-operative society officers, etc.**

(1) The Ethics Commission for Co-operative Societies established in accordance with subregulation (2) is prescribed as the responsible Commission for officers of a co-operative society established under the Co-operative Societies Act, including the members of the governing body of the co-operative society.

(2) An unincorporated body to be known as the Ethics Commission for Co-operative Societies is hereby established which shall consist of—

- (a) a Chairman who shall be a person with wide experience in Co-operative business, appointed by the Minister for Co-operative Development;
- (b) a Vice-chairman, elected by the members of the Commission from amongst the members;
- (c) the Permanent Secretary of the Ministry responsible for Cooperative Development and Marketing or his designated representative;

- (d) the Permanent Secretary of the Ministry responsible for integrity issues or his designated representative;
- (e) the Director of the Co-operative College of Kenya;
- (f) a representative of the Co-operative Alliance of Kenya;
- (g) four other persons appointed by the Minister for Cooperative Development to represent—
  - (i) the Institute of Certified Public Accountants of Kenya;
  - (ii) an institution of higher education (University);
  - (iii) the Kenya Bankers Association;
  - (iv) the Sacco Society Regulatory Authority.

(3) A member of the Committee appointed under paragraph (2)(a) and (g) shall hold office for a term of three years and shall be eligible for re-appointment for one further term.

[L.N. 64/2010, r. 2.]

#### **8. Commission for government controlled bank employees, etc.**

(1) The board of directors of the Central Bank of Kenya is prescribed as the responsible Commission for officers and employees of the following—

- (a) the Central Bank of Kenya; and
- (b) banks and financial institutions licensed under the Banking Act that are state corporations.

(2) For the purposes of paragraph (1), “**officers**”—

- (a) includes the members of the board, by whatever name called, carrying out or empowered to carry out functions relating to the overall direction and management of a bank or financial institution described in paragraph (1)(b), other than members who are members of the public service for whom the Public Service Commission is the responsible Commission; and
- (b) does not include members of the board of directors of the Central Bank of Kenya.

#### **9. Commission for others not specified**

The Public Service Commission is prescribed as the responsible Commission for officers, employees and members for whom no other responsible Commission is specified under subsections (2) to (9) of section 3 of the Act or regulations 4 to 8.

#### REGULATIONS RELATING TO THE CODE OF CONDUCT AND ETHICS

#### **10. Maximum value of gifts under section 11 (3) of the Act**

The maximum value prescribed, for the purposes of section 11(3) of the Act, that a non-monetary gift to a public officer may have without being deemed to be gift to the public officer's organisation is 20,000 shillings.

**11. Conflict of interest under section 12 of the Act**

The personal interests of a public officer do not conflict with his official duties with respect to a matter, for the purposes of section 12 of the Act, if the following are satisfied—

- (a) the personal interests of the public officer are not specific to the public officer but arise from the public officer being a member of a class of persons who all have personal interests in the matter;
- (b) it would be impractical for the public officer and all other public officers who have personal interests in the matter to refrain from participating in deliberations with respect to the matter; and
- (c) either the personal interests of the public officer are obvious or the public officer declares his personal interests to his superior or other appropriate body or person.

**REGULATIONS RELATING TO THE ENFORCEMENT OF THE CODE****12. Confirmation that complaint received**

A responsible Commission that receives a written complaint that the Code of Conduct and Ethics has been contravened shall, within thirty days, give the complainant a written confirmation that the complaint has been received.

**13. Publication of actions relating to discipline**

The prescribed manner of making an action of a Commission public under section 37(1) of the Act is publication in the *Gazette*.

**JUDICIAL SERVICE COMMISSION PROCEDURES FOR  
THE ADMINISTRATION OF PART IV OF THE ACT, 2003**

## ARRANGEMENT OF REGULATIONS

*Regulation*

1. Citation.
  2. Interpretation.
  3. Scope of procedures.
  4. Administration officer.
  5. To whom declarations submitted.
  6. Who may make requests for clarifications.
  7. Review of declarations, etc.
  8. Authorization of staff under section 30(4)(a).
  9. Condition for certain disclosures to police, etc.
  10. Condition for disclosures to representatives.
  11. Administration officer to report non-compliance.
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## JUDICIAL SERVICE COMMISSION PROCEDURES FOR THE ADMINISTRATION OF PART IV OF THE ACT, 2003

[L.N. 121/2003.]

### **1. Citation**

These procedures may be cited as the Judicial Service Commission Procedures for the Administration of Part IV of the Act.

### **2. Interpretation**

In these procedures, unless the context otherwise requires—

“**administration officer**” means the Secretary of the Commission;

“**Commission**” means the Judicial Service Commission.

### **3. Scope of procedures**

These procedures are for the administration of Part IV of the Act with respect to the public officers for whom the Commission is the responsible Commission under the Act.

### **4. Administration officer**

The administration officer shall be responsible for the administration of Part IV of the Act by the Commission.

### **5. To whom declarations submitted**

Declarations to be submitted to the Commission under Part IV of the Act shall be submitted to the administration officer.

### **6. Who may make requests for clarifications**

Requests for clarifications under section 28 of the Act shall be made, on behalf of the Commission, by the administration officer or by staff of the Commission authorized in writing by him for that purpose.

### **7. Review of declarations, etc.**

(1) The administration officer, or staff of the Commission authorized by him for the purpose, shall review each declaration to ascertain if, in the opinion of the administration officer or staff, any of the following conditions are satisfied—

- (a) on the face of the declaration, or in light of any other information the Commission may have, there is reason to suspect the declaration may be false or incomplete;
- (b) the assets of the person who submitted the declaration are disproportionate to his income; or
- (c) the income, assets or liabilities of the person who submitted the declaration raise concerns of impropriety or conflict of interest.

(2) If it is ascertained that any of the conditions in subparagraph (1) are satisfied, the person who submitted the declaration shall be given an opportunity to give an explanation.

(3) If, after considering any explanation the person who submitted the declaration may give, the administration officer is of the opinion that any of the conditions in subparagraph (1) are still satisfied, the administration officer shall bring the matter to the attention of the Commission.

(4) The Commission may, with respect to a matter brought to its attention under paragraph (3), take such action as it considers appropriate including, without limiting the generality of the foregoing, notifying the Kenya Anti-Corruption Commission and giving the Kenya Anti-Corruption Commission particulars of the condition that is satisfied and a copy of the declaration.

**8. Authorization of staff under section 30(4)(a)**

(1) The Commission or the administration officer may authorize staff of the Commission for the purposes of section 30(4)(a) of the Act.

(2) An authorization under paragraph (1) shall be in writing.

**9. Condition for certain disclosures to police, etc.**

Except as provided under paragraph 7(4) information shall not be disclosed, under section 30(4)(b) of the Act, to the police or any other law enforcement agency unless a written request is provided.

**10. Condition for disclosures to representatives**

Information shall not be disclosed, under section 30(4)(d) of the Act, to a representative of the person who provided the information unless the representative provides copies of documents that establish the representative's authority to receive the information.

**11. Administration officer to report non-compliance**

The administration officer shall ensure that failures by public officers to comply with the requirements of Part IV of the Act are brought to the attention of the Commission.

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**PUBLIC SERVICE COMMISSION PROCEDURES FOR  
THE ADMINISTRATION OF PART IV OF THE ACT, 2003**

[L.N. 122/2003.]

*Revoked by LN. 76/2009, r. 28.*

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**PUBLIC SERVICE COMMISSION DELEGATION OF POWERS  
AND FUNCTIONS UNDER PARTS IV AND V OF THE ACT, 2003**

[L.N. 123/2003.]

**1. Citation**

This delegation may be cited as the Public Service Commission Delegation of Powers and Functions under Parts IV and V of the Act.

**2. Interpretation**

In this delegation—

**"authorized officer"** means the Permanent Secretary who exercises supervision over the department concerned or over the department in which the public officer concerned holds a post, as the case may be, or—

- (a) in the case of a department which is not assigned to any Minister, the head of that department;
- (b) in the case of the Exchequer and Audit Department, the Controller and Auditor-General;
- (c) in the case of the Kenya Police Force, the Commissioner of Police;
- (d) in the case of the Kenya Prisons Service, the Commissioner of Prisons; or
- (e) in the case of the National Youth Service, the Director of the National Youth Service;

**"Commission"** means the Public Service Commission;

**"lower-level public officers"** means public officers in a job group below job group "H" or its equivalent.

**3. Delegation – Parts IV and V of the Act**

(1) The Commission delegates the following powers and functions with respect to lower-level public officers—

- (a) its powers and functions under Part IV of the Act, other than section 33 of the Act;
- (b) its powers and functions under Part V of the Act.

(2) The powers and functions described in paragraph (1) are delegated as follows—

- (a) in respect of lower-level public officers, other than public officers described in subparagraph (b) or (c), to the authorized officer;
- (b) in respect of lower-level public officers of a state corporation, to the chief executive officer of the state corporation;
- (c) in respect of lower-level public officers of a local authority, to the clerk of the local authority.

(3) The exercise of the powers and functions delegated under paragraph (1)(a) is subject to—

- (a) the procedures for the administration of Part IV of the Act established by the Commission under section 33 of the Act; and
- (b) such instructions as the Commission may, from time to time, issue.

(4) The exercise of the powers and functions delegated under paragraph (1)(b) is subject to such instructions as the Commission may, from time to time, issue.



**PUBLIC SERVICE COMMISSION CODE  
OF CONDUCT AND ETHICS, 2003**

[L.N. 124/2003, L.N. 144/2003, L.N. 54/2016.]

*Revoked by LN. 54/2016, r. 39.*

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## DEFENCE COUNCIL PROCEDURES FOR THE ADMINISTRATION OF PART IV OF THE ACT, 2003

[L.N. 125/2003.]

### **1. Citation**

These procedures may be cited as the Defence Council Procedures for the Administration of Part IV of the Act.

### **2. Interpretation**

In these procedures, unless the context otherwise requires—

“**administration officer**” means the Assistant Chief of General Staff in charge of personnel;

“**Commission**” means the Defence Council.

### **3. Scope of procedures**

These procedures are for the administration of Part IV of the Act with respect to the members of the armed forces.

### **4. Administration officer**

The administration officer shall be responsible, for the administration of Part IV of the Act by the Commission.

### **5. To whom declarations submitted**

Declarations to be submitted to the Commission under Part IV of the Act shall be submitted to the administration officer.

### **6. Who may make requests for clarifications**

Requests for clarifications under section 28 of the Act shall be made, on behalf of the Commission, by the administration officer or by staff of the Commission authorized in writing by him for that purpose.

### **7. Review of declarations, etc.**

(1) The administration officer, or staff of the Commission authorized by him for the purpose, shall review each declaration to ascertain if, in the opinion of the administration officer or staff, any of the following conditions are satisfied—

- (a) on the face of the declaration, or in light of any other information the Commission may have, there is reason to suspect the declaration may be false or incomplete;
- (b) the assets of the person who submitted the declaration are disproportionate to his income; or
- (c) the income, assets or liabilities of the person who submitted the declaration raise concerns of impropriety or conflict of interest.

(2) If it is ascertained that any of the conditions in subparagraph (1) are satisfied, the person who submitted the declaration shall be given an opportunity to give an explanation.

(3) If, after considering any explanation the person who submitted the declaration may give, the administration officer is of the opinion that any of the conditions in subparagraph (1) are still satisfied, the administration officer shall bring the matter to the attention of the Commission.

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[Subsidiary]

(4) The Commission may, with respect to a matter brought to its attention under paragraph (3), take such action as it considers appropriate including, without limiting the generality of the foregoing, notifying the Kenya Anti-Corruption Commission and giving the Kenya Anti-Corruption Commission particulars of the condition that is satisfied and a copy of the declaration.

**8. Authorization of staff under section 30(4)(a)**

(1) The Commission or the administration officer may authorize staff of the Commission for the purposes of section 30(4)(a) of the Act.

(2) An authorization under paragraph (1) shall be in writing.

**9. Condition for certain disclosures to police, etc.**

Except as provided under paragraph 7(4) information shall not be disclosed, under section 30(4)(b) of the Act, to the police or any other law enforcement agency unless a written request is provided.

**10. Condition for disclosures to representatives**

Information shall not be disclosed, under section 30(4)(d) of the Act, to a representative of the person who provided the information unless the representative provides copies of documents that establish the representative's authority to receive the information.

**11. Administration officer to report non-compliance**

The administration officer shall ensure that failures by a member of the armed forces to comply with the requirements of Part IV of the Act are brought to the attention of the Commission.

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**ARMED FORCES CODE OF CONDUCT AND ETHICS, 2003**

## ARRANGEMENT OF CODE

## PREAMBLE

## PART I – PRELIMINARY

*Code*

1. Citation.
2. Interpretation.
3. Application of Code.

## PART II – REQUIREMENTS

4. Compliance with General Code.
5. Faithfulness to oath of allegiance.
6. General responsibilities of commanders.
7. Obedience to orders.
8. Support of superiors.
9. Criticism or praise of superiors.
10. Complaints about other members of the armed forces.
11. Laudatory orders.
12. Treatment of subordinates.
13. Understanding of obligations and duties under Act, regulations and standing orders.
14. Drinking of alcoholic beverages.
15. Misuse of drugs.
16. Lending and borrowing money.
17. Gambling.
18. Possession of firearms.
19. Prohibition against standing for election.
20. Political neutrality.
21. Canvassing for favours in armed forces.
22. Public comments.
23. Safeguarding of information.
24. Private affairs – outside activities.
25. Endorsing of private activities, etc.
26. Private affairs – financial dealings.
27. Potential conflicts of interest.
28. Gifts.
29. Harambees.
30. Member of the armed forces as expert witness.
31. Absence from Kenya.
32. Reporting of charges against a member of the armed forces.
33. Breach of Code.

## APPENDIX —

PART III – GENERAL CODE OF CONDUCT  
AND ETHICS

**ARMED FORCES CODE OF CONDUCT AND ETHICS, 2003**

[L.N. 126/2003.]

**PREAMBLE**

The armed forces are a professional national defence institution. The armed forces serve the President and the Republic of Kenya in accordance with the Constitution and the laws of Kenya. They are charged with the defence of the Republic and the support of the civil power in the maintenance of order.

The valued traditions of the armed forces include honour and discipline as well as a strong sense of loyalty. Service in the armed forces places special demands on its members including unquestioning obedience to lawful orders and even the sacrifice of their lives.

This Code is intended to establish standards of ethical conduct and behaviour for members of the armed forces. This Code contains rules of conduct and ethics to be observed by members of the armed forces so as to maintain public confidence in the integrity of the armed forces. The Code does not in any way replace the laws and orders governing the discipline and general conduct of members of the armed forces. Members of the armed forces must obey those laws and orders and all other applicable laws.

**PART I - PRELIMINARY****1. Citation**

This Code may be cited as the Armed Forces Code of Conduct and Ethics.

**2. Interpretation**

In this Code, unless the context otherwise requires—

“commanding officer” means a commanding officer within the meaning of the Armed Forces Act.

**3. Application of Code**

This Code applies with respect to the members of the armed forces.

**PART II – REQUIREMENTS****4. Compliance with General Code**

(1) A member of the armed forces shall comply with all the requirements imposed on a public officer under the General Code of Conduct and Ethics set out in Part III of the Act.

(2) The General Code of Conduct and Ethics set out in Part III of the Act is set out in the Appendix to this Code and shall form part of this Code.

**5. Faithfulness to oath of allegiance**

A member of the armed forces shall be true and faithful to the oath of allegiance taken by the member as required under the Armed Forces Act.

**6. General responsibilities of commanders**

Commanding officers shall be responsible for the training, security, discipline, health, welfare, morale and general efficiency of the members of the armed forces under their command.

**7. Obedience to orders**

A member of the armed forces shall obey all lawful orders and directions from a superior officer.

**8. Support of superiors**

A member of the armed forces shall support his superior officers in the maintenance of order and discipline.

**9. Criticism or praise of superiors**

A member of the armed forces shall not criticise or praise a superior officer in a way that may bring the superior officer into contempt or cause disaffection.

**10. Complaints about other members of the armed forces**

(1) A member of the armed forces shall not make a complaint about another member of the armed forces in relation to armed forces matters except in accordance with the procedures under the Armed Forces Act and the applicable orders and directions.

(2) A member of the armed forces shall not make a complaint described in paragraph (1) in combination with another member of the armed forces.

(3) A member of the armed forces shall not make a complaint described in paragraph (1) anonymously.

**11. Laudatory orders**

A member of the armed forces shall not publish or post a laudatory order.

**12. Treatment of subordinates**

A member of the armed forces who is an officer, warrant officer or non-commissioned officer shall adopt such methods of command and treatment of subordinates as will ensure respect for authority and foster self respect and personal honour among subordinates.

**13. Understanding of obligations and duties under Act, regulations and standing orders**

A member of the armed forces shall ensure that he understands his obligations and duties under the Armed Forces Act, the regulations under that Act and all standing orders or directions, including any changes made from time to time.

**14. Drinking of alcoholic beverages**

(1) A member of the armed forces shall not drink alcoholic beverages to an extent that may interfere with his ability to carry out his duties.

(2) A member of the armed forces shall not drink an alcoholic beverage on armed forces premises except as allowed under the applicable orders and directions.

**15. Misuse of drugs**

A member of the armed forces shall not misuse drugs.

**16. Lending and borrowing money**

A member of the armed forces shall not lend money to, or borrow money from, another member of the armed forces.

**17. Gambling**

A member of the armed forces shall not engage in any form of gambling or bookmaking.

**18. Possession of firearms**

(1) A member of the armed forces shall possess service firearms and ammunition only in accordance with his official duties and only in accordance with the applicable orders and directions.

(2) A member of the armed forces shall possess private firearms and ammunition only in accordance with the applicable laws governing private firearms and ammunition.

**19. Prohibition against standing for election**

A member of the armed forces shall not stand for election as a member of the National Assembly or a local authority or hold a political office.

[Subsidiary]

**20. Political neutrality**

Regardless of his political opinions, a member of the armed forces shall serve impartially, with loyalty, honesty and objectivity.

**21. Canvassing for favours in armed forces**

A member of the armed forces shall not canvass or lobby, either directly or indirectly, for any favours in the armed forces.

**22. Public comments**

- (1) A member of the armed forces—
  - (a) shall not make public comments that support or criticize a political party;
  - (b) shall not make public comments that may compromise, or may reasonably be seen to compromise, the political neutrality of his office;
  - (c) shall not make public comments giving his personal views or opinions about the armed forces or any matter relating to the armed forces, except as authorized by an order or direction;
  - (d) shall not, expressly or by implication, represent that any public comments he makes reflect the views or opinions of the armed forces if that is not the case.

(3) For greater certainty, in this rule, “**public comments**” includes comments made to members of the press or other media.

**23. Safeguarding of information**

(1) A member of the armed forces shall not disclose any information relating to armed forces matters to a person who is not a member of the armed forces, except in furtherance of his official duties or as otherwise authorized, and shall do so only in accordance with any applicable orders or directions.

(2) A member of the armed forces shall ensure that restricted information or documents entrusted to his care are adequately protected from improper or inadvertent disclosure and shall follow the applicable orders and directions for safeguarding such information and documents.

**24. Private affairs – outside activities**

(1) While a member of the armed forces should not be isolated from the society of which he is a part, he shall ensure that his non-official activities do not interfere with his official duties or affect the dignity of his office and that the risk of conflict with his official duties is minimized.

(2) A member of the armed forces shall not engage in private business while on duty.

(3) A member of the armed forces may engage in private business or private employment only as allowed under the applicable orders and directions.

**25. Endorsing of private activities, etc.**

(1) A member of the armed forces shall not use his position or title or any authority associated with his office in a manner that could reasonably be construed to imply that the armed forces or the Government sanctions or endorses any activities, either by him or by any other person, that are not activities of the armed forces.

(2) A member of the armed forces shall not promote or endorse any product, service or commercial enterprise while participating in a sporting or other event if either—

- (a) the event is organized, either wholly or partly, by the armed forces; or
- (b) the member of the armed forces is participating as a member of the armed forces.

(3) A member of the armed forces shall not provide a testimonial to a person or organization in respect of goods or services supplied by that person or organization.

(4) Paragraph (3) does not prevent a member of the armed forces from communicating directly with a person, at that person's request, about goods or services supplied by another person.

## **26. Private affairs – financial dealings**

(1) A member of the armed forces shall live within his means and avoid incurring any financial liability that he cannot satisfy.

(2) A member of the armed forces who becomes bankrupt, becomes a Judgment debtor or against whom proceedings are taken in bankruptcy shall forthwith report the matter to his commanding officer.

## **27. Potential conflicts of interest**

If, because of the duties of a member of the armed forces, there is a likelihood that the member will be assigned a matter that would result in his having a conflict of interest, the member shall inform his commanding officer of that likelihood.

## **28. Gifts**

(1) If a member of the armed forces is given a gift described in paragraph (2), then, even if the gift is not deemed, under section 11(3) of the General Code of Conduct and Ethics set out in the Appendix to this Code, to be a gift to the armed forces—

- (a) the member of the armed forces shall report the matter to the Chief of General Staff who shall direct the appropriate mode of disposal of the gift; and
- (b) the member of the armed forces shall comply with such direction.

(2) The gifts referred to in paragraph (1) are—

- (a) a gift from a person described in subparagraph (i), (ii) or (iii) of section 11(2) (a) of the General Code of Conduct and Ethics set out in the Appendix to this Code; or
- (b) a gift given to the member of the armed forces on a public or ceremonial occasion.

(3) A gift that a member of the armed forces is otherwise allowed to accept from a relative or friend because it is given on a special occasion recognized by custom shall not be accepted by the member of the armed forces in a public office.

(4) A member of the armed forces shall not—

- (a) give a gift to a superior officer;
- (b) make a contribution, or solicit contributions, for a gift to a superior officer; or
- (c) solicit contributions from a member of the armed forces for a gift to a superior officer of that member.

(5) This rule does not apply with respect to a gift that is given to a member of the armed forces by other members of the armed forces if—

- (a) the gift is paid for out of a fund that is administered by members of the armed forces; and
- (b) the fund does not include any contributions from members of the armed forces.

## **29. Harambees**

(1) A member of the armed forces shall not preside over a harambee, play a central role in its organization or play the role of "guest of honour".

[Subsidiary]

(2) A member of the armed forces shall not participate in a harambee in such a way as to reflect adversely on the honour and dignity of the armed forces or to interfere with the performance of his official duties.

### **30. Member of the armed forces as expert witness**

(1) Unless authorized in writing by the Chief of General Staff, a member of the armed forces shall not agree to be an expert witness, other than on behalf of the armed forces or the Government, in a proceeding in which the armed forces or the Government is a party or has a substantial interest.

(2) Nothing in paragraph (1) prevents a member of the armed forces who has been summoned by the court or other appropriate authority from appearing as an expert witness but the member shall, before appearing, notify his commanding officer that he has been so summoned.

### **31. Absence from Kenya**

A member of the armed forces shall not leave Kenya without the permission of the Chief of General Staff.

### **32. Reporting of charges against a member of the armed forces**

(1) A member of the armed forces who is charged with an offence described in paragraph (2) shall forthwith report the matter to his commanding officer.

(2) An offence referred to in paragraph (1) is an offence that may be punished by imprisonment, other than in default of payment of a fine.

### **33. Breach of Code**

Where a member of the armed forces has committed a breach of this Code, appropriate action will be taken in accordance with the Act and other applicable laws.

## APPENDIX

[Rule 4(2).]

## PART III – GENERAL CODE OF CONDUCT AND ETHICS

### **7. Part sets out general code**

This Part sets out a general Code of Conduct and Ethics for public officers.

### **8. Performance of duties, general**

A public officer shall, to the best of his ability, carry out his duties and ensure that the services that he provides are provided efficiently and honestly.

### **9. Professionalism**

A public officer shall—

- (a) carry out his duties in a way that maintains public confidence in the integrity of his office;
- (b) treat the public and his fellow public officers with courtesy and respect;
- (c) to the extent appropriate to his office, seek to improve the standards of performance and level of professionalism in his organisation;
- (d) if a member of a professional body, observe the ethical and professional requirements of that body;
- (e) observe official working hours and not be absent without proper authorisation or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

**10. Rule of law**

- (1) A public officer shall carry out his duties in accordance with the law.
- (2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

**11. No improper enrichment**

- (1) A public officer shall not use his office to improperly enrich himself or others.
- (2) Without limiting the generality of subsection (1), a public officer shall not—
  - (a) except as allowed under subsection (3) or (4), accept or request gifts or favours from a person who—
    - (i) has an interest that may be affected by the carrying out, or not carrying out, of the public officer's duties;
    - (ii) carries on regulated activities with respect to which the public officer's organisation has a role; or
    - (iii) has a contractual or similar relationship with the public officer's organisation;
  - (b) improperly use his office to acquire land or other property for himself or another person, whether or not the land or property is paid for; or
  - (c) for the personal benefit of himself or another, use or allow the use of information that is acquired in connection with the public officer's duties and that is not public.
- (3) A public officer may accept a gift given to him in his official capacity but, unless the gift is a non-monetary gift that does not exceed the value prescribed by regulation, such a gift shall be deemed to be a gift to the public officer's organisation.
- (4) Subsection (2)(a) does not prevent a public officer from accepting a gift from a relative or friend given on a special occasion recognized by custom.
- (5) Subsection (2)(c) does not apply to the use of information for educational or literary purposes, research purposes or other similar purposes.

**12. Conflict of interest**

- (1) A public officer shall use his best efforts to avoid being in a position in which his personal interests conflict with his official duties.
- (2) Without limiting the generality of subsection (1), a public officer shall not hold shares or have any other interest in a corporation, partnership or other body, directly or through another person, if holding those shares or having that interest would result in the public officer's personal interests conflicting with his official duties.
- (3) A public officer whose personal interests conflict with his official duties shall—
  - (a) declare the personal interests to his superior or other appropriate body and comply with any directions to avoid the conflict; and
  - (b) refrain from participating in any deliberations with respect to the matter.
- (4) Notwithstanding any directions to the contrary under subsection (3)(a), a public officer shall not award a contract, or influence the award of a contract, to—
  - (a) himself;
  - (b) a spouse or relative;
  - (c) a business associate; or
  - (d) a corporation, partnership or other body in which the officer has an interest.
- (5) The regulations may govern when the personal interests of a public officer conflict with his official duties for the purposes of this section.
- (6) In this section, “personal interest” includes the interest of a spouse, relative or business associate.

[Subsidiary]

**13. Collections and harambees**

- (1) A public officer shall not—
- (a) use his office or place of work as a venue for soliciting or collecting harambees; or
  - (b) either as a collector or promoter of a public collection, obtain money or other property from a person by using his official position in any way to exert pressure.

(2) In this section, “**collection**”, “**collector**” and “**promoter**” have the same meanings as in section 2 of the Public Collections Act (Cap. 106).

**14. Acting for foreigners**

- (1) No public officer shall, in a manner that may be detrimental to the security interests of Kenya, be an agent for, or further the interests of, a foreign government, organisation or individual.
- (2) For the purposes of this section—
- (a) an individual is foreign if the individual is not a citizen of Kenya;
  - (b) an organisation is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organisation or individuals.

**15. Care of property**

- (1) A public officer shall take all reasonable steps to ensure that property that is entrusted to his care is adequately protected and not misused or misappropriated.
- (2) A person who contravenes subsection (1) shall be personally liable for losses resulting from the contravention.

**16. Political neutrality**

- (1) A public officer shall not, in or in connection with the performance of his duties as such—
- (a) act as an agent for, or so as to further the interest of, a political party; or
  - (b) indicate support for or opposition to any political party or candidate in an election.
- (2) A public officer shall not engage in political activity that may compromise or be seen to compromise the political neutrality of his office.
- (3) This section does not apply to a member of the National Assembly or a councillor of a local authority.

**17. Nepotism, etc.**

A public officer shall not practice nepotism or favouritism.

**18. Giving of advice**

A public officer who has a duty to give advice shall give honest and impartial advice without fear or favour.

**19. Misleading the public, etc.**

A public officer shall not knowingly give false or misleading information to members of the public or to any other public officer.

**20. Conduct of private affairs**

- (1) A public officer shall conduct his private affairs in a way that maintains public confidence in the integrity of his office.
- (2) A public officer shall not evade taxes.
- (3) A public officer shall not neglect his financial obligations or neglect to settle them.

**21. Sexual harassment**

- (1) A public officer shall not sexually harass a member of the public or a fellow public officer.
- (2) In subsection (1), “**sexually harass**” includes doing any of the following, if the person doing it knows or ought to know that it is unwelcome—
  - (a) making a request or exerting pressure for sexual activity or favours;
  - (b) making intentional or careless physical contact that is sexual in nature; and
  - (c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.

**22. Selection, etc. of public officers**

- A public officer shall practice and promote the principle that public officers should be—
- (a) selected on the basis of integrity, competence and suitability; or
  - (b) elected in fair elections.

**23. Submitting of declarations, etc.**

A public officer shall submit any declaration or clarification required under Part IV to be submitted or made by him.

**24. Acting through others**

- (1) A public officer contravenes the Code of Conduct and Ethics if—
  - (a) he causes anything to be done through another person that would, if the public officer did it, be a contravention of the Code of Conduct and Ethics; or
  - (b) he allows or directs a person under his supervision or control to do anything that is a contravention of the Code of Conduct and Ethics.
- (2) Subsection (1)(b) does not apply with respect to anything done without the public officer’s knowledge or consent if the public officer took reasonable steps to prevent it.

**25. Reporting improper orders**

If a public officer considers that anything required of him is a contravention of the Code of Conduct and Ethics or is otherwise improper or unethical, he shall report the matter to an appropriate authority.



## ELECTORAL COMMISSION PROCEDURES FOR THE ADMINISTRATION OF PART IV OF THE ACT, 2003

[L.N. 127/2003.]

### 1. Citation

These procedures may be cited as the Electoral Commission Procedures for the Administration of Part IV of the Act..

### 2. Interpretation

In these procedures, unless the context otherwise requires —

"administration officer" means the Secretary of the Commission;

"Commission" means the Electoral Commission.

### 3. Scope of procedures

These procedures are for the administration of Part IV of the Act with respect to the public officers for whom the Commission is the responsible Commission under the Act.

### 4. Administration officer

The administration officer shall be responsible for the administration of Part N of the Act by the Commission.

### 5. To whom declarations submitted

Declarations to be submitted to the Commission under Part IV of the Act shall be submitted to the administration officer.

### 6. Who may make requests for clarifications

Requests for clarifications under section 28 of the Act shall be made, on behalf of the Commission, by the administration officer or by staff of the Commission authorized in writing by him for that purpose.

### 7. Review of declarations, etc.

(1) The administration officer, or staff of the Commission authorized by him for the purpose, shall review each declaration to ascertain if, in the opinion of the administration officer or staff, any of the following conditions are satisfied—

- (a) on the face of the declaration, or in light of any other information the Commission may have, there is reason to suspect the declaration may be false or incomplete;
- (b) the assets of the person who submitted the declaration are disproportionate to his income; or
- (c) the income, assets or liabilities of the person who submitted the declaration raise concerns of impropriety or conflict of interest.

(2) If it is ascertained that any of the conditions in subparagraph (1) are satisfied, the person who submitted the declaration shall be given an opportunity to give an explanation.

(3) If, after considering any explanation the person who submitted the declaration may give, the administration officer is of the opinion that any of the conditions in subparagraph (1) are still satisfied, the administration officer shall bring the matter to the attention of the Commission.

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[Subsidiary]

(4) The Commission may, with respect to a matter brought to its attention under paragraph (3), take such action as it considers appropriate including, without limiting the generality of the foregoing, notifying the Kenya Anti-Corruption Commission and giving the Kenya Anti-Corruption Commission particulars of the condition that is satisfied and a copy of the declaration.

**8. Authorization of staff under section 30(4)(a)**

(1) The Commission or the administration officer may authorize staff of the Commission for the purposes of section 30(4)(a) of the Act.

(2) An authorization under paragraph (1) shall be in writing.

**9. Condition for certain disclosures to police, etc.**

Except as provided under paragraph 7(4) information shall not be disclosed, under section 30(4)(b) of the Act, to the police or any other law enforcement agency unless a written request is provided.

**10. Condition for disclosures to representatives**

Information shall not be disclosed, under section 30(4)(d) of the Act, to a representative of the person who provided the information unless the representative provides copies of documents that establish the representative's authority to receive the information.

**11. Administration officer to report non-compliance**

The administration officer shall ensure that failures by public officers to comply with the requirements of Part IV of the Act are brought to the attention of the Commission.

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**ELECTORAL COMMISSION CODE OF CONDUCT AND  
ETHICS FOR LOCAL AUTHORITY COUNCILLORS, 2003**

## ARRANGEMENT OF CODE

## PREAMBLE

## PART I – PRELIMINARY

*Code*

1. Citation.
2. Interpretation.
3. Application of Code.

## PART II – REQUIREMENTS

4. Compliance with General Code.
5. General conduct.
6. Faithfulness to declaration.
7. Attendance at meetings.
8. Interference with management or administration.
9. Private affairs - financial dealings.
10. Gifts.
11. Harambees.
12. Confidential or secret information.
13. Appropriate person to whom improper orders to be reported.
14. Breach of Code.

## APPENDIX —

## GENERAL CODE OF CONDUCT AND ETHICS

## ELECTORAL COMMISSION CODE OF CONDUCT AND ETHICS FOR LOCAL AUTHORITY COUNCILLORS, 2003

[L.N. 128/2003.]

### PREAMBLE

The local government system requires that councillors represent the interests of local communities and that they be accountable to the people they serve.

This Code contains rules of conduct and ethics to be observed by councillors. The Code does not in any way replace the laws governing the discipline and general conduct of councillors. Councillors must obey those laws and all other applicable laws.

Councillors should adhere to this Code so as not to bring themselves and other councillors into disrepute.

### PART I - PRELIMINARY

#### 1. Citation

This Code may be cited as the Electoral Commission Code of Conduct and Ethics for Local Authority Councillors.

#### 2. Interpretation

In this Code, unless the context otherwise requires—

**"public officer"** means a public officer to whom this Code applies under rule 3.

#### 3. Application of Code

This Code applies with respect to councillors of local authorities.

### PART II – REQUIREMENTS

#### 4. Compliance with General Code

(1) A public officer shall comply with all the requirements of the General Code of Conduct and Ethics set out in Part III of the Act.

(2) The General Code of Conduct and Ethics set out in Part III of the Act is set out in the Appendix to this Code and shall form part of this Code.

#### 5. General conduct

A public officer shall carry out the duties of his office in good faith, honestly and in a transparent manner.

#### 6. Faithfulness to declaration

A public officer shall be true and faithful to the declaration made by the public officer as required under the Local Government Act (Cap. 264).

#### 7. Attendance at meetings

A public officer shall attend all meetings of his local authority and all meetings of committees of which he is a member and shall be absent only if he has obtained the leave of the local authority or is otherwise justified in being absent.

#### 8. Interference with management or administration

(1) In addition to refraining from giving any instructions to an officer or employee of a local authority which the public officer is prohibited from doing under section 86A of the Local Government Act (Cap. 265), a public officer shall not otherwise interfere with, or attempt to interfere with, the management or administration of the local authority.

(2) A public officer shall not obstruct, or attempt to obstruct, the implementation by an officer or employee of the local authority, of a decision by the council of the local authority or a committee.

(3) A public officer shall not do anything, or encourage anything, that would cause or contribute to maladministration of a local authority.

## 9. Private affairs – financial dealings

A public officer shall live within his means and avoid incurring any financial liability that he cannot satisfy.

## 10. Gifts

(1) If a public officer is given a gift described in paragraph (2), then, even if the gift is not deemed, under section 11(3) of the General Code of Conduct and Ethics set out in the Appendix to this Code, to be a gift to the public officer's organisation—

- (a) the public officer shall report the matter to the clerk of the local authority who shall direct the appropriate mode of disposal of the gift; and
- (b) the public officer shall comply with such direction.

(2) The gifts referred to in paragraph (1) are—

- (a) a gift from a person described in subparagraph (i), (ii) or (iii) of section 11(2) (a) of the General Code of Conduct and Ethics set out in the Appendix to this Code; or
- (b) a gift given to the public officer on a public or ceremonial occasion.

(3) A gift that a public officer is otherwise allowed to accept from a relative or friend because it is given on a special occasion recognized by custom shall not be accepted by the public officer in a public office.

## 11. Harambees

(1) A public officer shall not preside over a harambee, play a central role in its organization or play the role of "guest of honour".

(2) A public officer shall not participate in a harambee in such a way as to reflect adversely on his integrity or impartiality or to interfere with the performance of his official duties.

## 12. Confidential or secret information

A public officer shall not disclose confidential or secret information or documents and shall ensure that any such information or documents that he acquires as a result of his duties are adequately protected from improper or inadvertent disclosure.

## 13. Appropriate person to whom improper orders to be reported

For the purposes of section 25 of the General Code of Conduct and Ethics set out in the Appendix to this Code, the appropriate authority to whom a public officer shall report a matter under that section is the Chairman of the Electoral Commission.

## 14. Breach of Code

Where a public officer has committed a breach of this Code, appropriate action will be taken in accordance with the Act and other applicable laws.

## APPENDIX

## PART III – GENERAL CODE OF CONDUCT AND ETHICS

[Rule 4(2).]

**7. Part sets out general Code**

This Part sets out a general Code of Conduct and Ethics for public officers.

**8. Performance of duties, general**

A public officer shall, to the best of his ability, carry out his duties and ensure that the services that he provides are provided efficiently and honestly.

**9. Professionalism**

A public officer shall—

- (a) carry out his duties in a way that maintains public confidence in the integrity of his office;
- (b) treat the public and his fellow public officers with courtesy and respect;
- (c) to the extent appropriate to his office, seek to improve the standards of performance and level of professionalism in his organisation;
- (d) if a member of a professional body, observe the ethical and professional requirements of that body;
- (e) observe official working hours and not be absent without proper authorisation or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

**10. Rule of law**

(1) A public officer shall carry out his duties in accordance with the law.

(2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

**11. No improper enrichment**

(1) A public officer shall not use his office to improperly enrich himself or others.

(2) Without limiting the generality of subsection (1), a public officer shall not—

- (a) except as allowed under subsection (3) or (4), accept or request gifts or favours from a person who—
  - (i) has an interest that may be affected by the carrying out, or not carrying out, of the public officer's duties;
  - (ii) carries on regulated activities with respect to which the public officer's organisation has a role; or
  - (iii) has a contractual or similar relationship with the public officer's organisation;
- (b) improperly use his office to acquire land or other property for himself or another person, whether or not the land or property is paid for; or
- (c) for the personal benefit of himself or another, use or allow the use of information that is acquired in connection with the public officer's duties and that is not public.

(3) A public officer may accept a gift given to him in his official capacity but, unless the gift is a non-monetary gift that does not exceed the value prescribed by regulation, such a gift shall be deemed to be a gift to the public officer's organisation.

(4) Subsection (2)(a) does not prevent a public officer from accepting a gift from a relative or friend given on a special occasion recognized by custom.

(5) Subsection (2)(c) does not apply to the use of information for educational or literary purposes, research purposes or other similar purposes.

## 12. Conflict of interest

(1) A public officer shall use his best efforts to avoid being in a position in which his personal interests conflict with his official duties.

(2) Without limiting the generality of subsection (1), a public officer shall not hold shares or have any other interest in a corporation, partnership or other body, directly or through another person, if holding those shares or having that interest would result in the public officer's personal interests conflicting with his official duties.

(3) A public officer whose personal interests conflict with his official duties shall—

- (a) declare the personal interests to his superior or other appropriate body and comply with any directions to avoid the conflict; and
- (b) refrain from participating in any deliberations with respect to the matter.

(4) Notwithstanding any directions to the contrary under subsection (3)(a), a public officer shall not award a contract, or influence the award of a contract, to—

- (a) himself;
- (b) a spouse or relative;
- (c) a business associate; or
- (d) a corporation, partnership or other body in which the officer has an interest.

(5) The regulations may govern when the personal interests of a public officer conflict with his official duties for the purposes of this section.

(6) In this section, “**personal interest**” includes the interest of a spouse, relative or business associate.

## 13. Collections and harambees

(1) A public officer shall not—

- (a) use his office or place of work as a venue for soliciting or collecting harambees; or
- (b) either as a collector or promoter of a public collection, obtain money or other property from a person by using his official position in any way to exert pressure.

(2) In this section, “**collection**”, “**collector**” and “**promoter**” have the same meanings as in section 2 of the Public Collections Act (Cap. 106).

## 14. Acting for foreigners

(1) No public officer shall, in a manner that may be detrimental to the security interests of Kenya, be an agent for, or further the interests of, a foreign government, organisation or individual.

(2) For the purposes of this section—

- (a) an individual is foreign if the individual is not a citizen of Kenya;
- (b) an organisation is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organisation or individuals.

[Subsidiary]

**15. Care of property**

(1) A public officer shall take all reasonable steps to ensure that property that is entrusted to his care is adequately protected and not misused or misappropriated.

(2) A person who contravenes subsection (1) shall be personally liable for losses resulting from the contravention.

**16. Political neutrality**

(1) A public officer shall not, in or in connection with the performance of his duties as such—

- (a) act as an agent for, or so as to further the interest of, a political party; or
- (b) indicate support for or opposition to any political party or candidate in an election.

(2) A public officer shall not engage in political activity that may compromise or be seen to compromise the political neutrality of his office.

(3) This section does not apply to a member of the National Assembly or a councillor of a local authority.

**17. Nepotism, etc.**

A public officer shall not practice nepotism or favouritism.

**18. Giving of advice**

A public officer who has a duty to give advice shall give honest and impartial advice without fear or favour.

**19. Misleading the public, etc.**

A public officer shall not knowingly give false or misleading information to members of the public or to any other public officer.

**20. Conduct of private affairs**

(1) A public officer shall conduct his private affairs in a way that maintains public confidence in the integrity of his office.

(2) A public officer shall not evade taxes.

(3) A public officer shall not neglect his financial obligations or neglect to settle them.

**21. Sexual harassment**

(1) A public officer shall not sexually harass a member of the public or a fellow public officer.

(2) In subsection (1), “**sexually harass**” includes doing any of the following, if the person doing it knows or ought to know that it is unwelcome—

- (a) making a request or exerting pressure for sexual activity or favours;
- (b) making intentional or careless physical contact that is sexual in nature; and
- (c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.

**22. Selection, etc. of public officers**

A public officer shall practice and promote the principle that public officers should be—

- (a) selected on the basis of integrity, competence and suitability; or
- (b) elected in fair elections.

**23. Submitting of declarations, etc.**

A public officer shall submit any declaration or clarification required under Part IV to be submitted or made by him.

**24. Acting through others**

- (1) A public officer contravenes the Code of Conduct and Ethics if—
- (a) he causes anything to be done through another person that would, if the public officer did it, be a contravention of the Code of Conduct and Ethics; or
  - (b) he allows or directs a person under his supervision or control to do anything that is a contravention of the Code of Conduct and Ethics.
- (2) Subsection (1)(b) does not apply with respect to anything done without the public officer's knowledge or consent if the public officer took reasonable steps to prevent it.

**25. Reporting improper orders**

If a public officer considers that anything required of him is a contravention of the Code of Conduct and Ethics or is otherwise improper or unethical, he shall report the matter to an appropriate authority.

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**ELECTORAL COMMISSIONERS' CODE OF CONDUCT AND ETHICS, 2003**

## ARRANGEMENT OF CODE

## PREAMBLE

## PART I – PRELIMINARY

*Code*

1. Citation.
2. Interpretation.
3. Application of Code.
4. Action for breach of Code.

## PART II – REQUIREMENTS

5. Compliance with General Code.
6. Independence, impartiality and integrity.
7. Professionalism.
8. Family and other influences.
9. Precedence of official duties.
10. Conflict of interest.
11. Code violations.
12. Social and recreational activities.
13. Private interests.
14. Proper conduct.
15. Conduct of private affairs.
16. Prohibition on contesting political office.
17. Travel outside Kenya.

## APPENDIX –

PART III – GENERAL CODE OF CONDUCT  
AND ETHICS

## ELECTORAL COMMISSIONERS' CODE OF CONDUCT AND ETHICS, 2003

[L.N. 129/2003.]

### PREAMBLE

The Electoral Commission is an important institution in any country. Its independence must be guaranteed and upheld at all times. Failure to do so would be the end of democracy and a recipe for anarchy and chaos. The Electoral Commission must not only be independent but must also be seen to be independent. It cannot be seen to be independent and to be fulfilling its onerous mandate if its commissioners do not uphold high standards of performance; hence the need for it to have this Code of Conduct and Ethics for its members in accordance with section 5(1) of the Act. The code is a supplement to the provisions of the Constitution of Kenya and the National Assembly and Presidential Elections Act (Cap. 7) and the rules and regulations made pursuant to that Act.

### PART I — PRELIMINARY

#### 1. Citation

This Code may be cited as the Electoral Commissioners' Code of Conduct and Ethics.

#### 2. Interpretation

In this Code, unless the context otherwise requires—

**"Commissioner"** means a person holding office as a member of the Electoral Commission under section 41 of the Constitution of Kenya, and includes the Chairman;

**"Chairman"** means the Chairman of the Electoral Commission of Kenya;

**"family"**, in relation to a Commissioner, includes the Commissioner's spouse, child, grandchild, parent, grandparent or other relative or person with whom the Commissioner maintains a close family relationship;

**"the Act"** means the Public Officers Ethics Act, 2003 (No. 4 of 2003).

#### 3. Application of Code

This Code applies with respect to the Commissioners.

#### 4. Action for breach of Code

Where a Commissioner has committed a breach of this Code, appropriate action will be taken in accordance with the provisions of the Act, the National Assembly, and Presidential Elections Act (Cap. 7) and the Constitution of Kenya.

### PART II — REQUIREMENTS

#### 5. Compliance with General Code

(1) A Commissioner shall comply with all the requirements of the General Code of Conduct and Ethics set out in Part III of the Act.

(2) The General Code of Conduct and Ethics set out in Part III of the Act is set out in the Appendix to this Code and shall form part of this Code.

#### 6. Independence, impartiality and integrity

Every member of the Commission shall serve impartially and independently and perform the functions of a member in good faith and without fear, favour or prejudice, and without influence from—

- (a) the Government;
- (b) any public officer;
- (c) any political party;

- (d) any candidate participating in an election; or
- (e) any other person or authority.

## 7. Professionalism

- (1) A Commissioner shall participate in establishing, maintaining and enforcing high standards of professionalism in the performance of his duties.
- (2) A Commissioner shall actively and personally promote a culture in his work that aims at providing fast, friendly, responsive and efficient service and shall be courteous to all persons in the provision of such service.
- (3) A Commissioner shall perform his duty with diligence, efficiency and fidelity.

## 8. Family and other influences

- (1) A Commissioner shall not allow family, social, political or other relationships to influence his conduct or decision.
- (2) A Commissioner shall not use or lend the prestige of his office and shall not knowingly convey or permit others to convey the impression that anyone is in a special position to influence him.

## 9. Precedence of official duties

- (1) The official duties of a Commissioner take precedence over all his other activities.
- (2) In particular, a Commissioner shall observe faithfully the electoral law, rules and regulations.

## 10. Conflict of interest

A Commissioner shall disqualify himself in all matters where his impartiality might reasonably be questioned including, without limitation, instances in which relatives, colleagues and former colleagues have an interest.

## 11. Code violations

- (1) It shall be the responsibility of every Commissioner to report to the Chairman any violation of this Code:

Provided that a complaint against the Chairman may be made to the responsible Commission (or shall, if made to the Chairman, be referred to that Commission).

- (2) The Chairman shall investigate any matter reported to him and shall, at a meeting of the Commission, report the action he takes (including any reference of the matter to the responsible Commission).

## 12. Social and recreational activities

A Commissioner may engage in recreational activities as long as they do not adversely affect the dignity and integrity of the Commission.

## 13. Private interests

A Commissioner shall observe the following requirements in relation to his private interests—

- (a) he shall not take any salaried employment during his service as a Commissioner or conduct private business that is likely to conflict with his official duties;
- (b) he shall not subordinate his official duties to private interest;
- (c) he shall not be associated outside his official duties with any financial or other activities in circumstances where there would be suspicion that his official position or official information available to him was being turned to his private gain or that of his associates;

[Subsidiary]

- (d) he shall not engage in any occupation or business which might prejudice his status as a Commissioner, or bring the Commission into disrepute or dishonour.

#### **14. Proper conduct**

(1) For the purposes of section 25 of Appendix I, the appropriate authority to whom a Commissioner shall report the relevant matter is the Chairman.

(2) A Commissioner shall at all times conduct himself decently.

#### **15. Conduct of private affairs**

(1) A Commissioner shall conduct his private affairs in a way that maintains and enhances public confidence, integrity and dignity of his work.

(2) A Commissioner shall endeavour to manage his finances to avoid financial embarrassment to himself and the Commission.

#### **16. Prohibition on contesting political office**

A Commissioner who wishes to contest a seat in the National Assembly or local authority or any other political office shall be required to resign from his office as a Commissioner prior to doing so.

#### **17. Travel outside Kenya**

A Commissioner who at any time wishes to travel outside the country shall obtain prior permission of the Chairman in writing.

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### APPENDIX

[Rule 5(2).]

### PART III – GENERAL CODE OF CONDUCT AND ETHICS

#### **7. Part sets out general Code**

This Part sets out a general Code of Conduct and Ethics for public officers.

#### **8. Performance of duties, general**

A public officer shall, to the best of his ability, carry out his duties and ensure that the services that he provides are provided efficiently and honestly.

#### **9. Professionalism**

A public officer shall—

- (a) carry out his duties in a way that maintains public confidence in the integrity of his office;
- (b) treat the public and his fellow public officers with courtesy and respect;
- (c) to the extent appropriate to his office, seek to improve the standards of performance and level of professionalism in his organisation;
- (d) if a member of a professional body, observe the ethical and professional requirements of that body;
- (e) observe official working hours and not be absent without proper authorisation or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

## 10. Rule of law

- (1) A public officer shall carry out his duties in accordance with the law.
- (2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

## 11. No improper enrichment

- (1) A public officer shall not use his office to improperly enrich himself or others.
- (2) Without limiting the generality of subsection (1), a public officer shall not—
  - (a) except as allowed under subsection (3) or (4), accept or request gifts or favours from a person who—
    - (i) has an interest that may be affected by the carrying out, or not carrying out, of the public officer's duties;
    - (ii) carries on regulated activities with respect to which the public officer's organisation has a role; or
    - (iii) has a contractual or similar relationship with the public officer's organisation;
  - (b) improperly use his office to acquire land or other property for himself or another person, whether or not the land or property is paid for; or
  - (c) for the personal benefit of himself or another, use or allow the use of information that is acquired in connection with the public officer's duties and that is not public.
- (3) A public officer may accept a gift given to him in his official capacity but, unless the gift is a non-monetary gift that does not exceed the value prescribed by regulation, such a gift shall be deemed to be a gift to the public officer's organisation.
- (4) Subsection (2)(a) does not prevent a public officer from accepting a gift from a relative or friend given on a special occasion recognized by custom.
- (5) Subsection (2)(c) does not apply to the use of information for educational or literary purposes, research purposes or other similar purposes.

## 12. Conflict of interest

- (1) A public officer shall use his best efforts to avoid being in a position in which his personal interests conflict with his official duties.
- (2) Without limiting the generality of subsection (1), a public officer shall not hold shares or have any other interest in a corporation, partnership or other body, directly or through another person, if holding those shares or having that interest would result in the public officer's personal interests conflicting with his official duties.
- (3) A public officer whose personal interests conflict with his official duties shall—
  - (a) declare the personal interests to his superior or other appropriate body and comply with any directions to avoid the conflict; and
  - (b) refrain from participating in any deliberations with respect to the matter.
- (4) Notwithstanding any directions to the contrary under subsection (3)(a), a public officer shall not award a contract, or influence the award of a contract, to—
  - (a) himself;
  - (b) a spouse or relative;
  - (c) a business associate; or
  - (d) a corporation, partnership or other body in which the officer has an interest.
- (5) The regulations may govern when the personal interests of a public officer conflict with his official duties for the purposes of this section.
- (6) In this section, “**personal interest**” includes the interest of a spouse, relative or business associate.

[Subsidiary]

**13. Collections and harambees**

- (1) A public officer shall not—
- (a) use his office or place of work as a venue for soliciting or collecting harambees; or
  - (b) either as a collector or promoter of a public collection, obtain money or other property from a person by using his official position in any way to exert pressure.
- (2) In this section, “**collection**”, “**collector**” and “**promoter**” have the same meanings as in section 2 of the Public Collections Act (Cap. 106).

**14. Acting for foreigners**

- (1) No public officer shall, in a manner that may be detrimental to the security interests of Kenya, be an agent for, or further the interests of, a foreign government, organisation or individual.
- (2) For the purposes of this section—
- (a) an individual is foreign if the individual is not a citizen of Kenya;
  - (b) an organisation is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organisation or individuals.

**15. Care of property**

- (1) A public officer shall take all reasonable steps to ensure that property that is entrusted to his care is adequately protected and not misused or misappropriated.
- (2) A person who contravenes subsection (1) shall be personally liable for losses resulting from the contravention.

**16. Political neutrality**

- (1) A public officer shall not, in or in connection with the performance of his duties as such—
- (a) act as an agent for, or so as to further the interest of, a political party; or
  - (b) indicate support for or opposition to any political party or candidate in an election.
- (2) A public officer shall not engage in political activity that may compromise or be seen to compromise the political neutrality of his office.
- (3) This section does not apply to a member of the National Assembly or a councillor of a local authority.

**17. Nepotism, etc.**

A public officer shall not practice nepotism or favouritism.

**18. Giving of advice**

A public officer who has a duty to give advice shall give honest and impartial advice without fear or favour.

**19. Misleading the public, etc.**

A public officer shall not knowingly give false or misleading information to members of the public or to any other public officer.

**20. Conduct of private affairs**

- (1) A public officer shall conduct his private affairs in a way that maintains public confidence in the integrity of his office.
- (2) A public officer shall not evade taxes.
- (3) A public officer shall not neglect his financial obligations or neglect to settle them.

**21. Sexual harassment**

- (1) A public officer shall not sexually harass a member of the public or a fellow public officer.
- (2) In subsection (1), “**sexually harass**” includes doing any of the following, if the person doing it knows or ought to know that it is unwelcome—
- (a) making a request or exerting pressure for sexual activity or favours;
  - (b) making intentional or careless physical contact that is sexual in nature; and
  - (c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.

**22. Selection, etc. of public officers**

- A public officer shall practice and promote the principle that public officers should be—
- (a) selected on the basis of integrity, competence and suitability; or
  - (b) elected in fair elections.

**23. Submitting of declarations, etc.**

A public officer shall submit any declaration or clarification required under Part IV to be submitted or made by him.

**24. Acting through others**

- (1) A public officer contravenes the Code of Conduct and Ethics if—
- (a) he causes anything to be done through another person that would, if the public officer did it, be a contravention of the Code of Conduct and Ethics; or
  - (b) he allows or directs a person under his supervision or control to do anything that is a contravention of the Code of Conduct and Ethics.
- (2) Subsection (1)(b) does not apply with respect to anything done without the public officer’s knowledge or consent if the public officer took reasonable steps to prevent it.

**25. Reporting improper orders**

If a public officer considers that anything required of him is a contravention of the Code of Conduct and Ethics or is otherwise improper or unethical, he shall report the matter to an appropriate authority.



**CODE OF CONDUCT AND ETHICS FOR  
MEMBERS OF THE NATIONAL ASSEMBLY, 2003**

ARRANGEMENT OF CODE

PREAMBLE

PART I – PRELIMINARY

*Code*

1. Citation.
2. Interpretation.
3. Application of Code

PART II – REQUIREMENTS

4. Compliance with General Code.
5. Faithfulness to oaths or affirmations.
6. Uphold Constitution and the rule of law.
7. Uphold dignity, etc., of National Assembly.
8. Treat other members with respect, etc..
9. Open and transparent.
10. Accountability to public.
11. Act in interests of entire country.
12. Promotion of unity.
13. Official duties to take precedence.
14. Carrying out duties with integrity, etc.
15. Incurring of obligations.
16. Non-parliamentary activities.
17. No improper use of public property, etc.
18. No discrimination.
19. Opposition to corruption.
20. Breach of Code.

APPENDIX –

GENERAL CODE OF CONDUCT AND ETHICS

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## **CODE OF CONDUCT AND ETHICS FOR MEMBERS OF THE NATIONAL ASSEMBLY, 2003**

[L.N. 130/2003.]

### PREAMBLE

This Code is intended to establish standards of ethical conduct and behaviour for members of the National Assembly. It shall be construed so that it does not interfere with the independence of Parliament or limit its legal rights.

This Code does not in any way replace the Laws and rules relating to the conduct of members of the National Assembly. Members must obey those laws and rules and all other applicable laws.

### PART I — PRELIMINARY

#### **1. Citation**

This Code may be cited as the Code of Conduct and Ethics for Members of the National Assembly.

#### **2. Interpretation**

In this Code, unless the context otherwise requires—

**“member of the National Assembly”** includes, for greater certainty, the President, the Speaker and the Attorney- General.

#### **3. Application of Code**

This Code applies with respect to members of the National Assembly.

### PART II — REQUIREMENTS

#### **4. Compliance with General Code**

(1) A member of the National Assembly shall comply with all the requirements imposed on a public officer under the General Code of Conduct and Ethics set out in Part III of the Act.

(2) The General Code of Conduct and Ethics set out in Part III of the Act is set out in the Appendix to this Code and shall form part of this Code.

#### **5. Faithfulness to oaths or affirmations**

A member of the National Assembly shall be true and faithful to the oaths or affirmations taken by the member as required under the Constitution or other laws.

#### **6. Uphold Constitution and the rule of law**

A member of the National Assembly shall uphold the Constitution and the rule of law.

#### **7. Uphold dignity, etc., of National Assembly**

A member of the National Assembly shall uphold the dignity and integrity of the National Assembly and shall act in a manner that promotes respect for the National Assembly and its institutions.

#### **8. Treat other members with respect, etc.**

A member of the National Assembly shall treat other members with respect and shall strive to have cordial relations with all other members.

#### **9. Open and transparent**

A member of the National Assembly shall be open and transparent in all the member's actions.

**10. Accountability to public**

A member of the National Assembly shall be accountable to the public for the actions and decisions of the member and shall submit to open scrutiny, as necessary.

**11. Act in interests of entire country**

While a member of the National Assembly may have a special responsibility to the member's constituency, the member shall act in the interests of the entire country.

**12. Promotion of unity**

A member of the National Assembly shall promote unity among Kenyans, irrespective of race, tribe, clan, colour, creed or sex.

**13. Official duties to take precedence**

A member of the National Assembly shall ensure that the official duties of the member take precedence over the member's other activities.

**14. Carrying out duties with integrity, etc.**

(1) When voting, asking questions, or carrying out any other duties as a member, a member of the National Assembly shall act with integrity and objectivity.

(2) A member of the National Assembly shall not allow any personal benefit or interest, including benefits or interests of relatives or friends, to influence the carrying out of the member's duties.

**15. Incurring of obligations**

A member of the National Assembly shall not incur a financial or other obligation that might result in the member being unduly influenced in the performance of the member's duties.

**16. Non-parliamentary activities**

A member of the National Assembly shall ensure that the member's non-parliamentary activities do not interfere with or compromise the member's official duties or bring the National Assembly into disrepute.

**17. No improper use of public property, etc.**

(1) A member of the National Assembly shall not make improper use of public property or resources, including payments or contributions made for public purposes.

(2) A member of the National Assembly shall not make improper use of any allowance paid to the member.

**18. No discrimination**

A member of the National Assembly shall treat all Kenyans equally and shall not discriminate against anyone on the basis of race, tribe, clan, colour, creed, sex or disability.

**19. Opposition to corruption**

A member of the National Assembly shall not tolerate corruption in any form and shall fight against corruption both in the private and public sectors.

**20. Breach of Code**

Where a member of the National Assembly has committed a breach of this Code, appropriate action will be taken in accordance with the Act and other applicable laws.

## APPENDIX

[Rule 4(2).]

## PART III – GENERAL CODE OF CONDUCT AND ETHICS

**7. Part sets out general Code**

This Part sets out a general Code of Conduct and Ethics for public officers.

**8. Performance of duties, general**

A public officer shall, to the best of his ability, carry out his duties and ensure that the services that he provides are provided efficiently and honestly.

**9. Professionalism**

A public officer shall—

- (a) carry out his duties in a way that maintains public confidence in the integrity of his office;
- (b) treat the public and his fellow public officers with courtesy and respect;
- (c) to the extent appropriate to his office, seek to improve the standards of performance and level of professionalism in his organisation;
- (d) if a member of a professional body, observe the ethical and professional requirements of that body;
- (e) observe official working hours and not be absent without proper authorisation or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

**10. Rule of law**

- (1) A public officer shall carry out his duties in accordance with the law.
- (2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

**11. No improper enrichment**

- (1) A public officer shall not use his office to improperly enrich himself or others.
- (2) Without limiting the generality of subsection (1), a public officer shall not—
  - (a) except as allowed under subsection (3) or (4), accept or request gifts or favours from a person who—
    - (i) has an interest that may be affected by the carrying out, or not carrying out, of the public officer's duties;
    - (ii) carries on regulated activities with respect to which the public officer's organisation has a role; or
    - (iii) has a contractual or similar relationship with the public officer's organisation;
  - (b) improperly use his office to acquire land or other property for himself or another person, whether or not the land or property is paid for; or
  - (c) for the personal benefit of himself or another, use or allow the use of information that is acquired in connection with the public officer's duties and that is not public.
- (3) A public officer may accept a gift given to him in his official capacity but, unless the gift is a non-monetary gift that does not exceed the value prescribed by regulation, such a gift shall be deemed to be a gift to the public officer's organisation.

(4) Subsection (2)(a) does not prevent a public officer from accepting a gift from a relative or friend given on a special occasion recognized by custom.

(5) Subsection (2)(c) does not apply to the use of information for educational or literary purposes, research purposes or other similar purposes.

## 12. Conflict of interest

(1) A public officer shall use his best efforts to avoid being in a position in which his personal interests conflict with his official duties.

(2) Without limiting the generality of subsection (1), a public officer shall not hold shares or have any other interest in a corporation, partnership or other body, directly or through another person, if holding those shares or having that interest would result in the public officer's personal interests conflicting with his official duties.

(3) A public officer whose personal interests conflict with his official duties shall—

- (a) declare the personal interests to his superior or other appropriate body and comply with any directions to avoid the conflict; and
- (b) refrain from participating in any deliberations with respect to the matter.

(4) Notwithstanding any directions to the contrary under subsection (3)(a), a public officer shall not award a contract, or influence the award of a contract, to—

- (a) himself;
- (b) a spouse or relative;
- (c) a business associate; or
- (d) a corporation, partnership or other body in which the officer has an interest.

(5) The regulations may govern when the personal interests of a public officer conflict with his official duties for the purposes of this section.

(6) In this section, “**personal interest**” includes the interest of a spouse, relative or business associate.

## 13. Collections and harambees

(1) A public officer shall not—

- (a) use his office or place of work as a venue for soliciting or collecting harambees; or
- (b) either as a collector or promoter of a public collection, obtain money or other property from a person by using his official position in any way to exert pressure.

(2) In this section, “**collection**”, “**collector**” and “**promoter**” have the same meanings as in section 2 of the Public Collections Act (Cap. 106).

## 14. Acting for foreigners

(1) No public officer shall, in a manner that may be detrimental to the security interests of Kenya, be an agent for, or further the interests of, a foreign government, organisation or individual.

(2) For the purposes of this section—

- (a) an individual is foreign if the individual is not a citizen of Kenya;
- (b) an organisation is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organisation or individuals.

[Subsidiary]

**15. Care of property**

(1) A public officer shall take all reasonable steps to ensure that property that is entrusted to his care is adequately protected and not misused or misappropriated.

(2) A person who contravenes subsection (1) shall be personally liable for losses resulting from the contravention.

**16. Political neutrality**

(1) A public officer shall not, in or in connection with the performance of his duties as such—

- (a) act as an agent for, or so as to further the interest of, a political party; or
- (b) indicate support for or opposition to any political party or candidate in an election.

(2) A public officer shall not engage in political activity that may compromise or be seen to compromise the political neutrality of his office.

(3) This section does not apply to a member of the National Assembly or a councillor of a local authority.

**17. Nepotism, etc.**

A public officer shall not practice nepotism or favouritism.

**18. Giving of advice**

A public officer who has a duty to give advice shall give honest and impartial advice without fear or favour.

**19. Misleading the public, etc.**

A public officer shall not knowingly give false or misleading information to members of the public or to any other public officer.

**20. Conduct of private affairs**

(1) A public officer shall conduct his private affairs in a way that maintains public confidence in the integrity of his office.

(2) A public officer shall not evade taxes.

(3) A public officer shall not neglect his financial obligations or neglect to settle them.

**21. Sexual harassment**

(1) A public officer shall not sexually harass a member of the public or a fellow public officer.

(2) In subsection (1), “**sexually harass**” includes doing any of the following, if the person doing it knows or ought to know that it is unwelcome—

- (a) making a request or exerting pressure for sexual activity or favours;
- (b) making intentional or careless physical contact that is sexual in nature; and
- (c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.

**22. Selection, etc. of public officers**

A public officer shall practice and promote the principle that public officers should be—

- (a) selected on the basis of integrity, competence and suitability; or
- (b) elected in fair elections.

**23. Submitting of declarations, etc.**

A public officer shall submit any declaration or clarification required under Part IV to be submitted or made by him.

**24. Acting through others**

- (1) A public officer contravenes the Code of Conduct and Ethics if—
- (a) he causes anything to be done through another person that would, if the public officer did it, be a contravention of the Code of Conduct and Ethics; or
  - (b) he allows or directs a person under his supervision or control to do anything that is a contravention of the Code of Conduct and Ethics.
- (2) Subsection (1)(b) does not apply with respect to anything done without the public officer's knowledge or consent if the public officer took reasonable steps to prevent it.

**25. Reporting improper orders**

If a public officer considers that anything required of him is a contravention of the Code of Conduct and Ethics or is otherwise improper or unethical, he shall report the matter to an appropriate authority.

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**PUBLIC SERVICE COMMISSIONERS' CODE OF CONDUCT AND ETHICS, 2003**

## ARRANGEMENT OF CODE

## PREAMBLE

## PART I – PRELIMINARY

## Code

1. Citation.
2. Interpretation.
3. Application of Code.

## PART II – REQUIREMENTS

4. Compliance with General Code.
5. Prohibition against standing for election.
6. Independence, integrity and impartiality.
7. Social and recreational activities.
8. Non-discrimination.
9. Civil and charitable activities.
10. Private interests.
11. Gifts.
12. Professionalism and courtesy.
13. Private agencies.
14. Public statements and communication with the press.
15. Absence from Kenya.
16. Breach of Code.

## APPENDIX —

PART III – GENERAL CODE OF CONDUCT  
AND ETHICS

## PUBLIC SERVICE COMMISSIONERS' CODE OF CONDUCT AND ETHICS, 2003

[L.N. 131/2003.]

### PREAMBLE

This Code is intended to establish standards of ethical conduct for the Public Service Commissioners.

The Public Service Commission of Kenya is committed to ensuring that the people of Kenya are served by a highly competent public service which is non-partisan and representative of the Kenyan society.

This Code contains rules of conduct and ethics to be observed by Commissioners so as to maintain the integrity and impartiality of the Commission. Public Officers look up to the Commission as a custodian of meritocracy in the public service and in furtherance of this the Commissioners, both collectively and individually, must strive to enhance public trust in the Public Service.

### PART I - PRELIMINARY

#### 1. Citation

This Code may be cited as the public Service Commissioners' Code of Conduct and Ethics.

#### 2. Interpretation

In this Code, unless the context otherwise requires—

"**Commission**" means the Public Service Commission of Kenya;

"**Commissioner**" means the Chairman, Deputy Chairman or a Commissioner of the Public Service Commission of Kenya holding office under section 107 of the Constitution;

"**family**", in relation to a Commissioner, includes his spouse, child, grandchild, parent, grandparent or other relative or person with whom he maintains a close family relationship;

"**the Act**" means the Public Officers Ethics Act, 2003 (No. 4 of 2003).

#### 3. Application of Code

This Code applies with respect to the Commissioners.

### PART II – REQUIREMENT

#### 4. Compliance with General Code

(1) A Commissioner shall comply with all the requirements of the General Code of Conduct and Ethics set out in Part III of the Act (No. 4 of 2003).

(2) The General Code of Conduct and Ethics set out in Part III of the Act is set out in the Appendix to this Code and shall form part of this Code.

#### 5. Prohibition against standing for election

A Commissioner shall not stand for election as a member of the National Assembly or a local authority or hold a political office.

#### 6. Independence, integrity and impartiality

(1) A Commissioner shall be true to his oath of office and shall, in exercising the powers of his office, be seen to be free from external influence.

(2) A Commissioner is entitled to his own views on political matters but shall not be permitted to express those view publicly.

**7. Social and recreational activities**

A Commissioner may engage in arts, sports and other social and recreational activities if such activities do not adversely affect the dignity of his office or interfere with the performance of his public duties.

**8. Non-discrimination**

A Commissioner shall treat all Kenyans with equal respect and shall not discriminate against anyone on the basis of clan, tribe, race, colour, religion, sex, age, gender or disability nor hold any office in an organisation where discrimination is practised.

**9. Civil and charitable activities**

(1) While a Commissioner should not be isolated from the society of which he is a part, he is expected to remain within dignified limits, and above all, he should regulate his extra-official activities to minimise the risk of conflict with his official duties.

(2) A Commissioner shall live within his means and avoid incurring any financial liability that he cannot satisfy.

(3) A Commissioner may contribute towards or attend a harambee but should not play a central role in its organisation or preside over the same.

(4) A Commissioner shall not use his office to solicit for funds for a harambee or any other purpose.

**10. Private interests**

A Commissioner is required to observe the following requirements in relation to his private interests—

- (a) he shall ensure that he does not subordinate his official duties to his private interests or put himself in a position where there is conflict between his officials duties and his private interests;
- (b) he shall not associate outside his official duties with any financial or other activities in circumstances where there could be suspicion that his official position or official information available to him was being turned to his private gain or that of his associates;
- (c) he shall not to engage in any occupation or business which might prejudice his status as a Commissioner or bring his office into dispute;
- (d) he shall maintain at all times the ethical standards which the public expects of him in transacting official business with efficiency, integrity and impartiality.

**11. Gifts, etc.**

(1) A Commissioner shall neither ask for or accept any property or benefit of any kind for himself or for any person, on account of anything to be done, or omitted to be done by him in the discharge of his duties by virtue of his official position.

(2) A Commissioner or members of his family shall not solicit or accept any gifts, gratuity, hospitality, free passages or favours from any person or any body corporate or unincorporate that might reasonably be thought to influence, or intended to influence, him in the performance of his duties.

(3) Where a gift or donation of the nature specified in subparagraph (2) is given without the knowledge of the Commissioner or where it would be offensive to custom or good public relations to refuse the gift, the Commissioner shall report the matter to the Chairman, who shall direct the appropriate mode of disposal of any such gift or donation, and the Commissioner shall comply with such direction forthwith.

(4) Where the Commissioner to whom a gift is given is the Chairman, subparagraph (3) shall operate as though a reference therein to the Chairman were a reference to the Speaker of the National Assembly.

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[Subsidiary]

(5) When presents are exchanged between a commissioner acting on behalf of the Government in ceremonial intercourse with other Governments or their representatives, the presents received will be handed over to the Chairman, who shall direct the appropriate mode of disposal and any reciprocal presents will be given at the expense of the Commission.

## **12. Professionalism and courtesy**

(1) A Commissioner shall ensure that his official and private conduct upholds, at all times, the dignity and integrity of his office by conducting himself, both officially and in private, in a dignified, honest and impeccable manner.

(2) A Commissioner shall, at all times, be disciplined whether or not on official duty and shall in particular—

- (a) maintain a standard of dress and personal hygiene befitting the dignity and image of that office;
- (b) observe official working hours, be punctual and meet deadlines;
- (c) not be absent from duty without proper authorisation or reasonable cause;
- (d) perform his duties in an efficient and competent manner;
- (e) exercise diligence, care and attention and seek to achieve high standards of professionalism in the delivery of services;
- (f) practice and promote adherence to meritocratic principles and practices in appointments to the Public Service, for which the guiding criteria shall be qualifications, merit, competence and experience; and
- (g) seek to contribute and enhance the standards of performance and level of professionalism in the Public Service.

(3) A Commissioner shall actively and personally promote a culture in the Public Service that aims at providing fast, friendly, responsive and efficient service, and shall be courteous to all persons in the performance of his duties.

## **13. Private agencies**

A Commissioner shall not undertake any private agency in any matter connected with the exercise of his public duties.

## **14. Public statements and communication with the press**

(1) A Commissioner shall not, without the express permission of the Chairman of the Commission—

- (a) act as editor of any newspaper or take part directly or indirectly in the management thereof;
- (b) publish in any manner anything which may be reasonably regarded as of a political nature whether under his own name, by pseudonym or anonymously; or
- (c) allow himself to be interviewed on questions of public policy affecting Kenya or any other country.

(2) A Commissioner shall avoid situations where lack of discretion on his part is likely to embarrass the Government or the Public Service.

## **15. Absence from Kenya**

A Commissioner who wishes to travel outside Kenya shall obtain the prior permission of the Chairman in writing, which permission shall not be unreasonably denied.

## **16. Breach of Code**

(1) It shall be the responsibility of every Commissioner to report to the Chairman any violation of this Code.

(2) The Chairman shall investigate the same and report the action he takes, including any reference to the responsible Commission, to a meeting of the Commission:

Provided that a complaint against the Chairman shall be reported to the responsible Commission.

## APPENDIX

[Rule 4(2).]

## PART III – GENERAL CODE OF CONDUCT AND ETHICS

### **7. Part sets out general code**

This Part sets out a general Code of Conduct and Ethics for public officers.

### **8. Performance of duties, general**

A public officer shall, to the best of his ability, carry out his duties and ensure that the services that he provides are provided efficiently and honestly.

### **9. Professionalism**

A public officer shall—

- (a) carry out his duties in a way that maintains public confidence in the integrity of his office;
- (b) treat the public and his fellow public officers with courtesy and respect;
- (c) to the extent appropriate to his office, seek to improve the standards of performance and level of professionalism in his organisation;
- (d) if a member of a professional body, observe the ethical and professional requirements of that body;
- (e) observe official working hours and not be absent without proper authorisation or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

### **10. Rule of law**

(1) A public officer shall carry out his duties in accordance with the law.

(2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

### **11. No improper enrichment**

(1) A public officer shall not use his office to improperly enrich himself or others.

(2) Without limiting the generality of subsection (1), a public officer shall not—

- (a) except as allowed under subsection (3) or (4), accept or request gifts or favours from a person who—
  - (i) has an interest that may be affected by the carrying out, or not carrying out, of the public officer's duties;
  - (ii) carries on regulated activities with respect to which the public officer's organisation has a role; or

[Subsidiary]

- (iii) has a contractual or similar relationship with the public officer's organisation;
  - (b) improperly use his office to acquire land or other property for himself or another person, whether or not the land or property is paid for; or
  - (c) for the personal benefit of himself or another, use or allow the use of information that is acquired in connection with the public officer's duties and that is not public.
- (3) A public officer may accept a gift given to him in his official capacity but, unless the gift is a non-monetary gift that does not exceed the value prescribed by regulation, such a gift shall be deemed to be a gift to the public officer's organisation.
- (4) Subsection (2)(a) does not prevent a public officer from accepting a gift from a relative or friend given on a special occasion recognized by custom.
- (5) Subsection (2)(c) does not apply to the use of information for educational or literary purposes, research purposes or other similar purposes.

## 12. Conflict of interest

- (1) A public officer shall use his best efforts to avoid being in a position in which his personal interests conflict with his official duties.
- (2) Without limiting the generality of subsection (1), a public officer shall not hold shares or have any other interest in a corporation, partnership or other body, directly or through another person, if holding those shares or having that interest would result in the public officer's personal interests conflicting with his official duties.
- (3) A public officer whose personal interests conflict with his official duties shall—
  - (a) declare the personal interests to his superior or other appropriate body and comply with any directions to avoid the conflict; and
  - (b) refrain from participating in any deliberations with respect to the matter.
- (4) Notwithstanding any directions to the contrary under subsection (3)(a), a public officer shall not award a contract, or influence the award of a contract, to—
  - (a) himself;
  - (b) a spouse or relative;
  - (c) a business associate; or
  - (d) a corporation, partnership or other body in which the officer has an interest.
- (5) The regulations may govern when the personal interests of a public officer conflict with his official duties for the purposes of this section.
- (6) In this section, "**personal interest**" includes the interest of a spouse, relative or business associate.

## 13. Collections and harambees

- (1) A public officer shall not—
  - (a) use his office or place of work as a venue for soliciting or collecting harambees; or
  - (b) either as a collector or promoter of a public collection, obtain money or other property from a person by using his official position in any way to exert pressure.
- (2) In this section, "**collection**", "**collector**" and "**promoter**" have the same meanings as in section 2 of the Public Collections Act (Cap. 106).

#### **14. Acting for foreigners**

(1) No public officer shall, in a manner that may be detrimental to the security interests of Kenya, be an agent for, or further the interests of, a foreign government, organisation or individual.

(2) For the purposes of this section—

- (a) an individual is foreign if the individual is not a citizen of Kenya;
- (b) an organisation is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organisation or individuals.

#### **15. Care of property**

(1) A public officer shall take all reasonable steps to ensure that property that is entrusted to his care is adequately protected and not misused or misappropriated.

(2) A person who contravenes subsection (1) shall be personally liable for losses resulting from the contravention.

#### **16. Political neutrality**

(1) A public officer shall not, in or in connection with the performance of his duties as such—

- (a) act as an agent for, or so as to further the interest of, a political party; or
- (b) indicate support for or opposition to any political party or candidate in an election.

(2) A public officer shall not engage in political activity that may compromise or be seen to compromise the political neutrality of his office.

(3) This section does not apply to a member of the National Assembly or a councillor of a local authority.

#### **17. Nepotism, etc.**

A public officer shall not practice nepotism or favouritism.

#### **18. Giving of advice**

A public officer who has a duty to give advice shall give honest and impartial advice without fear or favour.

#### **19. Misleading the public, etc.**

A public officer shall not knowingly give false or misleading information to members of the public or to any other public officer.

#### **20. Conduct of private affairs**

(1) A public officer shall conduct his private affairs in a way that maintains public confidence in the integrity of his office.

(2) A public officer shall not evade taxes.

(3) A public officer shall not neglect his financial obligations or neglect to settle them.

#### **21. Sexual harassment**

(1) A public officer shall not sexually harass a member of the public or a fellow public officer.

(2) In subsection (1), “**sexually harass**” includes doing any of the following, if the person doing it knows or ought to know that it is unwelcome—

- (a) making a request or exerting pressure for sexual activity or favours;
- (b) making intentional or careless physical contact that is sexual in nature; and
- (c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.

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[Subsidiary]**22. Selection, etc. of public officers**

A public officer shall practice and promote the principle that public officers should be—

- (a) selected on the basis of integrity, competence and suitability; or
- (b) elected in fair elections.

**23. Submitting of declarations, etc.**

A public officer shall submit any declaration or clarification required under Part IV to be submitted or made by him.

**24. Acting through others**

(1) A public officer contravenes the Code of Conduct and Ethics if—

- (a) he causes anything to be done through another person that would, if the public officer did it, be a contravention of the Code of Conduct and Ethics; or
- (b) he allows or directs a person under his supervision or control to do anything that is a contravention of the Code of Conduct and Ethics.

(2) Subsection (1)(b) does not apply with respect to anything done without the public officer's knowledge or consent if the public officer took reasonable steps to prevent it.

**25. Reporting improper orders**

If a public officer considers that anything required of him is a contravention of the Code of Conduct and Ethics or is otherwise improper or unethical, he shall report the matter to an appropriate authority.

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**PARLIAMENTARY SERVICE COMMISSION CODE OF CONDUCT AND ETHICS, 2003**

ARRANGEMENT OF CODE

PREAMBLE

PART I – PRELIMINARY

*Code*

1. Citation.
2. Interpretation.
3. Application of Code

PART II – REQUIREMENTS

4. Compliance with General Code.
5. Other rules of conduct.

APPENDIX –

GENERAL CODE OF CONDUCT AND ETHICS

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**PARLIAMENTARY SERVICE COMMISSION  
CODE OF CONDUCT AND ETHICS, 2003**

[L.N. 132/2003.]

**PREAMBLE**

The Parliamentary Service Commission and the Parliamentary Service were established by the Constitution (Amendment) Act, 1999. The Parliamentary Service Act, 2000, which came into operation on 29th December, 2000, states that "the Service shall be an institution of exemplary administrative and technical competence".

Provisions governing the discipline, work ethics and general conduct of parliamentary employees, and the procedure to be followed in cases of breach of discipline, are to be found in the Parliamentary Service Commission Act, 2000 and in subordinate legislation promulgated by the Commission from time to time. This Code is in addition to, and does not replace, those provisions. It contains general rules of conduct and ethics to be observed by all employees of the Parliamentary Service in order to maintain integrity and dignity in the performance by them of their duties in a manner consistent with the independence of Parliament as the supreme legislative body.

**PART I - PRELIMINARY**

**1. Citation**

This Code may be cited as the Parliamentary Service Code of Conduct and Ethics.

**2. Interpretation**

In this Code, unless the context otherwise requires—

“**Commission**” means the Parliamentary Service Commission;

“**employee**” means a person holding or acting in any office in the Service;

“**Service**” means the Parliamentary Service established by section 45A of the Constitution.

**3. Application of Code**

This Code applies with respect to all employees.

**PART II – REQUIREMENTS**

**4. Compliance with General Code**

(1) An employee shall comply with all the requirements of the General Code of Conduct and Ethics set out in Part III of the Act.

(2) The General Code of Conduct and Ethics set out in Part III of the Act is set out in the Appendix to this Code and shall form part of this Code.

**5. Other rules of conduct**

Without prejudice to the generality of paragraph 4, an employee shall—

- (a) be patriotic and loyal to Kenya and at all times conduct himself in a manner that promotes the image and interest of the country;
- (b) conduct himself with honesty and integrity and act with care and diligence;
- (c) use the resources of the nation conscientiously and combat corruption and misuse or wastage of public property;
- (d) respect and observe the law of the land and co-operate with all lawful agencies in the maintenance of law and order;
- (e) treat all persons with respect and courtesy;
- (f) promote gender equality and respect for the rights and freedoms of others;

- (g) preserve and protect the environment and national heritage;
- (h) comply with any lawful and reasonable direction given by any person in the Service having authority to give such direction;
- (i) maintain appropriate confidentiality about dealings that the employee has with the National Assembly, its committees, its members and its staff (including employees of members, if any);
- (j) not make public comments that support or criticize a political party;
- (k) not make public comments that may compromise, or may reasonably be seen to compromise, the political neutrality of his office;
- (l) not make improper use of—
  - (i) any information obtained through or in connection with the office of such employee and which is not yet made available to the public; or
  - (ii) the employee's duties, status, power or authority, in order to gain, or seek to gain, a benefit or advantage for himself or for anyone else;
- (m) conduct himself in a manner that upholds the letter and spirit of the values and the integrity and good reputation of the Service;
- (n) while on duty overseas conduct himself in a manner that promotes the good image of Kenya; and
- (o) comply with any other requirements of conduct prescribed by the Commission from time to time.

## APPENDIX

[Rule 4(2).]

## PART III – GENERAL CODE OF CONDUCT AND ETHICS

**7. Part sets out general code**

This Part sets out a general Code of Conduct and Ethics for public officers.

**8. Performance of duties, general**

A public officer shall, to the best of his ability, carry out his duties and ensure that the services that he provides are provided efficiently and honestly.

**9. Professionalism**

A public officer shall—

- (a) carry out his duties in a way that maintains public confidence in the integrity of his office;
- (b) treat the public and his fellow public officers with courtesy and respect;
- (c) to the extent appropriate to his office, seek to improve the standards of performance and level of professionalism in his organisation;
- (d) if a member of a professional body, observe the ethical and professional requirements of that body;
- (e) observe official working hours and not be absent without proper authorisation or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

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[Subsidiary]**10. Rule of law**

- (1) A public officer shall carry out his duties in accordance with the law.
- (2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

**11. No improper enrichment**

- (1) A public officer shall not use his office to improperly enrich himself or others.
- (2) Without limiting the generality of subsection (1), a public officer shall not—
  - (a) except as allowed under subsection (3) or (4), accept or request gifts or favours from a person who—
    - (i) has an interest that may be affected by the carrying out, or not carrying out, of the public officer's duties;
    - (ii) carries on regulated activities with respect to which the public officer's organisation has a role; or
    - (iii) has a contractual or similar relationship with the public officer's organisation;
  - (b) improperly use his office to acquire land or other property for himself or another person, whether or not the land or property is paid for; or
  - (c) for the personal benefit of himself or another, use or allow the use of information that is acquired in connection with the public officer's duties and that is not public.
- (3) A public officer may accept a gift given to him in his official capacity but, unless the gift is a non-monetary gift that does not exceed the value prescribed by regulation, such a gift shall be deemed to be a gift to the public officer's organisation.
- (4) Subsection (2)(a) does not prevent a public officer from accepting a gift from a relative or friend given on a special occasion recognized by custom.
- (5) Subsection (2)(c) does not apply to the use of information for educational or literary purposes, research purposes or other similar purposes.

**12. Conflict of interest**

- (1) A public officer shall use his best efforts to avoid being in a position in which his personal interests conflict with his official duties.
- (2) Without limiting the generality of subsection (1), a public officer shall not hold shares or have any other interest in a corporation, partnership or other body, directly or through another person, if holding those shares or having that interest would result in the public officer's personal interests conflicting with his official duties.
- (3) A public officer whose personal interests conflict with his official duties shall—
  - (a) declare the personal interests to his superior or other appropriate body and comply with any directions to avoid the conflict; and
  - (b) refrain from participating in any deliberations with respect to the matter.
- (4) Notwithstanding any directions to the contrary under subsection (3)(a), a public officer shall not award a contract, or influence the award of a contract, to—
  - (a) himself;
  - (b) a spouse or relative;
  - (c) a business associate; or
  - (d) a corporation, partnership or other body in which the officer has an interest.
- (5) The regulations may govern when the personal interests of a public officer conflict with his official duties for the purposes of this section.
- (6) In this section, “**personal interest**” includes the interest of a spouse, relative or business associate.

**13. Collections and harambees**

- (1) A public officer shall not—
- (a) use his office or place of work as a venue for soliciting or collecting harambees; or
  - (b) either as a collector or promoter of a public collection, obtain money or other property from a person by using his official position in any way to exert pressure.

(2) In this section, “**collection**”, “**collector**” and “**promoter**” have the same meanings as in section 2 of the Public Collections Act (Cap. 106).

**14. Acting for foreigners**

(1) No public officer shall, in a manner that may be detrimental to the security interests of Kenya, be an agent for, or further the interests of, a foreign government, organisation or individual.

- (2) For the purposes of this section—

- (a) an individual is foreign if the individual is not a citizen of Kenya;
- (b) an organisation is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organisation or individuals.

**15. Care of property**

(1) A public officer shall take all reasonable steps to ensure that property that is entrusted to his care is adequately protected and not misused or misappropriated.

(2) A person who contravenes subsection (1) shall be personally liable for losses resulting from the contravention.

**16. Political neutrality**

(1) A public officer shall not, in or in connection with the performance of his duties as such—

- (a) act as an agent for, or so as to further the interest of, a political party; or
- (b) indicate support for or opposition to any political party or candidate in an election.

(2) A public officer shall not engage in political activity that may compromise or be seen to compromise the political neutrality of his office.

(3) This section does not apply to a member of the National Assembly or a councillor of a local authority.

**17. Nepotism, etc.**

A public officer shall not practice nepotism or favouritism.

**18. Giving of advice**

A public officer who has a duty to give advice shall give honest and impartial advice without fear or favour.

**19. Misleading the public, etc.**

A public officer shall not knowingly give false or misleading information to members of the public or to any other public officer.

[Subsidiary]

**20. Conduct of private affairs**

- (1) A public officer shall conduct his private affairs in a way that maintains public confidence in the integrity of his office.
- (2) A public officer shall not evade taxes.
- (3) A public officer shall not neglect his financial obligations or neglect to settle them.

**21. Sexual harassment**

- (1) A public officer shall not sexually harass a member of the public or a fellow public officer.
- (2) In subsection (1), “**sexually harass**” includes doing any of the following, if the person doing it knows or ought to know that it is unwelcome—
  - (a) making a request or exerting pressure for sexual activity or favours;
  - (b) making intentional or careless physical contact that is sexual in nature; and
  - (c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.

**22. Selection, etc. of public officers**

- A public officer shall practice and promote the principle that public officers should be—
- (a) selected on the basis of integrity, competence and suitability; or
  - (b) elected in fair elections.

**23. Submitting of declarations, etc.**

A public officer shall submit any declaration or clarification required under Part IV to be submitted or made by him.

**24. Acting through others**

- (1) A public officer contravenes the Code of Conduct and Ethics if—
  - (a) he causes anything to be done through another person that would, if the public officer did it, be a contravention of the Code of Conduct and Ethics; or
  - (b) he allows or directs a person under his supervision or control to do anything that is a contravention of the Code of Conduct and Ethics.
- (2) Subsection (1)(b) does not apply with respect to anything done without the public officer’s knowledge or consent if the public officer took reasonable steps to prevent it.

**25. Reporting improper orders**

If a public officer considers that anything required of him is a contravention of the Code of Conduct and Ethics or is otherwise improper or unethical, he shall report the matter to an appropriate authority.

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## **POWERS AND PRIVILEGES COMMITTEE PROCEDURES FOR THE ADMINISTRATION OF PART IV OF THE ACT, 2003**

[L.N. 133/2003.]

### **1. Citation**

These procedures may be cited as the Powers and Privileges Committee Procedures for the Administration of Part IV of the Act.

### **2. Interpretation**

In these procedures, unless the context otherwise requires—

**"administration officer"**, in relation to a public officer for whom the Committee is the responsible Commission under the Act, means the person prescribed by section 4(2) or (3) in relation to that public officer;

**"Committee"** means the Powers and Privileges Committee of the National Assembly.

### **3. Scope of procedures**

These procedures are for the administration of Part IV of the Act with respect to the public officers for whom the Committee is the responsible Commission under the Act.

### **4. Administration officer**

(1) The administration officer shall be responsible for the administration of Part IV of the Act by the Committee.

(2) In relation to staff of the parliamentary service, the administration officer is the Clerk of the National Assembly.

(3) In relation to any other public officer for whom the Committee is the responsible Commission under the Act, the administration officer is the Speaker of the National Assembly.

### **5. To whom declarations submitted**

Declarations to be submitted under Part IV of the Act shall be submitted to the administration officer.

### **6. Who may make requests for clarifications**

Requests for clarifications under section 28 of the Act shall be made, on behalf of the Committee, by the administration officer or by staff of the parliamentary service authorised in writing by him for that purpose.

### **7. Review of declarations, etc.**

(1) The administration officer, or staff of the parliamentary service authorized by him for the purpose, shall review each declaration to ascertain if, in the opinion of the administration officer or staff, any of the following conditions are satisfied—

- (a) on the face of the declaration, or in light of any other information the Committee may have, there is reason to suspect the declaration may be false or incomplete;
- (b) the assets of the person who submitted the declaration are disproportionate to his income; or
- (c) the income, assets or liabilities of the person who submitted the declaration raise concerns of impropriety or conflict of interest.

(2) If it is ascertained that any of the conditions in subparagraph (1) are satisfied, the person who submitted the declaration shall be given an opportunity to give an explanation.

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[Subsidiary]

(3) If, after considering any explanation the person who submitted the declaration may give, the administration officer is of the opinion that any of the conditions in subparagraph (1) are still satisfied, the administration officer shall bring the matter to the attention of the Committee.

(4) The Committee may, with respect to a matter brought to its attention under paragraph (3), take such action as it considers appropriate including, without limiting the generality of the foregoing, notifying the Kenya Anti-Corruption Commission and giving the Kenya Anti-Corruption Commission particulars of the condition that is satisfied and a copy of the declaration.

#### **8. Authorization of staff under section 30(4)(a)**

(1) The Committee or the administration officer may authorize staff of the parliamentary service for the purposes of section 30(4)(a) of the Act.

(2) An authorisation under paragraph (1) shall be in writing.

#### **9. Condition for certain disclosures to police, etc.**

Except as provided under paragraph 7(4) information shall not be disclosed, under section 30(4)(b) of the Act, to the police or any other law enforcement agency unless a written request is provided.

#### **10. Condition for disclosures to representatives**

Information shall not be disclosed, under section 30(4)(d) of the Act, to a representative of the person who provided the information unless the representative provides copies of documents that establish the representative's authority to receive the information.

#### **11. Administration officer to report non-compliance**

The administration officer shall ensure that failures by public officers to comply with the requirements of Part IV of the Act are brought to the attention of the Committee.

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**CONTROLLER AND AUDITOR-GENERAL CODE OF CONDUCT AND ETHICS, 2003**

## ARRANGEMENT OF CODE

## PREAMBLE

## PART I – PRELIMINARY

*Code*

1. Citation.
2. Interpretation.
3. Application of Code.

## PART II – REQUIREMENTS

4. Compliance with General Code.
5. Prohibition against standing for election.
6. Independence, integrity and impartiality.
7. Social and recreational activities.
8. Non-discrimination.
9. Civil and charitable activities.
10. Private interests.
11. Gifts, etc.
12. Professionalism and courtesy.
13. Private agencies.
14. Public statements and communication with the press.
15. Breach of Code.

## APPENDIX —

PART III – GENERAL CODE OF CONDUCT  
AND ETHICS

**CONTROLLER AND AUDITOR-GENERAL  
CODE OF CONDUCT AND ETHICS, 2003**

[L.N. 134/2003.]

**PREAMBLE**

This Code is intended to establish standards of ethical conduct for the Controller and Auditor-General.

The duties of the Controller and Auditor-General as set out in the Constitution of Kenya are to audit the accounts of the Government of Kenya and the accounts of all its other bodies and Commissions and to report the results of that audit to Parliament. In essence, the Controller and Auditor-General is required to satisfy himself that money appropriated by Parliament is applied to the purposes for which it was appropriated. To enable him do this, the Constitution gives the Controller and Auditor-General right of access to records which he considers relevant to the performance of his work and also provides him with independence in the exercise of his functions.

It is an accepted norm in nearly all countries that an effective audit office goes a long way to encourage good governance and accountability of national resources. The very existence of an effective audit office can be a deterrent to those who might be tempted to misuse, misappropriate or use the public resources extravagantly. The office is the Parliament's watchdog on matters relating to public finance and other public resources.

**PART I - PRELIMINARY****1. Citation**

This Code may be cited as the Controller and Auditor-General Code of Conduct and Ethics.

**2. Interpretation**

In this Code, unless the context otherwise requires—

**"Controller and Auditor-General"** means the person holding office as such under section 105 of the Constitution;

**"family"**, in relation to the Controller and Auditor-General, includes his spouse, child, grandchild, parent, grandparent or other relative or person with whom he maintains a close family relationship;

**"the Act"** means the Public Officers Ethics Act, 2003 (No. 4 of 2003).

**3. Application of Code**

This Code applies with respect to the Controller and Auditor-General.

**PART II – REQUIREMENT****4. Compliance with General Code**

(1) The Controller and Auditor General shall comply with all the requirements of the General Code of Conduct and Ethics set out in Part III of the Act.

(2) The General Code of Conduct and Ethics set out in Part III of the Act is set out in the Appendix to this Code and shall form part of this Code.

**5. Prohibition against standing for election**

The Controller and Auditor General shall not stand for election as a member of the National Assembly or a local authority or hold a political office.

**6. Independence, integrity and impartiality**

(1) The Controller and Auditor-General shall be true to his oath of office and shall, in exercising the powers of his office, be seen to be free from external influence.

(2) The Controller and Auditor General is entitled to his own views on political matters but shall not be permitted to express those view publicly.

## 7. Social and recreational activities

The Controller and Auditor-General may engage in arts, sports and other social and recreational activities if such activities do not adversely affect the dignity of his office or interfere with the performance of his public duties.

## 8. Non-discrimination

The Controller and Auditor-General shall treat all Kenyans with equal respect and shall not discriminate against anyone on the basis of clan, tribe, race, colour, religion, sex, age, gender or disability nor hold any office in an organisation where discrimination is practised.

## 9. Civil and charitable activities

(1) While the Controller and Auditor General should not be isolated from the society of which he is a part, he is expected to remain within dignified limits, and above all, he should regulate his extra-official activities to minimise the risk of conflict with his official duties.

(2) The Controller and Auditor-General shall live within his means and avoid incurring any financial liability that he cannot satisfy.

(3) The Controller and Auditor-General may contribute towards or attend a harambee but should not play a central role in its organization or preside over the same.

(4) The Controller and Auditor-General shall not use his office to solicit for funds for a harambee or any other purpose.

## 10. Private interests

The Controller and Auditor-General is required to observe the following requirements in relation to his private interests—

- (a) he shall ensure that he does not subordinate his official duties to his private interests or put himself in a position where there is conflict between his officials duties and his private interests;
- (b) he shall not associate outside his official duties with any financial or other activities in circumstances where there could be suspicion that his official position or official information available to him was being turned to his private gain or that of his associates;
- (c) he shall not to engage in any occupation or business which might prejudice his status as the Controller and Auditor-General or bring his office into dispute;
- (d) he shall maintain at all times the ethical standards which the public expects of him in transacting official business with efficiency, integrity and impartiality.

## 11. Gifts, etc.

(1) The Controller and Auditor-General shall neither ask for or accept any property or benefit of any kind for himself or for any person, on account of anything to be done, or omitted to be done by him in the discharge of his duties by virtue of his official position.

(2) The Controller and Auditor-General or members of his family shall not solicit or accept any gifts, gratuity, hospitality, free passages or favours from any person or any body corporate or unincorporate that might reasonably be thought to influence, or intended to influence, him in the performance of his duties.

(3) Where a gift or donation of the nature specified in subparagraph (2) is given without the knowledge of the Controller and Auditor-General or where it would be offensive to custom or good public relations to refuse the gift, the Controller and Auditor- General shall report the matter to the speaker of the National Assembly, who shall direct the appropriate mode of disposal of any such gift or donation, and the Controller and Auditor-General shall comply with such direction forthwith.

[Subsidiary]

(4) When presents are exchanged between the Controller and Auditor-General acting on behalf of the Government in ceremonial intercourse with other Governments or their representatives, the presents received will be handed over to the Speaker of the National Assembly, who shall direct the appropriate mode of disposal and any reciprocal presents will be given at the expense of the Government.

## 12. Professionalism and courtesy

(1) The Controller and Auditor-General shall ensure that his official and private conduct upholds, at all times, the dignity and integrity of his office by conducting himself, both officially and in private, in a dignified, honest and impeccable manner.

(2) The Controller and Auditor-General shall, at all times, be disciplined whether or not on official duty and shall in particular—

- (a) maintain a standard of dress and personal hygiene befitting the dignity and image of that office;
- (b) observe official working hours, be punctual and meet deadlines;
- (c) not be absent from duty without proper authorization or reasonable cause;
- (d) perform his duties in an efficient and competent manner;
- (e) exercise diligence, care and attention and seek to achieve high standards of professionalism in the delivery of services;
- (f) practice and promote adherence to meritocratic principles and practices in appointments to the Public Service, for which the guiding criteria shall be qualifications, merit, competence and experience; and
- (g) seek to contribute and enhance the standards of performance and level of professionalism in the Public Service.

(3) The Controller and Auditor-General shall actively and personally promote a culture in the Public Service that aims at providing fast, friendly, responsive and efficient service, and shall be courteous to all persons in the performance of his duties.

## 13. Private agencies

The Controller and Auditor-General shall not undertake any private agency in any matter connected with the exercise of his public duties.

## 14. Public statements and communication with the press

The Controller and Auditor-General—

- (a) shall not publish in any manner anything which may be reasonably regarded as of a political nature whether under his own name, by pseudonym or anonymously;
- (b) shall not allow himself to be interviewed on questions of public policy affecting Kenya or any other country; and
- (c) shall avoid situations where lack of discretion on his part is likely to embarrass the Government.

## 15. Breach of Code

Where the Controller and Auditor-General has committed a breach of this Code, appropriate action will be taken by the Powers and Privileges Committee of the National Assembly in accordance with the provisions of the Public Officer Ethics Act, 2003 (No. 4 of 2003), the Constitution of the Republic and other laws.

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## APPENDIX

[Rule 4(2).]

## PART III – GENERAL CODE OF CONDUCT AND ETHICS

**7. Part sets out general code**

This Part sets out a general Code of Conduct and Ethics for public officers.

**8. Performance of duties, general**

A public officer shall, to the best of his ability, carry out his duties and ensure that the services that he provides are provided efficiently and honestly.

**9. Professionalism**

A public officer shall—

- (a) carry out his duties in a way that maintains public confidence in the integrity of his office;
- (b) treat the public and his fellow public officers with courtesy and respect;
- (c) to the extent appropriate to his office, seek to improve the standards of performance and level of professionalism in his organisation;
- (d) if a member of a professional body, observe the ethical and professional requirements of that body;
- (e) observe official working hours and not be absent without proper authorisation or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

**10. Rule of law**

- (1) A public officer shall carry out his duties in accordance with the law.
- (2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

**11. No improper enrichment**

- (1) A public officer shall not use his office to improperly enrich himself or others.
- (2) Without limiting the generality of subsection (1), a public officer shall not—
  - (a) except as allowed under subsection (3) or (4), accept or request gifts or favours from a person who—
    - (i) has an interest that may be affected by the carrying out, or not carrying out, of the public officer's duties;
    - (ii) carries on regulated activities with respect to which the public officer's organisation has a role; or
    - (iii) has a contractual or similar relationship with the public officer's organisation;
  - (b) improperly use his office to acquire land or other property for himself or another person, whether or not the land or property is paid for; or
  - (c) for the personal benefit of himself or another, use or allow the use of information that is acquired in connection with the public officer's duties and that is not public.
- (3) A public officer may accept a gift given to him in his official capacity but, unless the gift is a non-monetary gift that does not exceed the value prescribed by regulation, such a gift shall be deemed to be a gift to the public officer's organisation.

[Subsidiary]

(4) Subsection (2)(a) does not prevent a public officer from accepting a gift from a relative or friend given on a special occasion recognized by custom.

(5) Subsection (2)(c) does not apply to the use of information for educational or literary purposes, research purposes or other similar purposes.

## 12. Conflict of interest

(1) A public officer shall use his best efforts to avoid being in a position in which his personal interests conflict with his official duties.

(2) Without limiting the generality of subsection (1), a public officer shall not hold shares or have any other interest in a corporation, partnership or other body, directly or through another person, if holding those shares or having that interest would result in the public officer's personal interests conflicting with his official duties.

(3) A public officer whose personal interests conflict with his official duties shall—

- (a) declare the personal interests to his superior or other appropriate body and comply with any directions to avoid the conflict; and
- (b) refrain from participating in any deliberations with respect to the matter.

(4) Notwithstanding any directions to the contrary under subsection (3)(a), a public officer shall not award a contract, or influence the award of a contract, to—

- (a) himself;
- (b) a spouse or relative;
- (c) a business associate; or
- (d) a corporation, partnership or other body in which the officer has an interest.

(5) The regulations may govern when the personal interests of a public officer conflict with his official duties for the purposes of this section.

(6) In this section, “**personal interest**” includes the interest of a spouse, relative or business associate.

## 13. Collections and harambees

(1) A public officer shall not—

- (a) use his office or place of work as a venue for soliciting or collecting harambees; or
- (b) either as a collector or promoter of a public collection, obtain money or other property from a person by using his official position in any way to exert pressure.

(2) In this section, “**collection**”, “**collector**” and “**promoter**” have the same meanings as in section 2 of the Public Collections Act (Cap. 106).

## 14. Acting for foreigners

(1) No public officer shall, in a manner that may be detrimental to the security interests of Kenya, be an agent for, or further the interests of, a foreign government, organisation or individual.

(2) For the purposes of this section—

- (a) an individual is foreign if the individual is not a citizen of Kenya;
- (b) an organisation is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organisation or individuals.

**15. Care of property**

(1) A public officer shall take all reasonable steps to ensure that property that is entrusted to his care is adequately protected and not misused or misappropriated.

(2) A person who contravenes subsection (1) shall be personally liable for losses resulting from the contravention.

**16. Political neutrality**

(1) A public officer shall not, in or in connection with the performance of his duties as such—

- (a) act as an agent for, or so as to further the interest of, a political party; or
- (b) indicate support for or opposition to any political party or candidate in an election.

(2) A public officer shall not engage in political activity that may compromise or be seen to compromise the political neutrality of his office.

(3) This section does not apply to a member of the National Assembly or a councillor of a local authority.

**17. Nepotism, etc.**

A public officer shall not practice nepotism or favouritism.

**18. Giving of advice**

A public officer who has a duty to give advice shall give honest and impartial advice without fear or favour.

**19. Misleading the public, etc.**

A public officer shall not knowingly give false or misleading information to members of the public or to any other public officer.

**20. Conduct of private affairs**

(1) A public officer shall conduct his private affairs in a way that maintains public confidence in the integrity of his office.

(2) A public officer shall not evade taxes.

(3) A public officer shall not neglect his financial obligations or neglect to settle them.

**21. Sexual harassment**

(1) A public officer shall not sexually harass a member of the public or a fellow public officer.

(2) In subsection (1), “**sexually harass**” includes doing any of the following, if the person doing it knows or ought to know that it is unwelcome—

- (a) making a request or exerting pressure for sexual activity or favours;
- (b) making intentional or careless physical contact that is sexual in nature; and
- (c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.

**22. Selection, etc. of public officers**

A public officer shall practice and promote the principle that public officers should be—

- (a) selected on the basis of integrity, competence and suitability; or
- (b) elected in fair elections.

**23. Submitting of declarations, etc.**

A public officer shall submit any declaration or clarification required under Part IV to be submitted or made by him.

**24. Acting through others**

- (1) A public officer contravenes the Code of Conduct and Ethics if—
  - (a) he causes anything to be done through another person that would, if the public officer did it, be a contravention of the Code of Conduct and Ethics; or
  - (b) he allows or directs a person under his supervision or control to do anything that is a contravention of the Code of Conduct and Ethics.
- (2) Subsection (1)(b) does not apply with respect to anything done without the public officer's knowledge or consent if the public officer took reasonable steps to prevent it.

**25. Reporting improper orders**

If a public officer considers that anything required of him is a contravention of the Code of Conduct and Ethics or is otherwise improper or unethical, he shall report the matter to an appropriate authority.

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**TEACHERS SERVICE COMMISSIONERS' CODE OF CONDUCT AND ETHICS, 2003**

## ARRANGEMENT OF CODE

## PREAMBLE

## PART I – PRELIMINARY

*Code*

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## PART II – REQUIREMENTS

4. Compliance with General Code.
5. Prohibition against standing for election.
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7. Social and recreational activities.
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13. Private agencies.
14. Public statements and communication with the press.
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16. Breach of Code.

## APPENDIX —

PART III – GENERAL CODE OF CONDUCT  
AND ETHICS

**TEACHERS SERVICE COMMISSIONERS'  
CODE OF CONDUCT AND ETHICS, 2003**

[L.N. 135/2003.]

**PREAMBLE**

This code is intended to establish standards of ethical conduct for the Teachers Service Commissioners.

This Code contains rules of conduct and ethics to be observed by Commissioners so as to maintain the honour and discipline of the Commission, its integrity and impartiality, and the highest standards of the Service. Teachers look to the Commission as a custodian of meritocracy in the Teachers Service and in furtherance of this the Commissioners, both collectively and individually, must strive to enhance public trust in the Service.

**PART I - PRELIMINARY****1. Citation**

This Code may be cited as the Teachers Service Commissioners' Code of Conduct and Ethics.

**2. Interpretation**

In this Code, unless the context otherwise requires—

**"Commission"** means the Teachers Service Commission established by the Teachers Service Commission Act (Cap. 212);

**"Commissioner"** means a person holding office as a member of the Commission;

**"family"**, in relation to a Commissioner, includes his spouse, child, grandchild, parent, grandparent or other relative or person with whom he maintains a close family relationship;

**"the Act"** means the Public Officers Ethics Act, 2003 (No. 4 of 2003).

**3. Application of Code**

This Code applies with respect to the Commissioners.

**PART II – REQUIREMENT****4. Compliance with General Code**

(1) A Commissioner shall comply with all the requirements of the General Code of Conduct and Ethics set out in Part III of the Act.

(2) The General Code of Conduct and Ethics set out in Part III of the Act is set out in the Appendix to this Code and shall form part of this Code.

**5. Prohibition against standing for election**

A Commissioner shall not stand for election as a member of the National Assembly or a local authority or hold a political office.

**6. Independence, integrity and impartiality**

(1) A Commissioner shall be true to his oath of office.

(2) A Commissioner is entitled to his own views on political matters but shall not be permitted to express those view publicly.

**7. Social and recreational activities**

A Commissioner may engage in arts, sports and other social and recreational activities if such activities do not adversely affect the dignity of his office or interfere with the performance of his public duties.

## **8. Non-discrimination**

A Commissioner shall treat all Kenyans with equal respect and shall not discriminate against anyone on the basis of clan, tribe, race, colour, religion, sex, age, gender or disability nor hold any office in an organisation where discrimination is practised.

## **9. Civil and charitable activities**

(1) While a Commissioner should not be isolated from the society of which he is a part, he is expected to remain within dignified limits, and above all, he should regulate his extra-official activities to minimise the risk of conflict with his official duties.

(2) A Commissioner shall live within his means and avoid incurring any financial liability that he cannot satisfy.

(3) A Commissioner may contribute towards or attend a harambee but should not play a central role in its organization or preside over the same.

(4) A Commissioner shall not use his office to solicit for funds for a harambee or any other purpose.

## **10. Private interests**

A Commissioner is required to observe the following requirements in relation to his private interests—

- (a) he shall ensure that he does not subordinate his official duties to his private interests or put himself in a position where there is conflict between his official duties and his private interests;
- (b) he shall not associate outside his official duties with any financial or other activities in circumstances where there could be suspicion that his official position or official information available to him was being turned to his private gain or that of his associates;
- (c) he shall not engage in any occupation or business which might prejudice his status as a Commissioner or bring his office into dispute;
- (d) he shall maintain at all times the ethical standards which the public expects of him in transacting official business with efficiency, integrity and impartiality.

## **11. Gifts, etc.**

(1) A Commissioner shall neither ask for or accept any property or benefit of any kind for himself or for any person, on account of anything to be done, or omitted to be done by him in the discharge of his duties by virtue of his official position.

(2) A Commissioner or members of his family shall not solicit or accept any gifts, gratuity, hospitality, free passages or favours from any person or any body corporate or unincorporate that might reasonably be thought to influence, or intended to influence, him in the performance of his duties.

(3) Where a gift or donation of the nature specified in subparagraph (2) is given without the knowledge of the Commissioner or where it would be offensive to custom or good public relations to refuse the gift, the Commissioner shall report the matter to the Chairman, who shall direct the appropriate mode of disposal of any such gift or donation, and the Commissioner shall comply with such direction forthwith.

(4) Where the Commissioner to whom a gift is given is the Chairman, subparagraph (3) shall operate as though a reference therein to the Chairman were a reference to the Speaker of the National Assembly.

(5) When presents are exchanged between a Commissioner acting on behalf of the Government in ceremonial intercourse with other Governments or their representatives, the presents received will be handed over to the Chairman, who shall direct the appropriate mode of disposal and any reciprocal presents will be given at the expense of the Commission.

**12. Professionalism and courtesy**

(1) A Commissioner shall ensure that his official and private conduct upholds, at all times, the dignity and integrity of his office by conducting himself, both officially and in private, in a dignified, honest and impeccable manner.

(2) A Commissioner shall, at all times, be disciplined whether or not on official duty and shall in particular—

- (a) maintain a standard of dress and personal hygiene befitting the dignity and image of that office;
- (b) observe official working hours, be punctual and meet deadlines;
- (c) not be absent from duty without proper authorisation or reasonable cause;
- (d) perform his duties in an efficient and competent manner;
- (e) exercise diligence, care and attention and seek to achieve high standards of professionalism in the delivery of services;
- (f) practice and promote adherence to meritocratic principles and practices in appointments to the Teachers Service, for which the guiding criteria shall be qualifications, merit, competence and experience; and
- (g) seek to contribute and enhance the standards of performance and level of professionalism in the Teachers Service.

(3) A Commissioner shall actively and personally promote a culture in the Teachers Service that aims at providing fast, friendly, responsive and efficient service, and shall be courteous to all persons in the performance of his duties.

**13. Private agencies**

A Commissioner shall not undertake any private agency in any matter connected with the exercise of his public duties.

**14. Public statements and communication with the press**

(1) A Commissioner shall not, without the express permission of the Chairman of the Commission—

- (a) act as editor of any newspaper or take part directly or indirectly in the management thereof;
- (b) publish in any manner anything which may be reasonably regarded as of a political nature whether under his own name, by pseudonym or anonymously; or
- (c) allow himself to be interviewed on questions of public policy affecting Kenya or any other country.

(2) A Commissioner shall avoid situations where lack of discretion on his part is likely to embarrass the Government or the Teachers Service.

**15. Absence from Kenya**

A Commissioner who wishes to travel outside Kenya shall obtain the prior permission of the Chairman in writing, which permission shall not be unreasonably denied.

**16. Breach of Code**

(1) It shall be the responsibility of every Commissioner to report to the Chairman any violation of this Code.

(2) The Chairman shall investigate the same and report the action he takes, including any reference to the responsible Commission, to a meeting of the Commission:

Provided that any complaint against the Chairman shall be made to the responsible Commission.

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## APPENDIX

[Rule 4(2).]

## PART III – GENERAL CODE OF CONDUCT AND ETHICS

**7. Part sets out general code**

This Part sets out a general Code of Conduct and Ethics for public officers.

**8. Performance of duties, general**

A public officer shall, to the best of his ability, carry out his duties and ensure that the services that he provides are provided efficiently and honestly.

**9. Professionalism**

A public officer shall—

- (a) carry out his duties in a way that maintains public confidence in the integrity of his office;
- (b) treat the public and his fellow public officers with courtesy and respect;
- (c) to the extent appropriate to his office, seek to improve the standards of performance and level of professionalism in his organisation;
- (d) if a member of a professional body, observe the ethical and professional requirements of that body;
- (e) observe official working hours and not be absent without proper authorisation or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

**10. Rule of law**

(1) A public officer shall carry out his duties in accordance with the law.

(2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

**11. No improper enrichment**

(1) A public officer shall not use his office to improperly enrich himself or others.

(2) Without limiting the generality of subsection (1), a public officer shall not—

- (a) except as allowed under subsection (3) or (4), accept or request gifts or favours from a person who—
  - (i) has an interest that may be affected by the carrying out, or not carrying out, of the public officer's duties;
  - (ii) carries on regulated activities with respect to which the public officer's organisation has a role; or
  - (iii) has a contractual or similar relationship with the public officer's organisation;
- (b) improperly use his office to acquire land or other property for himself or another person, whether or not the land or property is paid for; or
- (c) for the personal benefit of himself or another, use or allow the use of information that is acquired in connection with the public officer's duties and that is not public.

(3) A public officer may accept a gift given to him in his official capacity but, unless the gift is a non-monetary gift that does not exceed the value prescribed by regulation, such a gift shall be deemed to be a gift to the public officer's organisation.

[Subsidiary]

(4) Subsection (2)(a) does not prevent a public officer from accepting a gift from a relative or friend given on a special occasion recognized by custom.

(5) Subsection (2)(c) does not apply to the use of information for educational or literary purposes, research purposes or other similar purposes.

## 12. Conflict of interest

(1) A public officer shall use his best efforts to avoid being in a position in which his personal interests conflict with his official duties.

(2) Without limiting the generality of subsection (1), a public officer shall not hold shares or have any other interest in a corporation, partnership or other body, directly or through another person, if holding those shares or having that interest would result in the public officer's personal interests conflicting with his official duties.

(3) A public officer whose personal interests conflict with his official duties shall—

- (a) declare the personal interests to his superior or other appropriate body and comply with any directions to avoid the conflict; and
- (b) refrain from participating in any deliberations with respect to the matter.

(4) Notwithstanding any directions to the contrary under subsection (3)(a), a public officer shall not award a contract, or influence the award of a contract, to—

- (a) himself;
- (b) a spouse or relative;
- (c) a business associate; or
- (d) a corporation, partnership or other body in which the officer has an interest.

(5) The regulations may govern when the personal interests of a public officer conflict with his official duties for the purposes of this section.

(6) In this section, “**personal interest**” includes the interest of a spouse, relative or business associate.

## 13. Collections and harambees

(1) A public officer shall not—

- (a) use his office or place of work as a venue for soliciting or collecting harambees; or
- (b) either as a collector or promoter of a public collection, obtain money or other property from a person by using his official position in any way to exert pressure.

(2) In this section, “**collection**”, “**collector**” and “**promoter**” have the same meanings as in section 2 of the Public Collections Act (Cap. 106).

## 14. Acting for foreigners

(1) No public officer shall, in a manner that may be detrimental to the security interests of Kenya, be an agent for, or further the interests of, a foreign government, organisation or individual.

(2) For the purposes of this section—

- (a) an individual is foreign if the individual is not a citizen of Kenya;
- (b) an organisation is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organisation or individuals.

## **15. Care of property**

(1) A public officer shall take all reasonable steps to ensure that property that is entrusted to his care is adequately protected and not misused or misappropriated.

(2) A person who contravenes subsection (1) shall be personally liable for losses resulting from the contravention.

## **16. Political neutrality**

(1) A public officer shall not, in or in connection with the performance of his duties as such—

- (a) act as an agent for, or so as to further the interest of, a political party; or
- (b) indicate support for or opposition to any political party or candidate in an election.

(2) A public officer shall not engage in political activity that may compromise or be seen to compromise the political neutrality of his office.

(3) This section does not apply to a member of the National Assembly or a councillor of a local authority.

## **17. Nepotism, etc.**

A public officer shall not practice nepotism or favouritism.

## **18. Giving of advice**

A public officer who has a duty to give advice shall give honest and impartial advice without fear or favour.

## **19. Misleading the public, etc.**

A public officer shall not knowingly give false or misleading information to members of the public or to any other public officer.

## **20. Conduct of private affairs**

(1) A public officer shall conduct his private affairs in a way that maintains public confidence in the integrity of his office.

(2) A public officer shall not evade taxes.

(3) A public officer shall not neglect his financial obligations or neglect to settle them.

## **21. Sexual harassment**

(1) A public officer shall not sexually harass a member of the public or a fellow public officer.

(2) In subsection (1), “**sexually harass**” includes doing any of the following, if the person doing it knows or ought to know that it is unwelcome—

- (a) making a request or exerting pressure for sexual activity or favours;
- (b) making intentional or careless physical contact that is sexual in nature; and
- (c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.

## **22. Selection, etc. of public officers**

A public officer shall practice and promote the principle that public officers should be—

- (a) selected on the basis of integrity, competence and suitability; or
- (b) elected in fair elections.

**23. Submitting of declarations, etc.**

A public officer shall submit any declaration or clarification required under Part IV to be submitted or made by him.

**24. Acting through others**

- (1) A public officer contravenes the Code of Conduct and Ethics if—
- (a) he causes anything to be done through another person that would, if the public officer did it, be a contravention of the Code of Conduct and Ethics; or
  - (b) he allows or directs a person under his supervision or control to do anything that is a contravention of the Code of Conduct and Ethics.
- (2) Subsection (1)(b) does not apply with respect to anything done without the public officer's knowledge or consent if the public officer took reasonable steps to prevent it.

**25. Reporting improper orders**

If a public officer considers that anything required of him is a contravention of the Code of Conduct and Ethics or is otherwise improper or unethical, he shall report the matter to an appropriate authority.

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## TEACHERS SERVICE COMMISSION PROCEDURES FOR THE ADMINISTRATION OF PART IV OF THE ACT, 2003

[L.N. 136/2003.]

### **1. Citation**

These procedures may be cited as the Teachers Service Commission Procedures for the Administration of Part IV of the Act.

### **2. Interpretation**

In these procedures, unless the context otherwise requires—

“**administration officer**” means the Secretary of the Commission;

“**Commission**” means the Teachers Service Commission.

### **3. Scope of procedures**

These procedures are for the administration of Part IV of the Act with respect to the public officers for whom the Commission is the responsible Commission under the Act.

### **4. Administration officer**

The administration officer shall be responsible for the administration of Part IV of the Act by the Commission.

### **5. To whom declarations submitted**

(1) Declarations to be submitted to the Commission under Part IV of the Act shall be submitted to the administration officer.

(2) Declarations shall be submitted in sealed envelops and shall be submitted to the administration officer through agents of the Commission as directed by the administration officer.

### **6. Who may make requests for clarifications**

Requests for clarifications under section 28 of the Act shall be made, on behalf of the Commission, by the administration officer or by staff of the Commission authorised in writing by him for that purpose.

### **7. Review of declarations, etc.**

(1) The administration officer, or staff of the Commission authorized by him for the purpose, shall review each declaration to ascertain if, in the opinion of the administration officer or staff, any of the following conditions are satisfied—

- (a) on the face of the declaration, or in light of any other information the Commission may have, there is reason to suspect the declaration may be false or incomplete;
- (b) the assets of the person who submitted the declaration are disproportionate to his income; or
- (c) the income, assets or liabilities of the person who submitted the declaration raise concerns of impropriety or conflict of interest.

(2) If it is ascertained that any of the conditions in subparagraph (1) are satisfied, the person who submitted the declaration shall be given an opportunity to give an explanation.

(3) If, after considering any explanation the person who submitted the declaration may give, the administration officer is of the opinion that any of the conditions in subparagraph (1) are still satisfied, the administration officer shall bring the matter to the attention of the Commission.

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[Subsidiary]

(4) The Commission may, with respect to a matter brought to its attention under subparagraph (3), take such action as it considers appropriate including, without limiting the generality of the foregoing, notifying the Kenya Anti-Corruption Commission and giving the Kenya Anti-Corruption Commission particulars of the condition that is satisfied and a copy of the declaration.

**8. Authorization of staff under section 30(4)(a)**

(1) The Commission or the administration officer may authorize staff of the Commission for the purposes of section 30(4)(a) of the Act.

(2) An authorization under paragraph (1) shall be in writing.

**9. Condition for certain disclosures to police, etc.**

Except as provided under paragraph 7(4) information shall not be disclosed, under section 30(4)(b) of the Act, to the police or any other law enforcement agency unless a written request is provided.

**10. Condition for disclosures to representatives**

Information shall not be disclosed, under section 30(4)(d) of the Act, to a representative of the person who provided the information unless the representative provides copies of documents that establish the representative's authority to receive the information.

**11. Administration officer to report non-compliance**

The administration officer shall ensure that failures by public officers to comply with the requirements of Part IV of the Act are brought to the attention of the Commission.

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**TEACHERS SERVICE COMMISSION CODE OF CONDUCT AND ETHICS, 2003**

## ARRANGEMENT OF CODE

## PREAMBLE

## PART I – PRELIMINARY

*Code*

1. Citation.
2. Interpretation.
3. Application of Code.

## PART II – REQUIREMENTS

4. Compliance with General Code.
5. Human rights, etc.
6. Professionalism.
7. Conduct of duties.
8. Evaluation of students.
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10. Pornography.
11. Illicit drugs.
12. Prohibition against standing for election.
13. Canvassing for favours in service.
14. Private affairs – outside activities.
15. Private teaching work.
16. Endorsing private activities.
17. Private affairs – financial dealings.
18. Dealing with donations.
19. Gifts.
20. Appropriate person to whom improper orders to be reported.
21. Reporting of charges against a public officer.
22. Breach of Code, reporting.
23. Breach of Code, action to be taken.

## APPENDIX —

PART III – GENERAL CODE OF CONDUCT  
AND ETHICS

**TEACHERS SERVICE COMMISSION  
CODE OF CONDUCT AND ETHICS, 2003**

[L.N. 137/2003.]

**PREAMBLE**

The Education System of the Republic of Kenya is charged with the responsibility of nurturing the growth of the whole person through integrated development of physical, intellectual, moral and spiritual attributes and abilities. The teacher is a key person in imparting knowledge, skills and attitudes that are necessary for the development of the country. The Teaching Service is a noble calling which demands sacrifice and selflessness.

The Code is intended to establish standards of ethical conduct and behaviour for teachers and for the officers and employees of the Teachers Service Commission.

This Code contains rules of conduct and ethics to be observed so as to maintain the integrity, dignity and nobility of the teaching profession. The Code does not in any way replace the Code of Regulations for Teachers or the laws and rules relating to the officers and employees of the Teachers Service Commission. Those laws and rules and all other applicable laws must be obeyed.

Teachers and officers and employees of the Teachers Service Commission should adhere to this Code so as not to bring ridicule and dishonour to the Commission and the teaching profession.

**PART I - PRELIMINARY**

**1. Citation**

This Code may be cited as the Teachers Service Commission Code of Conduct and Ethics.

**2. Interpretation**

In this Code, unless the context otherwise requires—

"public officer" means a public officer to whom this Code applies under rule 3;

"school" includes pre-primary and post-secondary institutions;

"student" includes students at pre-primary and post-secondary institutions.

**3. Application of Code**

(1) This Code applies with respect to—

- (a) public officers who are teachers registered under the Teachers Service Commission Act; and
- (b) officers and employees of the Teachers Service Commission.

(2) For greater certainty, the officers and employees referred to in paragraph (1)(b) do not include the members of the Teachers Service Commission.

**PART II – REQUIREMENTS**

**4. Compliance with General Code**

(1) A public officer shall comply with all the requirements of the General Code of Conduct and Ethics set out in Part III of the Act.

(2) The General Code of Conduct and Ethics set out in Part III of the Act is set out in the Appendix to this Code and shall form part of this Code.

**5. Human rights, etc.**

(1) In carrying out his duties, a public officer shall respect, protect and promote the human rights and freedoms of students without discrimination on the basis of race, tribe, political opinions, colour, creed, sex, disability, social status or culture.

(2) A public officer shall not be a member in an organisation that he knows promotes or practices discrimination on a basis set out in paragraph (1).

## 6. Professionalism

(1) A public officer who is in a profession shall maintain his professional competence.

(2) A public officer shall not convey, or allow others to convey, the impression that anyone is in a position to improperly influence him.

## 7. Conduct of duties

(1) A public officer shall be efficient and punctual and shall meet his deadlines.

(2) A public officer shall ensure that his official duties take precedence over his other activities.

(3) A public officer shall take reasonable steps to ensure that the activities he carries out or supervises are conducted in an orderly manner and with due decorum.

(4) A public officer shall be patient, dignified and courteous to students, colleagues and members of the public.

## 8. Evaluation of students

(1) A public officer who evaluates students shall do so honestly and only on the basis of their performance.

(2) A public officer shall use his best efforts to ensure that examinations are conducted fairly and without cheating.

## 9. Sexual relations with students

(1) A public officer shall not engage in any sexual activity with a student regardless of whether the student consents.

(2) A public officer shall not make a request to, or exert pressure on, a student for sexual activity or favours.

(3) A public officer shall not flirt with a student.

## 10. Pornography

(1) A public officer shall not supply pornography to a student, expose a student to pornography or assist a student in obtaining access to pornography.

(2) A public officer shall use his best efforts to ensure that any school he works in is free of pornography.

## 11. Illicit drugs

(1) A public officer shall not supply illicit drugs to a student, expose a student to illicit drugs or assist a student in obtaining access to illicit drugs.

(2) A public officer shall use his best efforts to ensure that any school he works in is free of illicit drugs.

## 12. Prohibition against standing for election

A public officer shall not stand for election as a member of the National Assembly or a local authority or hold a political office.

## 13. Canvassing for favours in service

A public officer shall not canvass or lobby, either directly or indirectly, for any favours in the Teaching Service or, if the public officer is an officer or employee of the Teachers Service Commission, for any favours relating to his employment with the Commission.

[Subsidiary]

**14. Private affairs – outside activities**

(1) While a public officer should not be isolated from the society of which he is a part, he shall ensure that his non-official activities do not interfere with his official duties or affect the dignity of his office and that the risk of conflict with his official duties is minimized.

(2) A public officer shall not engage in private business during official working hours.

**15. Private teaching work**

(1) A public officer shall not—

- (a) charge or accept any fee for tuition of a student, even if the tuition is given outside official working hours; or
- (b) establish or retain an interest in a private school or work at such a school.

(2) Paragraph (1)(a) does not apply with respect to tuition fees that are lawfully charged by a school.

**16. Endorsing private activities**

A public officer shall not use or lend the prestige of his office to sanction or endorse his own private activities or the private activities of any other person.

**17. Private affairs – financial dealings**

(1) A public officer shall live within his means and avoid incurring any financial liability that he cannot satisfy.

(2) A public officer who becomes bankrupt, becomes a judgment debtor or against whom proceedings are taken in bankruptcy shall forthwith report the matter to the Secretary of the Teachers Service Commission.

**18. Dealing with donations**

(1) A public officer shall, to the extent that he is involved in the receipt and administration of donations for school purposes, ensure that proper records are kept of the donations and that they are used for the purposes for which they were given.

(2) A public officer shall inform the Secretary of the Teachers Service Commission or another appropriate authority if the public officer has reasonable grounds for believing—

- (a) that proper records of any donations for school purposes have not been kept; or
- (b) that any donations for school purposes have not been used for the purposes for which they were given.

**19. Gifts**

(1) If a public officer is given a gift described in paragraph (2), then, even if the gift is not deemed, under section 11(3) of the General Code of Conduct and Ethics set out in the Appendix to this Code, to be a gift to the public officer's organisation—

- (a) the public officer shall report the matter to the Secretary of the Teachers Service Commission who shall direct the appropriate mode of disposal of the gift; and
- (b) the public officer shall comply with such direction.

(2) The gifts referred to in paragraph (1) are—

- (a) a gift from a person described in subparagraph (i), (ii) or (iii) of section 11(2) (a) of the General Code of Conduct and Ethics set out in the Appendix to this Code; or
- (b) a gift given to the public officer on a public or ceremonial occasion.

(3) A public officer shall not accept a gift, including a gift from his school, that is given as a reward for, or in recognition of, the performance of students unless the gift is a non-monetary gift whose value does not exceed 5,000 shillings.

(4) A gift that a public officer is otherwise allowed to accept from a relative or friend because it is given on a special occasion recognised by custom shall not be accepted by the public officer in a public office.

## **20. Appropriate person to whom improper orders to be reported**

For the purposes of section 25 of the General Code of Conduct and Ethics set out in the Appendix to this Code, the appropriate authority to whom a public officer shall report a matter under that section is the Secretary of the Teachers Service Commission.

## **21. Reporting of charges against a public officer**

(1) A public officer who is charged with an offence described in paragraph (3) shall forthwith report the matter to the Secretary of the Teachers Service Commission.

(2) A public officer who discovers that a public officer under his supervision has been charged with an offence described in paragraph (3) shall either ensure that the matter is reported under paragraph (1) or report the matter to the Secretary of the Teachers Service Commission directly.

(3) An offence referred to in paragraph (1) or (2) is an offence that may be punished by imprisonment, other than in default of payment of a fine.

## **22. Breach of Code, reporting**

A public officer shall inform the Secretary of the Teachers Service Commission or another appropriate authority if the public officer knows that another public officer has breached this Code unless the public officer reasonably believes that the breach has been or will otherwise be reported.

## **23. Breach of Code, action to be taken**

Where a public officer has committed a breach of this Code, appropriate action will be taken in accordance with the Act and other applicable laws.

## APPENDIX

[Rule 4(2).]

### PART III – GENERAL CODE OF CONDUCT AND ETHICS

#### **7. Part sets out general code**

This Part sets out a general Code of Conduct and Ethics for public officers.

#### **8. Performance of duties, general**

A public officer shall, to the best of his ability, carry out his duties and ensure that the services that he provides are provided efficiently and honestly.

#### **9. Professionalism**

A public officer shall—

- (a) carry out his duties in a way that maintains public confidence in the integrity of his office;
- (b) treat the public and his fellow public officers with courtesy and respect;
- (c) to the extent appropriate to his office, seek to improve the standards of performance and level of professionalism in his organisation;
- (d) if a member of a professional body, observe the ethical and professional requirements of that body;

[Subsidiary]

- (e) observe official working hours and not be absent without proper authorisation or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

## 10. Rule of law

- (1) A public officer shall carry out his duties in accordance with the law.
- (2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

## 11. No improper enrichment

- (1) A public officer shall not use his office to improperly enrich himself or others.
- (2) Without limiting the generality of subsection (1), a public officer shall not—
  - (a) except as allowed under subsection (3) or (4), accept or request gifts or favours from a person who—
    - (i) has an interest that may be affected by the carrying out, or not carrying out, of the public officer's duties;
    - (ii) carries on regulated activities with respect to which the public officer's organisation has a role; or
    - (iii) has a contractual or similar relationship with the public officer's organisation;
  - (b) improperly use his office to acquire land or other property for himself or another person, whether or not the land or property is paid for; or
  - (c) for the personal benefit of himself or another, use or allow the use of information that is acquired in connection with the public officer's duties and that is not public.
- (3) A public officer may accept a gift given to him in his official capacity but, unless the gift is a non-monetary gift that does not exceed the value prescribed by regulation, such a gift shall be deemed to be a gift to the public officer's organisation.
- (4) Subsection (2)(a) does not prevent a public officer from accepting a gift from a relative or friend given on a special occasion recognized by custom.
- (5) Subsection (2)(c) does not apply to the use of information for educational or literary purposes, research purposes or other similar purposes.

## 12. Conflict of interest

- (1) A public officer shall use his best efforts to avoid being in a position in which his personal interests conflict with his official duties.
- (2) Without limiting the generality of subsection (1), a public officer shall not hold shares or have any other interest in a corporation, partnership of other body, directly or through another person, if holding those shares or having that interest would result in the public officer's personal interests conflicting with his official duties.
- (3) A public officer whose personal interests conflict with his official duties shall—
  - (a) declare the personal interests to his superior or other appropriate body and comply with any directions to avoid the conflict; and
  - (b) refrain from participating in any deliberations with respect to the matter.
- (4) Notwithstanding any directions to the contrary under subsection (3)(a), a public officer shall not award a contract, or influence the award of a contract, to—
  - (a) himself;
  - (b) a spouse or relative;
  - (c) a business associate; or

(d) a corporation, partnership or other body in which the officer has an interest.

(5) The regulations may govern when the personal interests of a public officer conflict with his official duties for the purposes of this section.

(6) In this section, “**personal interest**” includes the interest of a spouse, relative or business associate.

### **13. Collections and harambees**

(1) A public officer shall not—

- (a) use his office or place of work as a venue for soliciting or collecting harambees; or
- (b) either as a collector or promoter of a public collection, obtain money or other property from a person by using his official position in any way to exert pressure.

(2) In this section, “**collection**”, “**collector**” and “**promoter**” have the same meanings as in section 2 of the Public Collections Act (Cap. 106).

### **14. Acting for foreigners**

(1) No public officer shall, in a manner that may be detrimental to the security interests of Kenya, be an agent for, or further the interests of, a foreign government, organisation or individual.

(2) For the purposes of this section—

- (a) an individual is foreign if the individual is not a citizen of Kenya;
- (b) an organisation is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organisation or individuals.

### **15. Care of property**

(1) A public officer shall take all reasonable steps to ensure that property that is entrusted to his care is adequately protected and not misused or misappropriated.

(2) A person who contravenes subsection (1) shall be personally liable for losses resulting from the contravention.

### **16. Political neutrality**

(1) A public officer shall not, in or in connection with the performance of his duties as such—

- (a) act as an agent for, or so as to further the interest of, a political party; or
- (b) indicate support for or opposition to any political party or candidate in an election.

(2) A public officer shall not engage in political activity that may compromise or be seen to compromise the political neutrality of his office.

(3) This section does not apply to a member of the National Assembly or a councillor of a local authority.

### **17. Nepotism, etc.**

A public officer shall not practice nepotism or favouritism.

### **18. Giving of advice**

A public officer who has a duty to give advice shall give honest and impartial advice without fear or favour.

### **19. Misleading the public, etc.**

A public officer shall not knowingly give false or misleading information to members of the public or to any other public officer.

[Subsidiary]

**20. Conduct of private affairs**

- (1) A public officer shall conduct his private affairs in a way that maintains public confidence in the integrity of his office.
- (2) A public officer shall not evade taxes.
- (3) A public officer shall not neglect his financial obligations or neglect to settle them.

**21. Sexual harassment**

- (1) A public officer shall not sexually harass a member of the public or a fellow public officer.
- (2) In subsection (1), “**sexually harass**” includes doing any of the following, if the person doing it knows or ought to know that it is unwelcome—
  - (a) making a request or exerting pressure for sexual activity or favours;
  - (b) making intentional or careless physical contact that is sexual in nature; and
  - (c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.

**22. Selection, etc. of public officers**

- A public officer shall practice and promote the principle that public officers should be—
- (a) selected on the basis of integrity, competence and suitability; or
  - (b) elected in fair elections.

**23. Submitting of declarations, etc.**

A public officer shall submit any declaration or clarification required under Part IV to be submitted or made by him.

**24. Acting through others**

- (1) A public officer contravenes the Code of Conduct and Ethics if—
  - (a) he causes anything to be done through another person that would, if the public officer did it, be a contravention of the Code of Conduct and Ethics; or
  - (b) he allows or directs a person under his supervision or control to do anything that is a contravention of the Code of Conduct and Ethics.
- (2) Subsection (1)(b) does not apply with respect to anything done without the public officer’s knowledge or consent if the public officer took reasonable steps to prevent it.

**25. Reporting improper orders**

If a public officer considers that anything required of him is a contravention of the Code of Conduct and Ethics or is otherwise improper or unethical, he shall report the matter to an appropriate authority.

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**CENTRAL BANK OF KENYA CODE OF CONDUCT AND ETHICS, 2003**

## ARRANGEMENT OF CODE

## PREAMBLE

## PART I – PRELIMINARY

*Code*

1. Citation.
2. Interpretation.
3. Application of Code

## PART II – REQUIREMENTS

4. Compliance with General Code.
5. Other rules of conduct.

## APPENDIX –

PART III – GENERAL CODE OF CONDUCT  
AND ETHICS

**CENTRAL BANK OF KENYA CODE OF CONDUCT AND ETHICS, 2003**

[L.N. 168/2003.]

**PREAMBLE**

This Code is intended to establish standards of ethical conduct and behaviour for teachers and for the officers and employees of the Central Bank of Kenya and of banks and financial institutions that are State Corporations, so as to maintain integrity and impartiality in the provision of services to members of the public.

The Code does not in any way replace the rules and regulations of the respective banks and institutions governing the discipline and general conduct of officers and employees. The officers and employees to whom the Code applies must obey those Rules and Regulations and all other applicable laws.

**PART I - PRELIMINARY****1. Citation**

This Code may be cited as the Central Bank of Kenya Code of Conduct and Ethics.

**2. Interpretation**

In this Code, unless the context otherwise requires—

“Commission” means the Board of Directors of the Central Bank of Kenya;

“public officer” means an officer or employee to whom this Code applies under paragraph 3 of this Code.

**3. Application of Code**

(1) This Code applies to officers and employees of—

- (a) the Central Bank of Kenya; and
- (b) banks and financial institutions licensed under the Banking Act (Cap. 488) that are state corporations.

(2) For the purposes of this paragraph “officers”—

- (a) includes the members of the Board, by whatever name called, carrying out or empowered to carry out functions relating to the overall direction and management of a bank or financial institution described in subparagraph 1(b), other than members who are members of the public service for whom the Public Service Commission is the responsible Commission under the Act; and
- (b) does not include members of the Board of Directors of the Central Bank of Kenya.

**PART II – REQUIREMENTS****4. Compliance with General Code**

(1) A public officer shall comply with all the requirements of the General Code of Conduct and Ethics set out in Part III of the Act.

(2) The General Code of Conduct and Ethics set out in Part III of the Act is set out in the Appendix to this Code and shall form part of this Code.

**5. Other rules of conduct**

Without prejudice to the generality of paragraph 4, a public officer shall—

- (a) be patriotic and loyal to Kenya and at all times conduct himself in a manner that promotes the image and interest of the country;
- (b) conduct himself with honesty and integrity and act with care and diligence;
- (c) use the resources of the nation conscientiously;

- (d) respect and observe the law of the land and co-operate with all lawful agencies in the maintenance of law and order;
  - (e) treat all persons with respect and courtesy;
  - (f) promote gender equality and respect for the rights and freedoms of others;
  - (g) preserve and protect the environment and national heritage;
  - (h) conduct himself in a manner that upholds the letter and spirit of the values and the integrity and good reputation of the banking industry;
  - (i) while on duty overseas, conduct himself in a manner that promotes the good image of Kenya; and
  - (j) comply with any other requirements of conduct prescribed by the Commission from time to time.
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## APPENDIX

[Rule 4(2).]

## PART III – GENERAL CODE OF CONDUCT AND ETHICS

**7. Part sets out general code**

This Part sets out a general Code of Conduct and Ethics for public officers.

**8. Performance of duties, general**

A public officer shall, to the best of his ability, carry out his duties and ensure that the services that he provides are provided efficiently and honestly.

**9. Professionalism**

A public officer shall—

- (a) carry out his duties in a way that maintains public confidence in the integrity of his office;
- (b) treat the public and his fellow public officers with courtesy and respect;
- (c) to the extent appropriate to his office, seek to improve the standards of performance and level of professionalism in his organisation;
- (d) if a member of a professional body, observe the ethical and professional requirements of that body;
- (e) observe official working hours and not be absent without proper authorisation or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

**10. Rule of law**

(1) A public officer shall carry out his duties in accordance with the law.

(2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

**11. No improper enrichment**

(1) A public officer shall not use his office to improperly enrich himself or others.

(2) Without limiting the generality of subsection (1), a public officer shall not—

- (a) except as allowed under subsection (3) or (4), accept or request gifts or favours from a person who—
  - (i) has an interest that may be affected by the carrying out, or not carrying out, of the public officer's duties;

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[Subsidiary]

- (ii) carries on regulated activities with respect to which the public officer's organisation has a role; or
  - (iii) has a contractual or similar relationship with the public officer's organisation;
  - (b) improperly use his office to acquire land or other property for himself or another person, whether or not the land or property is paid for; or
  - (c) for the personal benefit of himself or another, use or allow the use of information that is acquired in connection with the public officer's duties and that is not public.
- (3) A public officer may accept a gift given to him in his official capacity but, unless the gift is a non-monetary gift that does not exceed the value prescribed by regulation, such a gift shall be deemed to be a gift to the public officer's organisation.
- (4) Subsection (2)(a) does not prevent a public officer from accepting a gift from a relative or friend given on a special occasion recognized by custom.
- (5) Subsection (2)(c) does not apply to the use of information for educational or literary purposes, research purposes or other similar purposes.

## 12. Conflict of interest

- (1) A public officer shall use his best efforts to avoid being in a position in which his personal interests conflict with his official duties.
- (2) Without limiting the generality of subsection (1), a public officer shall not hold shares or have any other interest in a corporation, partnership or other body, directly or through another person, if holding those shares or having that interest would result in the public officer's personal interests conflicting with his official duties.
- (3) A public officer whose personal interests conflict with his official duties shall—
  - (a) declare the personal interests to his superior or other appropriate body and comply with any directions to avoid the conflict; and
  - (b) refrain from participating in any deliberations with respect to the matter.
- (4) Notwithstanding any directions to the contrary under subsection (3)(a), a public officer shall not award a contract, or influence the award of a contract, to—
  - (a) himself;
  - (b) a spouse or relative;
  - (c) a business associate; or
  - (d) a corporation, partnership or other body in which the officer has an interest.
- (5) The regulations may govern when the personal interests of a public officer conflict with his official duties for the purposes of this section.
- (6) In this section, “**personal interest**” includes the interest of a spouse, relative or business associate.

## 13. Collections and harambees

- (1) A public officer shall not—
  - (a) use his office or place of work as a venue for soliciting or collecting harambees; or
  - (b) either as a collector or promoter of a public collection, obtain money or other property from a person by using his official position in any way to exert pressure.
- (2) In this section, “**collection**”, “**collector**” and “**promoter**” have the same meanings as in section 2 of the Public Collections Act (Cap. 106).

**14. Acting for foreigners**

(1) No public officer shall, in a manner that may be detrimental to the security interests of Kenya, be an agent for, or further the interests of, a foreign government, organisation or individual.

(2) For the purposes of this section—

- (a) an individual is foreign if the individual is not a citizen of Kenya;
- (b) an organisation is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organisation or individuals.

**15. Care of property**

(1) A public officer shall take all reasonable steps to ensure that property that is entrusted to his care is adequately protected and not misused or misappropriated.

(2) A person who contravenes subsection (1) shall be personally liable for losses resulting from the contravention.

**16. Political neutrality**

(1) A public officer shall not, in or in connection with the performance of his duties as such—

- (a) act as an agent for, or so as to further the interest of, a political party; or
- (b) indicate support for or opposition to any political party or candidate in an election.

(2) A public officer shall not engage in political activity that may compromise or be seen to compromise the political neutrality of his office.

(3) This section does not apply to a member of the National Assembly or a councillor of a local authority.

**17. Nepotism, etc.**

A public officer shall not practice nepotism or favouritism.

**18. Giving of advice**

A public officer who has a duty to give advice shall give honest and impartial advice without fear or favour.

**19. Misleading the public, etc.**

A public officer shall not knowingly give false or misleading information to members of the public or to any other public officer.

**20. Conduct of private affairs**

(1) A public officer shall conduct his private affairs in a way that maintains public confidence in the integrity of his office.

(2) A public officer shall not evade taxes.

(3) A public officer shall not neglect his financial obligations or neglect to settle them.

**21. Sexual harassment**

(1) A public officer shall not sexually harass a member of the public or a fellow public officer.

(2) In subsection (1), “**sexually harass**” includes doing any of the following, if the person doing it knows or ought to know that it is unwelcome—

- (a) making a request or exerting pressure for sexual activity or favours;
- (b) making intentional or careless physical contact that is sexual in nature; and
- (c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.

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[Subsidiary]**22. Selection, etc. of public officers**

A public officer shall practice and promote the principle that public officers should be—

- (a) selected on the basis of integrity, competence and suitability; or
- (b) elected in fair elections.

**23. Submitting of declarations, etc.**

A public officer shall submit any declaration or clarification required under Part IV to be submitted or made by him.

**24. Acting through others**

(1) A public officer contravenes the Code of Conduct and Ethics if—

- (a) he causes anything to be done through another person that would, if the public officer did it, be a contravention of the Code of Conduct and Ethics; or
- (b) he allows or directs a person under his supervision or control to do anything that is a contravention of the Code of Conduct and Ethics.

(2) Subsection (1)(b) does not apply with respect to anything done without the public officer's knowledge or consent if the public officer took reasonable steps to prevent it.

**25. Reporting improper orders**

If a public officer considers that anything required of him is a contravention of the Code of Conduct and Ethics or is otherwise improper or unethical, he shall report the matter to an appropriate authority.

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## CENTRAL BANK OF KENYA PROCEDURES FOR THE ADMINISTRATION OF PART IV OF THE ACT, 2003

[L.N. 169/2003.]

### 1. Citation

These procedures may be cited as the Central Bank of Kenya Procedures for the Administration of Part IV of the Act.

### 2. Interpretation

In these procedures, unless the context otherwise requires—

"administration officer" means the Secretary of the Board of Directors of the Central Bank of Kenya;

"Commission" means the Board of Directors of the Central Bank of Kenya.

### 3. Scope of procedures

These Procedures are for the administration of Part IV of the Act with respect to the public officers for whom the Commission is the responsible Commission under the Act.

### 4. Administration officer

The administration officer shall be responsible for the administration of Part IV of the Act by the Commission.

### 5. To whom declarations submitted

Declarations to be submitted to the Commission under Part IV of the Act shall be submitted to the administration officer.

### 6. Who may make requests for clarifications

Requests for clarifications under section 28 of the Act shall be made, on behalf of the Commission, by the administration officer or by staff of the Commission authorized in writing by him for that purpose.

### 7. Review of declarations, etc.

(1) The administration officer, or staff of the Commission authorized by him for the purpose, shall review each declaration to ascertain if, in the opinion of the administration officer or staff, any of the following conditions are satisfied—

- (a) on the face of the declaration, or in light of any other information the Commission may have, there is reason to suspect the declaration may be false or incomplete;
- (b) the assets of the person who submitted the declaration are disproportionate to his income; or
- (c) the income, assets or liabilities of the person who submitted the declaration raise concerns of impropriety or conflict of interest.

(2) If it is ascertained that any of the conditions in subparagraph (1) are satisfied, the person who submitted the declaration shall be given an opportunity to give an explanation.

(3) If, after considering any explanation the person who submitted the declaration may give, the administration officer is of the opinion that any of the conditions in subparagraph (1) are still satisfied, the administration officer shall bring the matter to the attention of the Commission.

[Subsidiary]

(4) The Commission may, with respect to a matter brought to its attention under paragraph (3), take such action as it considers appropriate including, without limiting the generality of the foregoing, notifying the Kenya Anti-corruption Commission and giving the Kenya Anti-corruption Commission particulars of the condition that is satisfied and a copy of the declaration.

**8. Authorization of staff under section 30(4)(a)**

(1) The Commission or the administration officer may authorise staff of the Commission for the purposes of section 30(4)(a) of the Act.

(2) An authorization under paragraph (1) shall be in writing.

**9. Condition for certain disclosures to police, etc.**

Except as provided under paragraph 7(4), information shall not be disclosed, under section 30(4)(b) of the Act, to the police or any other law enforcement agency unless a written request is provided.

**10. Condition for disclosures to representatives**

Information shall not be disclosed, under section 30(4)(d) of the Act, to a representative of the person who provided the information unless the representative provides copies of documents that establish the representative's authority to receive the information.

**11. Administration officer to report non-compliance**

The administration officer shall ensure that failures by public officers to comply with the requirements of Part IV of the Act are brought to the attention of the Commission.

**12. Application where powers, etc. delegated**

The following shall apply with respect to the application of these procedures by a person to whom the powers and functions of the Commission under Part IV of the Act have been delegated under section 4 of the Act—

- (a) a reference to "administration officer" shall be deemed to be a reference to the person to whom the powers and functions have been delegated;
  - (b) a reference to "staff of the Commission" shall be deemed to be a reference to staff under the authority of the person to whom the powers and functions have been delegated;
  - (c) the person to whom the powers and function have been delegated is not required to bring matters to the attention of the Commission under paragraph 7(3) and may do anything that the Commission may do under paragraph 7(4);
  - (d) the person to whom the powers and functions have been delegated is not required to ensure that failures to comply with Part IV of the Act are brought to the attention of the Commission under paragraph 11 but may, instead, take such action as the person considers appropriate.
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**CODE OF CONDUCT AND ETHICS FOR PUBLIC UNIVERSITIES, 2003**

## ARRANGEMENT OF CODE

## PREAMBLE

## PART I – PRELIMINARY

*Code*

1. Citation.
2. Interpretation.
3. Application of Code.

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4. Compliance with General Code.
5. Integrity and impartiality.
6. Teaching and conduct of examinations.
7. Professionalism and courtesy.
8. Management of resources.
9. Gifts and donations.
10. Private interests.
11. Conduct of private affairs.
12. Contesting political office.
13. Duty of disclosure.
14. Action for breach of Code.

## APPENDIX –

PART III – GENERAL CODE OF CONDUCT  
AND ETHICS

**CODE OF CONDUCT AND ETHICS FOR PUBLIC UNIVERSITIES, 2003**

[L.N. 170/2003.]

**PREAMBLE**

The Education System of the Republic of Kenya is charged with the responsibility of nurturing the growth of the whole person through integrated development of physical, intellectual, moral and spiritual attributes and abilities.

The human resource in the public universities is crucial for the development of the universities and the realisation of their mission. This human resource is expected to exhibit a high degree of maturity, integrity, trustworthiness, responsibility and accountability.

This Code contains general rules of conduct and ethics to be observed by member, officers and employees of the public universities so as to maintain the integrity, dignity and nobility of university education. This Code is not intended to replace the terms and conditions of service of individual members, officers and employees, and is to be applied consistently with the Constitution, the Universities Act and other legislation.

Members, officers and employees should adhere to this Code both in their public and private lives so as not to bring ridicule and dishonour to the universities.

**PART I — PRELIMINARY****1. Citation**

This Code may be cited as the Code of Conduct and Ethics for Public Universities.

**2. Interpretation**

In this Code, unless the context otherwise requires—

“chief executive” means the Vice-Chancellor or equivalent officer of a university;

“Commission” means the Commission for Higher Education;

“officer” means a person to whom this Code applies, as provided by paragraph 3;

“public university” or “university” means a public university within the meaning of the Universities Act (Cap. 210B);

“student” means a person enrolled as a learner in a university education institution.

**3. Application of Code**

This Code applies to officers and employees of a public university, including the members of a council of a public university, other than members who are members of the public service for whom the Public Service Commission is the responsible commission under the Act.

**PART II — REQUIREMENTS****4. Compliance with General Code**

(1) An officer shall comply with all the requirements of the General Code of Conduct and Ethics set out in Part III of the Act.

(2) The General Code of Conduct and Ethics set out in Part III of the Act is set out in the Appendix to this Code and shall form part of this Code.

**5. Integrity and impartiality**

(1) An officer shall conduct himself in a manner that promotes the universally recognised rights and freedoms of persons in order to protect the dignity of a person that a public university seeks to serve.

(2) An officer shall at all times uphold the dignity of the university by conducting his official duties and his private affairs with integrity and in a dignified, honest and impeccable manner.

(3) An officer shall respect, protect and promote the human rights and freedoms of everybody in the university without discrimination on the basis of race, ethnicity, sex, political opinion, disability, religion or culture.

(4) An officer shall at all times be guided by merit and sound judgement in giving any services or granting opportunities to persons who seek such services or opportunities from the universities.

(5) An officer shall participate in enhancing, maintaining and enjoying the provisions of this Code.

(6) An officer shall respect, promote and comply with the rule of law.

## 6. Teaching and conduct of examinations

(1) An officer who is a member of the academic staff of the university shall organise his instruction, assessment and examination in a manner that complies with all institutional requirements and expectations.

(2) An officer who is a member of the academic staff of a university shall ensure that the examinations are delivered to the students as scheduled and that the results thereof is processed without undue delay.

(3) An officer shall exercise diligence, care and attention in the performance of his duties, and shall seek to achieve high standards in teaching or administrative duties.

(4) An officer shall promote the culture of research among university students, shall assist in the overall development of the student as a scholar and a decent human being.

(5) An officer who is involved in the conduct of examinations shall ensure that the contents of the examination papers are kept secret and are only released to students when they are sitting for their particular examination.

(6) For the purposes of subparagraph (5), an officer is involved in the conduct of examinations if his duties relate to—

- (a) setting or moderating of the examination;
- (b) typing, printing, photocopying, or otherwise producing or reproducing the examination papers;
- (c) transporting examination papers;
- (d) invigilation at the examinations;
- (e) marking or entering of grades attained,

or if his duties otherwise give him access to examination papers or their contents.

(7) An officer whose duties involve the grading or assessment of examination performances shall at all times be guided by the rule of merit in grading or assessing the examination candidates.

## 7. Professionalism and courtesy

(1) An officer shall strictly adhere to the terms of his employment contract.

(2) Breach of his employment contract shall be deemed to be a breach of this Code.

(3) An officer shall comport himself with personal decency and shall be well groomed.

(4) An officer shall not absent himself from duty without a reasonable cause.

(5) An officer shall actively and personally promote a culture in the university that aims at providing fast, friendly, responsive and efficient services and shall be courteous to all persons in the provision of such services.

## 8. Management of resources

(1) An officer shall not misuse the resources of a public university.

(2) An officer shall ensure that public university resources under his charge are properly utilised and fully accounted for.

[Subsidiary]

(3) An officer shall not use public university resources to unjustly enrich himself.

(4) An officer who is utilising public university resources to conduct research shall disclose this fact to the chief executive of the university and his activities shall be governed by such agreement as may be made between himself and the university.

(5) An officer shall observe the principles of the law governing intellectual property, copyright and other related matters in order to promote the culture of research and to uphold the integrity and academic freedom that members and students of public universities enjoy.

(6) For the purposes of this paragraph, “the university’s resources” includes—

- (a) physical facilities including the buildings, recreational facilities, infrastructure and all moveable and immoveable assets of the university;
- (b) university funds, however obtained, including funds received from students as tuition or accommodation fees, any donations, contributions or gifts and any funds otherwise obtained for use for university education;
- (c) furniture, equipment, apparatus, stationery and research materials, whether living or dead; and
- (d) motor vehicles and transport facilities provided for the purposes of university education.

## 9. Gifts and donations

(1) An officer shall not solicit for any property or benefit of any kind, for himself or for any person, on account of anything to be done or omitted by him in discharge of his duties or by virtue of his official position.

(2) An officer shall ensure that no member of his family solicits or accepts any gift, money, hospitality, free passage or favours from any person or organisation that might reasonably be thought to influence or be intended to influence the officer in discharging his official duties and responsibilities.

(3) A reference in this paragraph to members of the officer’s family is a reference to any spouse, child, grandchild, parent, grandparent or other relative of the officer, and to any other person with whom the officer maintains a close relationship.

(4) Where a gift is given without the officer’s knowledge or where refusal of a gift would be offensive to custom or might amount to bad public relations, the officer shall inform the chief executive of the university who shall decide how the gift is to be disposed of.

(5) A Notwithstanding any other provisions of this Code, but subject to the General Code of Conduct and Ethics set out in the Appendix, an officer may—

- (a) accept gifts which are occasional and inexpensive or in the form of a souvenir or gifts whose value does not exceed twenty thousand shillings; and
- (b) accept personal gifts or donations from relatives or friends on such special occasions as may be recognised by custom.

(6) When any gift or donation is made for the development of the university, the officer together with the university management shall—

- (a) in writing disclose to the chief executive of the university the nature of the gift or donation;
- (b) in writing inform the chief executive of the university as to how the management intends to utilise the gift or donation; and
- (c) receipt the gift or donation and fully account for its use.

(7) This rule shall does not prohibit an officer from participating in social activities and accepting gifts during social occasions if the officer is participating in such activities in his personal or private capacity.

## 10. Private interests

An officer—

- (a) shall ensure that he does not subordinate his official duties to his private interests or put himself in a position where there is conflict between his official duties and his private interests;
- (b) shall not associate outside his official duties with any financial or other activities in circumstances where there could be suspicion that his official position or official information available to him was being turned to his private gain or that of his associates;
- (c) shall not engage in any occupation or business which might prejudice his status as an officer or university education into dispute; and
- (d) shall not in any way trade with his employer or allow his spouse or relatives to do so, or trade with any other institution where he is likely to have an advantage by virtue of his office.

## 11. Conduct of private affairs

- (1) An officer shall conduct his private affairs in a way that maintains and enhances public confidence in the integrity of the university.
- (2) An officer shall not neglect his financial and other obligations to his family and other persons or organisations.
- (3) An officer shall prudently manage his finances to avoid financial embarrassment to himself and his employer.
- (4) An officer shall be a role model to his students, colleagues and other people around him and shall therefore refrain from engaging in activities that undermine this role or bring the university into disrepute.

## 12. Contesting political office

An officer who wishes to contest a seat in the National Assembly or a Local Authority or any other political office shall be required to resign his office in the university.

## 13. Duty of disclosure

- (1) An officer is under a duty to disclose to the Secretary to the Commission or to the chief executive of the university any violation of the General Code of Conduct and Ethics as set out in the Appendix hereto or of the provisions of this Code, and in particular—
  - (a) where an officer is charged with a serious offence under the Penal Code (Cap. 63) or any other law where a prison sentence may be imposed other than in default of payment of a fine;
  - (b) where an officer is declared bankrupt by a court of law;
  - (c) where there has been sexual harassment of an officer by another officer, or of a student by an officer;
  - (d) where there has been neglect of duty;
  - (e) where there has been absenteeism at the place of work;
  - (f) where there has been an act of fraud or collusion to defraud;
  - (g) where examination irregularities have occurred; or
  - (h) where there has been any other breach of the Code or the terms and conditions of service by an officer.
- (2) For the purposes of subparagraph (1)(a), reports shall not be required in respect of proceedings for minor offences under the Traffic Laws, the Local Government By-laws, or the like.

**14. Action for breach of Code**

(1) When an officer has committed a breach of this Code, appropriate action will be taken in accordance with the provisions of the Act and other laws, and the terms and conditions of service of the officer.

(2) The Commission shall work closely with the governing council of the respective universities, or such other bodies as the Commission may from time to time identify, to enforce this Code.

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## APPENDIX

[Rule 4(2).]

## PART III – GENERAL CODE OF CONDUCT AND ETHICS

**7. Part sets out general Code**

This Part sets out a general Code of Conduct and Ethics for public officers.

**8. Performance of duties, general**

A public officer shall, to the best of his ability, carry out his duties and ensure that the services that he provides are provided efficiently and honestly.

**9. Professionalism**

A public officer shall—

- (a) carry out his duties in a way that maintains public confidence in the integrity of his office;
- (b) treat the public and his fellow public officers with courtesy and respect;
- (c) to the extent appropriate to his office, seek to improve the standards of performance and level of professionalism in his organisation;
- (d) if a member of a professional body, observe the ethical and professional requirements of that body;
- (e) observe official working hours and not be absent without proper authorisation or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

**10. Rule of law**

(1) A public officer shall carry out his duties in accordance with the law.

(2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

**11. No improper enrichment**

(1) A public officer shall not use his office to improperly enrich himself or others.

(2) Without limiting the generality of subsection (1), a public officer shall not—

- (a) except as allowed under subsection (3) or (4), accept or request gifts or favours from a person who—
  - (i) has an interest that may be affected by the carrying out, or not carrying out, of the public officer's duties;
  - (ii) carries on regulated activities with respect to which the public officer's organisation has a role; or
  - (iii) has a contractual or similar relationship with the public officer's organisation;

- (b) improperly use his office to acquire land or other property for himself or another person, whether or not the land or property is paid for; or
- (c) for the personal benefit of himself or another, use or allow the use of information that is acquired in connection with the public officer's duties and that is not public.

(3) A public officer may accept a gift given to him in his official capacity but, unless the gift is a non-monetary gift that does not exceed the value prescribed by regulation, such a gift shall be deemed to be a gift to the public officer's organisation.

(4) Subsection (2)(a) does not prevent a public officer from accepting a gift from a relative or friend given on a special occasion recognized by custom.

(5) Subsection (2)(c) does not apply to the use of information for educational or literary purposes, research purposes or other similar purposes.

## 12. Conflict of interest

(1) A public officer shall use his best efforts to avoid being in a position in which his personal interests conflict with his official duties.

(2) Without limiting the generality of subsection (1), a public officer shall not hold shares or have any other interest in a corporation, partnership or other body, directly or through another person, if holding those shares or having that interest would result in the public officer's personal interests conflicting with his official duties.

(3) A public officer whose personal interests conflict with his official duties shall—

- (a) declare the personal interests to his superior or other appropriate body and comply with any directions to avoid the conflict; and
- (b) refrain from participating in any deliberations with respect to the matter.

(4) Notwithstanding any directions to the contrary under subsection (3)(a), a public officer shall not award a contract, or influence the award of a contract, to—

- (a) himself;
- (b) a spouse or relative;
- (c) a business associate; or
- (d) a corporation, partnership or other body in which the officer has an interest.

(5) The regulations may govern when the personal interests of a public officer conflict with his official duties for the purposes of this section.

(6) In this section, “**personal interest**” includes the interest of a spouse, relative or business associate.

## 13. Collections and harambees

(1) A public officer shall not—

- (a) use his office or place of work as a venue for soliciting or collecting harambees; or
- (b) either as a collector or promoter of a public collection, obtain money or other property from a person by using his official position in any way to exert pressure.

(2) In this section, “**collection**”, “**collector**” and “**promoter**” have the same meanings as in section 2 of the Public Collections Act (Cap. 106).

## 14. Acting for foreigners

(1) No public officer shall, in a manner that may be detrimental to the security interests of Kenya, be an agent for, or further the interests of, a foreign government, organisation or individual.

[Subsidiary]

- (2) For the purposes of this section—
- (a) an individual is foreign if the individual is not a citizen of Kenya;
  - (b) an organisation is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organisation or individuals.

**15. Care of property**

(1) A public officer shall take all reasonable steps to ensure that property that is entrusted to his care is adequately protected and not misused or misappropriated.

(2) A person who contravenes subsection (1) shall be personally liable for losses resulting from the contravention.

**16. Political neutrality**

(1) A public officer shall not, in or in connection with the performance of his duties as such—

- (a) act as an agent for, or so as to further the interest of, a political party; or
- (b) indicate support for or opposition to any political party or candidate in an election.

(2) A public officer shall not engage in political activity that may compromise or be seen to compromise the political neutrality of his office.

(3) This section does not apply to a member of the National Assembly or a councillor of a local authority.

**17. Nepotism, etc.**

A public officer shall not practice nepotism or favouritism.

**18. Giving of advice**

A public officer who has a duty to give advice shall give honest and impartial advice without fear or favour.

**19. Misleading the public, etc.**

A public officer shall not knowingly give false or misleading information to members of the public or to any other public officer.

**20. Conduct of private affairs**

(1) A public officer shall conduct his private affairs in a way that maintains public confidence in the integrity of his office.

(2) A public officer shall not evade taxes.

(3) A public officer shall not neglect his financial obligations or neglect to settle them.

**21. Sexual harassment**

(1) A public officer shall not sexually harass a member of the public or a fellow public officer.

(2) In subsection (1), “**sexually harass**” includes doing any of the following, if the person doing it knows or ought to know that it is unwelcome—

- (a) making a request or exerting pressure for sexual activity or favours;
- (b) making intentional or careless physical contact that is sexual in nature; and
- (c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.

**22. Selection, etc. of public officers**

A public officer shall practice and promote the principle that public officers should be—

- (a) selected on the basis of integrity, competence and suitability; or
- (b) elected in fair elections.

**23. Submitting of declarations, etc.**

A public officer shall submit any declaration or clarification required under Part IV to be submitted or made by him.

**24. Acting through others**

(1) A public officer contravenes the Code of Conduct and Ethics if—

- (a) he causes anything to be done through another person that would, if the public officer did it, be a contravention of the Code of Conduct and Ethics; or
- (b) he allows or directs a person under his supervision or control to do anything that is a contravention of the Code of Conduct and Ethics.

(2) Subsection (1)(b) does not apply with respect to anything done without the public officer's knowledge or consent if the public officer took reasonable steps to prevent it.

**25. Reporting improper orders**

If a public officer considers that anything required of him is a contravention of the Code of Conduct and Ethics or is otherwise improper or unethical, he shall report the matter to an appropriate authority.

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## PUBLIC UNIVERSITIES PROCEDURES FOR THE ADMINISTRATION OF PART IV OF THE ACT, 2003

[L.N. 171/2003.]

### 1. Citation

These Procedures may be cited as the Public Universities Procedures for the Administration of Part IV of the Act.

### 2. Interpretation

In these procedures, unless the context otherwise requires—

"administration officer" means the Secretary to the Commission;

"Commission" means the Commission for Higher Education.

### 3. Scope of procedures

These Procedures are for the administration of Part IV of the Act with respect to the public officers for whom the Commission is the responsible Commission under the Act.

### 4. Administration officer

The administration officer shall be responsible for the administration of Part IV of the Act by the Commission.

### 5. To whom declarations submitted

(1) Declarations to be submitted to the Commission under Part IV of the Act shall be submitted to the person appointed by the Commission in writing for that purpose who shall be responsible to the administration officer and shall, within the time appointed by the Commission (or, in the event that no time is specified, within a reasonable time) forward the forms to the administration officer.

(2) The person appointed under subparagraph (1) shall ,keep the information collected in confidence and shall not disclose the information to any other person apart from the administration officer.

### 6. Who may make requests for clarifications

Requests for clarifications under section 28 of the Act shall be made, on behalf of the Commission, by the administration officer or by staff of the Commission authorized in writing by him for that purpose.

### 7. Review of declarations, etc.

(1) The administration officer, or staff of the Commission authorized by him for the purpose, shall review each declaration to ascertain if, in the opinion of the administration officer or staff, any of the following conditions are satisfied—

- (a) on the face of the declaration, or in light of any other information the Commission may have, there is reason to suspect the declaration may be false or incomplete;
- (b) the assets of the person who submitted the declaration are disproportionate to his income; or
- (c) the income, assets or liabilities of the person who submitted the declaration raise concerns of impropriety or conflict of interest.

(2) If it is ascertained that any of the conditions in subparagraph (1) are satisfied, the person who submitted the declaration shall be given an opportunity to give an explanation.

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[Subsidiary]

(3) If, after considering any explanation the person who submitted the declaration may give, the administration officer is of the opinion that any of the conditions in subparagraph (1) are still satisfied, the administration officer shall bring the matter to the attention of the Commission.

(4) The Commission may, with respect to a matter brought to its attention under paragraph (3), take such action as it considers appropriate including, without limiting the generality of the foregoing, notifying the Kenya Anti-corruption Commission and giving the Kenya Anti-corruption Commission particulars of the condition that is satisfied and a copy of the declaration.

#### **8. Authorization of staff under section 30(4)(a)**

(1) The Commission or the administration officer may authorize staff of the Commission for the purposes of section 30(4)(a) of the Act.

(2) An authorization under paragraph (1) shall be in writing.

#### **9. Condition for certain disclosures to police, etc.**

Except as provided under paragraph 7(4), information shall not be disclosed, under section 30(4)(b) of the Act, to the police or any other law enforcement agency unless a written request is provided.

#### **10. Condition for disclosures to representatives**

Information shall not be disclosed, under section 30(4)(d) of the Act, to a representative of the person who provided the information unless the representative provides copies of documents that establish the representative's authority to receive the information.

#### **11. Administration officer to report non-compliance**

The administration officer shall ensure that failures by public officers to comply with the requirements of Part IV of the Act are brought to the attention of the Commission.

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**CO-OPERATIVE SOCIETIES CODE OF CONDUCT AND ETHICS, 2003**

## ARRANGEMENT OF CODE

## PREAMBLE

## PART I – PRELIMINARY

*Code*

1. Citation.
2. Interpretation.
3. Application of Code.

## PART II – REQUIREMENTS

4. Compliance with General Code.
5. Integrity and impartiality.
6. Political affiliation.
7. Comments.
8. Responsibility to organisation.
9. Efficiency.
10. Canvassing for favours.
11. Harambees.
12. Conflict of interests.
13. Gifts, etc.
14. Conduct of private affairs.
15. Safeguarding of information.
16. Appropriate authority for reporting.
17. Breach of Code.

## APPENDIX –

PART III – GENERAL CODE OF CONDUCT  
AND ETHICS

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[Subsidiary]**CO-OPERATIVE SOCIETIES CODE OF CONDUCT AND ETHICS, 2003**

[L.N. 172/2003.]

**PREAMBLE**

The co-operative movement in Kenya plays a major role in socio-economic development of the people. By definition, a co-operative society is an autonomous association of persons united voluntarily to meet their common economic, social and cultural needs and aspirations through a jointly-owned and democratically-controlled enterprise. A co-operative society is based on the ethical values of self-help, self-responsibility, democracy, equality, equity and solidarity founded on the philosophy of "All for one and one for all". The management of cooperative societies is vested in the duly elected committees and officers who are expected to perform their duties prudently and diligently on behalf of the members to whom they stand accountable and responsible.

This Code is intended to establish standards of ethical conduct and behaviour for cooperative society officers, members, members of the management committee and the supervisory committee.

This Code contains general rules of conduct and ethics to be observed by the said officers and members so as to maintain integrity and impartiality in the co-operative movement.

Officers and members should adhere to this Code in both their public and private lives so as not to bring the committee and the co-operative society into disrepute and dishonour. It is imperative, therefore, that every officer should observe this Code with scrupulous care and diligence.

**PART I — PRELIMINARY****1. Citation**

This Code may be cited as the Co-operative Societies Code of Conduct and Ethics.

**2. Interpretation**

In this Code, unless the context otherwise requires—

**"Commission"** means the Ethics Commission for Co-operative Societies established under the Public Officer Ethics Regulations, 2003;

**"officer"** means an officer or employee to whom this Code applies under paragraph 3 of this Code.

**3. Application of Code**

(1) This Code applies to all officers and employees of co-operative societies.

(2) For the purposes of this section, **"officer"** includes any committee member of a supervisory committee or other person concerned in the management of a co-operative society.

**PART II — REQUIREMENTS****4. Compliance with General Code**

(1) An officer shall comply with all the requirements of the General Code of Conduct and Ethics set out in Part III of the Act.

(2) The General Code of Conduct and Ethics set out in Part III of the Act is set out in the Appendix to this Code and shall form part of this Code.

**5. Integrity and impartiality**

Regardless of his political opinions, an officer shall serve with courtesy, honesty, integrity, probity and objectivity.

**6. Political affiliation**

An officer is entitled to his own views on political matters but shall not be permitted, in the course of the performance of his duties, to express those views publicly or seek to influence his colleagues or those who seek his services to subscribe to his political beliefs.

**7. Comments**

An officer shall not—

- (a) make public comments that support or criticise a political party;
- (b) make public comments that may compromise, or may reasonably be seen to compromise, the political neutrality of his office;
- (c) except in furtherance of official duties, publicly comment on matters in relation to which he has been professionally involved; or
- (d) expressly or by implication, represent that any public comments he makes reflect the views or opinions of his organisation if that is not the case.

**8. Responsibility to organisation**

An officer shall ensure that he carries out his duties in a way that is consistent with his being part of his organisation.

**9. Efficiency**

An officer shall perform his duties with diligence, prudence and efficiency.

**10. Canvassing for favours**

An officer shall not canvass either directly or indirectly for any favours in the committee or in the organisation.

**11. Harambees**

(1) An officer may contribute towards or attend a harambee, but shall not—

- (a) conduct himself in such a way as to reflect adversely on his integrity or impartiality or to interfere with his official duties; or
- (b) play a central role in its organization or preside over it or be its guest of honour.

(2) The Controller and Auditor-General shall not use his office to solicit for funds for a harambee or any other purpose.

**12. Conflict of interests**

An officer is required to observe the following requirements in relation to his private interests—

- (a) he shall ensure that he does not subordinate his official duties to his private interests or put himself in a position where there is conflict between his official duties and his private interests;
- (b) he shall not associate outside his official duties with any financial or other activities in circumstances where there could be suspicion that his official position or official information available to him was being turned to his private gain or that of his associates;
- (c) he shall not engage in any occupation or business which might prejudice his status as an officer or bring the co-operative society into dispute;
- (d) he shall maintain at all times the ethical standards which the public expects of him in transacting official business with efficiency, integrity and impartiality.

[Subsidiary]

**13. Gifts, etc.**

- (1) An officer shall neither ask for or accept any property or benefit of any kind for himself or for any person, on account of anything to be done, or omitted to be done by him in the discharge of his duties by the virtue of his official position.
- (2) An officer who is given a gift described in section 11(2) of the Act shall, even where the gift is not deemed, by the operation of Part III of the Act, to be a gift to the organisation—
- (a) report the matter to the person who is, in accordance with the administrative procedures of the Commission, the authorised officer, who shall direct the appropriate mode of disposal of the gift; and
  - (b) comply with any such direction.
- (3) A gift referred to in section 11(4) of the Act shall not be accepted by an officer on the premises of the organisations.

**14. Conduct of private affairs**

- (1) An officer shall not neglect his financial and other obligations to his family and other persons or organisations.
- (2) An officer shall live within his means and avoid incurring any financial liability that he cannot satisfy.
- (3) An officer shall manage his finances prudently to avoid financial embarrassment to himself and his employer.
- (4) An officer shall be a role model to his colleagues and other people around him and shall therefore refrain from activities that may bring the committee into disrepute.
- (5) An officer shall not engage in private business during official working hours.

**15. Safeguarding of information**

An officer shall ensure that confidential or secret information or documents entrusted to his care are adequately protected from improper or inadvertent disclosure.

**16. Appropriate authority for reporting**

For the purposes of section 25 of the General Code of Conduct and Ethics set out in the Appendix to this Code, the appropriate authority to whom an officer shall report a matter under that section is the Administrator of the Commission.

**17. Breach of Code**

Where an officer has committed a breach of this Code, appropriate action will be taken in accordance with the Act and other applicable laws.

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## APPENDIX

[Rule 5(2).]

## PART III – GENERAL CODE OF CONDUCT AND ETHICS

**7. Part sets out general Code**

This Part sets out a general Code of Conduct and Ethics for public officers.

**8. Performance of duties, general**

A public officer shall, to the best of his ability, carry out his duties and ensure that the services that he provides are provided efficiently and honestly.

**9. Professionalism**

A public officer shall—

- (a) carry out his duties in a way that maintains public confidence in the integrity of his office;
- (b) treat the public and his fellow public officers with courtesy and respect;
- (c) to the extent appropriate to his office, seek to improve the standards of performance and level of professionalism in his organisation;
- (d) if a member of a professional body, observe the ethical and professional requirements of that body;
- (e) observe official working hours and not be absent without proper authorisation or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

**10. Rule of law**

(1) A public officer shall carry out his duties in accordance with the law.

(2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

**11. No improper enrichment**

(1) A public officer shall not use his office to improperly enrich himself or others.

(2) Without limiting the generality of subsection (1), a public officer shall not—

- (a) except as allowed under subsection (3) or (4), accept or request gifts or favours from a person who—
  - (i) has an interest that may be affected by the carrying out, or not carrying out, of the public officer's duties;
  - (ii) carries on regulated activities with respect to which the public officer's organisation has a role; or
  - (iii) has a contractual or similar relationship with the public officer's organisation;
- (b) improperly use his office to acquire land or other property for himself or another person, whether or not the land or property is paid for; or
- (c) for the personal benefit of himself or another, use or allow the use of information that is acquired in connection with the public officer's duties and that is not public.

(3) A public officer may accept a gift given to him in his official capacity but, unless the gift is a non-monetary gift that does not exceed the value prescribed by regulation, such a gift shall be deemed to be a gift to the public officer's organisation.

(4) Subsection (2)(a) does not prevent a public officer from accepting a gift from a relative or friend given on a special occasion recognized by custom.

[Subsidiary]

(5) Subsection (2)(c) does not apply to the use of information for educational or literary purposes, research purposes or other similar purposes.

## 12. Conflict of interest

(1) A public officer shall use his best efforts to avoid being in a position in which his personal interests conflict with his official duties.

(2) Without limiting the generality of subsection (1), a public officer shall not hold shares or have any other interest in a corporation, partnership or other body, directly or through another person, if holding those shares or having that interest would result in the public officer's personal interests conflicting with his official duties.

(3) A public officer whose personal interests conflict with his official duties shall—

- (a) declare the personal interests to his superior or other appropriate body and comply with any directions to avoid the conflict; and
- (b) refrain from participating in any deliberations with respect to the matter.

(4) Notwithstanding any directions to the contrary under subsection (3)(a), a public officer shall not award a contract, or influence the award of a contract, to—

- (a) himself;
- (b) a spouse or relative;
- (c) a business associate; or
- (d) a corporation, partnership or other body in which the officer has an interest.

(5) The regulations may govern when the personal interests of a public officer conflict with his official duties for the purposes of this section.

(6) In this section, “**personal interest**” includes the interest of a spouse, relative or business associate.

## 13. Collections and harambees

(1) A public officer shall not—

- (a) use his office or place of work as a venue for soliciting or collecting harambees; or
- (b) either as a collector or promoter of a public collection, obtain money or other property from a person by using his official position in any way to exert pressure.

(2) In this section, “**collection**”, “**collector**” and “**promoter**” have the same meanings as in section 2 of the Public Collections Act (Cap. 106).

## 14. Acting for foreigners

(1) No public officer shall, in a manner that may be detrimental to the security interests of Kenya, be an agent for, or further the interests of, a foreign government, organisation or individual.

(2) For the purposes of this section—

- (a) an individual is foreign if the individual is not a citizen of Kenya;
- (b) an organisation is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organisation or individuals.

## 15. Care of property

(1) A public officer shall take all reasonable steps to ensure that property that is entrusted to his care is adequately protected and not misused or misappropriated.

(2) A person who contravenes subsection (1) shall be personally liable for losses resulting from the contravention.

**16. Political neutrality**

(1) A public officer shall not, in or in connection with the performance of his duties as such—

- (a) act as an agent for, or so as to further the interest of, a political party; or
- (b) indicate support for or opposition to any political party or candidate in an election.

(2) A public officer shall not engage in political activity that may compromise or be seen to compromise the political neutrality of his office.

(3) This section does not apply to a member of the National Assembly or a councillor of a local authority.

**17. Nepotism, etc.**

A public officer shall not practice nepotism or favouritism.

**18. Giving of advice**

A public officer who has a duty to give advice shall give honest and impartial advice without fear or favour.

**19. Misleading the public, etc.**

A public officer shall not knowingly give false or misleading information to members of the public or to any other public officer.

**20. Conduct of private affairs**

(1) A public officer shall conduct his private affairs in a way that maintains public confidence in the integrity of his office.

(2) A public officer shall not evade taxes.

(3) A public officer shall not neglect his financial obligations or neglect to settle them.

**21. Sexual harassment**

(1) A public officer shall not sexually harass a member of the public or a fellow public officer.

(2) In subsection (1), “**sexually harass**” includes doing any of the following, if the person doing it knows or ought to know that it is unwelcome—

- (a) making a request or exerting pressure for sexual activity or favours;
- (b) making intentional or careless physical contact that is sexual in nature; and
- (c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.

**22. Selection, etc. of public officers**

A public officer shall practice and promote the principle that public officers should be—

- (a) selected on the basis of integrity, competence and suitability; or
- (b) elected in fair elections.

**23. Submitting of declarations, etc.**

A public officer shall submit any declaration or clarification required under Part IV to be submitted or made by him.

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[Subsidiary]**24. Acting through others**

- (1) A public officer contravenes the Code of Conduct and Ethics if—
  - (a) he causes anything to be done through another person that would, if the public officer did it, be a contravention of the Code of Conduct and Ethics; or
  - (b) he allows or directs a person under his supervision or control to do anything that is a contravention of the Code of Conduct and Ethics.
- (2) Subsection (1)(b) does not apply with respect to anything done without the public officer's knowledge or consent if the public officer took reasonable steps to prevent it.

**25. Reporting improper orders**

If a public officer considers that anything required of him is a contravention of the Code of Conduct and Ethics or is otherwise improper or unethical, he shall report the matter to an appropriate authority.

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## **ETHICS COMMISSION FOR CO-OPERATIVE SOCIETIES PROCEDURES FOR THE ADMINISTRATION OF PART IV OF THE ACT, 2003**

[L.N. 173/2003.]

### **1. Citation**

These procedures may be cited as the Ethics Commission for Co-operative Societies Procedures for the Administration of Part IV of the Act.

### **2. Interpretation**

In these procedures, unless the context otherwise requires—

“**administration officer**” means the Senior Deputy Commissioner for Co-operative Development, who shall be the secretary to the Commission;

“**Commission**” means the Ethics Commission for Co-operative Societies established under the Public Officer Ethics Regulations, 2003.

### **3. Scope of procedures**

These Procedures are for the administration of Part IV of the Act with respect to the public officers for whom the Commission is the responsible Commission under the Act.

### **4. Administration officer**

The administration officer shall be responsible for the administration of Part IV of the Act by the Commission.

### **5. To whom declarations submitted**

Declarations to be submitted to the Commission under Part IV of the Act shall be submitted to the administration officer.

### **6. Who may make requests for clarifications**

Requests for clarifications under section 28 of the Act shall be made, on behalf of the Commission, by the administration officer or by staff of the Commission authorized in writing by him for that purpose.

### **7. Review of declarations, etc.**

(1) The administration officer, or staff of the Commission authorized by him for the purpose, shall review each declaration to ascertain if, in the opinion of the administration officer or staff, any of the following conditions are satisfied—

- (a) on the face of the declaration, or in light of any other information the Commission may have, there is reason to suspect the declaration may be false or incomplete;
- (b) the assets of the person who submitted the declaration are disproportionate to his income; or
- (c) the income, assets or liabilities of the person who submitted the declaration raise concerns of impropriety or conflict of interest.

(2) If it is ascertained that any of the conditions in subparagraph (1) are satisfied, the person who submitted the declaration shall be given an opportunity to give an explanation.

(3) If, after considering any explanation the person who submitted the declaration may give, the administration officer is of the opinion that any of the conditions in subparagraph (1) are still satisfied, the administration officer shall bring the matter to the attention of the Commission.

[Subsidiary]

(4) The Commission may, with respect to a matter brought to its attention under paragraph (3), take such action as it considers appropriate including, without limiting the generality of the foregoing, notifying the Kenya Anti-corruption Commission and giving the Kenya Anti-corruption Commission particulars of the condition that is satisfied and a copy of the declaration.

**8. Authorization of staff under section 30(4)(a)**

(1) The Commission or the administration officer may authorize staff of the Commission for the purposes of section 30(4)(a) of the Act.

(2) An authorization under paragraph (1) shall be in writing.

**9. Condition for certain disclosures to police, etc.**

Except as provided under paragraph 7(4), information shall not be disclosed, under section 30(4)(b) of the Act, to the police or any other law enforcement agency unless a written request is provided.

**10. Condition for disclosures to representatives**

Information shall not be disclosed, under section 30(4)(d) of the Act, to a representative of the person who provided the information unless the representative provides copies of documents that establish the representative's authority to receive the information.

**11. Administration officer to report non-compliance**

The administration officer shall ensure that failures by public officers to comply with the requirements of Part IV of the Act are brought to the attention of the Commission.

**12. Application where powers, etc., delegated**

The following shall apply with respect to the application of these procedures by a person to whom the powers and functions of the Commission under Part IV of the Act have been delegated under section 4 of the Act—

- (a) a reference to "administration officer" shall be deemed to be a reference to the person to whom the powers and functions have been delegated;
  - (b) a reference to "staff of the Commission" shall be deemed to be a reference to staff under the authority of the person to whom the powers and functions have been delegated;
  - (c) the person to whom the powers and function have been delegated is not required to bring matters to the attention of the Commission under paragraph 7(3) and may do anything that the Commission may do under paragraph 7(4);
  - (d) the person to whom the powers and functions have been delegated is not required to ensure that failures to comply with Part IV of the Act are brought to the attention of the Commission under paragraph 11 but may, instead, take such action as the person considers appropriate.
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**CODE OF CONDUCT AND ETHICS FOR MEMBERS AND STAFF  
OF THE KENYA ANTI-CORRUPTION COMMISSION, 2005**

## ARRANGEMENT OF CODE

## PART I – PRELIMINARY

*Code*

1. Citation.
2. Interpretation.
3. Application of Code.

## PART II – REQUIREMENTS

4. Compliance with General Code.
5. Integrity.
6. Conflict of interest.
7. Gifts.
8. Other employment or business.
9. Pecuniary embarrassment.
10. Social association and recreation.
11. Press statements.
12. Confidentiality.
13. Political association.
14. Compliance with staff rules and regulations and the disciplinary code..

## PART III – SATISFACTION OF THE REQUIREMENTS OF THE CODE

15. The Director to enforce Code.
16. Staff.

APPENDIX –

GENERAL CODE OF CONDUCT AND ETHICS

**CODE OF CONDUCT AND ETHICS FOR MEMBERS AND STAFF  
OF THE KENYA ANTI-CORRUPTION COMMISSION, 2005**

[L.N. 74/2005.]

**PREAMBLE**

The Kenya Anti-Corruption Commission is a body corporate established by the Anti-Corruption and Economic Crimes Act, (No. 3 of 2003). The Commission is mandated by the law to spearhead the fight against corruption in Kenya through public education, prevention, and by enforcement of the law against corruption.

This Code is intended to set out the standards of conduct and ethical behaviour for members and staff of the Commission.

**PART I — PRELIMINARY****1. Citation**

This Code may be cited as the Code of Conduct and Ethics for the Members and Staff of the Kenya Anti-Corruption Commission.

**2. Interpretation**

In this Code, unless the context otherwise requires—

**"the Act"** means the Public Officer Ethics Act, 2003 (No. 4 of 2003);

**"Advisory Board"** means the Kenya Anti-Corruption Advisory Board;

**"Assistant Director"** means an Assistant Director of the Kenya Anti-Corruption Commission;

**"Commission"** means the Kenya Anti-Corruption Commission;

**"Director"** means the Director of the Kenya Anti-Corruption Commission;

**"Disciplinary Code"** means the Code issued by the Director under paragraph 7 in the First Schedule of the Anti-Corruption and Economic Crimes Act (No. 3 of 2003);

**"Members"** in reference to the Kenya Anti-Corruption Commission means the Director and Assistant Directors of the Commission;

**"public officer"** refers to members and staff of the Commission;

**"staff"** in reference to the Kenya Anti-Corruption Commission means persons employed by the Commission, and includes those serving on secondment basis, but does not include the members.

**3. Application of Code**

This Code applies with respect to the members and staff of the Kenya Anti-Corruption Commission, who shall for that purpose be regarded as public officers.

**PART II — REQUIREMENTS****4. Compliance with General Code**

(1) A public officer shall comply with all the requirements the General Code of Conduct and Ethics set out in Part III of the Act.

(2) The General Code of Conduct and Ethics set out in Part III of the Act is set out in the Appendix to this code and shall form part of this Code.

**5. Integrity**

A public officer shall not engage in any activities involving dishonesty, fraud or moral turpitude.

## **6. Conflict of interest**

A public officer—

- (a) shall not engage in any activity likely to place him/her in a position of divided loyalty between his/her private interest and official duty; and
- (b) shall declare to the Director any conflict between his/her private interest and official duty immediately such conflict arises and shall comply with any lawful direction to resolve the conflict.

## **7. Gifts**

(1) A public officer shall not without the general permission or special permission of the Director accept or solicit any gifts, rewards, benefits or any other valuable present in any form, including free passage, hospitality and other favours, from any person who has an interest that may be affected by the officer's official duties.

(2) A public officer may accept a gift given to him/her in his/her official capacity but, unless the gift is a non-monetary gift that does not exceed Shs. 20,000 in value, the gift shall be surrendered to the Commission.

[L.N. 120/2003.]

## **8. Other employment or business**

(1) A public officer shall not take employment in any other work or business or hold any other public office.

(2) A public officer shall not engage in a business that is likely to conflict with his duties or loyalty to the Commission, or which is likely to cause a perception of such conflict.

## **9. Pecuniary embarrassment**

A public officer shall live within his/her means and only incur financial obligations that he/she can satisfy without any form of financial hardship or embarrassment to himself/herself.

## **10. Social association and recreation**

A public officer shall be selective in the company he/she keeps and places patronized, and shall not engage in conduct or company which is conducive to corrupt practices.

## **11. Press statements**

Except where it is part of his/her official duties, a public officer shall not issue press statements on a matter of the Commission without the authority of the Director.

## **12. Confidentiality**

(1) A public officer shall not, except with the authority of the Director or with other lawful excuse, disclose the details of an investigation by the Commission, including the identity of anyone being investigated.

(2) A public officer shall at all times during service and thereafter not disclose to unauthorized persons any matter that has come to his/her knowledge by virtue of employment, unless the information has already been made public.

## **13. Political association**

A public officer shall refrain from active politics except for exercising his/her right to vote at elections. He/she shall not publicly express his/her personal views on political matters.

## **14. Compliance with staff rules and regulations and disciplinary code**

A public officer shall adhere to the staff rules and regulations that may be issued by the Commission from time to time touching on the terms and conditions of service, and the disciplinary code that shall be issued by the Director.

**PART III – SATISFACTION OF THE REQUIREMENTS OF THE CODE****15. The Director to enforce Code**

- (1) The Director shall be responsible for the enforcement of this Code.
- (2) The Director may delegate to an Assistant Director any general or specific duties for the enforcement of this Code.

**16. Staff**

- (1) The staff shall be subject to the procedures prescribed in the disciplinary code and any staff rules and regulations issued by the Director.
- (2) An allegation of misconduct against staff shall be investigated, and the necessary sanction imposed, under the provisions of Part V of the Act and also in accordance with the procedures set out by the disciplinary code.
- (3) A public officer, not being an Assistant Director, may be removed from office by the Director on the ground that the officer has breached this code or the disciplinary code, or on the ground that the Director no longer has confidence in the officer's integrity.

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**APPENDIX**

[Rule 4(2).]

**PART III – GENERAL CODE OF CONDUCT AND ETHICS****7. Part sets out general Code**

This Part sets out a general Code of Conduct and Ethics for public officers.

**8. Performance of duties, general**

A public officer shall, to the best of his ability, carry out his duties and ensure that the services that he provides are provided efficiently and honestly.

**9. Professionalism**

A public officer shall—

- (a) carry out his duties in a way that maintains public confidence in the integrity of his office;
- (b) treat the public and his fellow public officers with courtesy and respect;
- (c) to the extent appropriate to his office, seek to improve the standards of performance and level of professionalism in his organisation;
- (d) if a member of a professional body, observe the ethical and professional requirements of that body;
- (e) observe official working hours and not be absent without proper authorisation or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

**10. Rule of law**

- (1) A public officer shall carry out his duties in accordance with the law.
- (2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

## 11. No improper enrichment

- (1) A public officer shall not use his office to improperly enrich himself or others.
- (2) Without limiting the generality of subsection (1), a public officer shall not—
  - (a) except as allowed under subsection (3) or (4), accept or request gifts or favours from a person who—
    - (i) has an interest that may be affected by the carrying out, or not carrying out, of the public officer's duties;
    - (ii) carries on regulated activities with respect to which the public officer's organisation has a role; or
    - (iii) has a contractual or similar relationship with the public officer's organisation;
  - (b) improperly use his office to acquire land or other property for himself or another person, whether or not the land or property is paid for; or
  - (c) for the personal benefit of himself or another, use or allow the use of information that is acquired in connection with the public officer's duties and that is not public.
- (3) A public officer may accept a gift given to him in his official capacity but, unless the gift is a non-monetary gift that does not exceed the value prescribed by regulation, such a gift shall be deemed to be a gift to the public officer's organisation.
- (4) Subsection (2)(a) does not prevent a public officer from accepting a gift from a relative or friend given on a special occasion recognized by custom.
- (5) Subsection (2)(c) does not apply to the use of information for educational or literary purposes, research purposes or other similar purposes.

## 12. Conflict of interest

- (1) A public officer shall use his best efforts to avoid being in a position in which his personal interests conflict with his official duties.
- (2) Without limiting the generality of subsection (1), a public officer shall not hold shares or have any other interest in a corporation, partnership or other body, directly or through another person, if holding those shares or having that interest would result in the public officer's personal interests conflicting with his official duties.
- (3) A public officer whose personal interests conflict with his official duties shall—
  - (a) declare the personal interests to his superior or other appropriate body and comply with any directions to avoid the conflict; and
  - (b) refrain from participating in any deliberations with respect to the matter.
- (4) Notwithstanding any directions to the contrary under subsection (3)(a), a public officer shall not award a contract, or influence the award of a contract, to—
  - (a) himself;
  - (b) a spouse or relative;
  - (c) a business associate; or
  - (d) a corporation, partnership or other body in which the officer has an interest.
- (5) The regulations may govern when the personal interests of a public officer conflict with his official duties for the purposes of this section.
- (6) In this section, “**personal interest**” includes the interest of a spouse, relative or business associate.

[Subsidiary]

**13. Collections and harambees**

- (1) A public officer shall not—
- use his office or place of work as a venue for soliciting or collecting harambees; or
  - either as a collector or promoter of a public collection, obtain money or other property from a person by using his official position in any way to exert pressure.
- (2) In this section, “**collection**”, “**collector**” and “**promoter**” have the same meanings as in section 2 of the Public Collections Act (Cap. 106).

**14. Acting for foreigners**

- (1) No public officer shall, in a manner that may be detrimental to the security interests of Kenya, be an agent for, or further the interests of, a foreign government, organisation or individual.
- (2) For the purposes of this section—
- an individual is foreign if the individual is not a citizen of Kenya;
  - an organisation is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organisation or individuals.

**15. Care of property**

- (1) A public officer shall take all reasonable steps to ensure that property that is entrusted to his care is adequately protected and not misused or misappropriated.
- (2) A person who contravenes subsection (1) shall be personally liable for losses resulting from the contravention.

**16. Political neutrality**

- (1) A public officer shall not, in or in connection with the performance of his duties as such—
- act as an agent for, or so as to further the interest of, a political party; or
  - indicate support for or opposition to any political party or candidate in an election.
- (2) A public officer shall not engage in political activity that may compromise or be seen to compromise the political neutrality of his office.
- (3) This section does not apply to a member of the National Assembly or a councillor of a local authority.

**17. Nepotism, etc.**

A public officer shall not practice nepotism or favouritism.

**18. Giving of advice**

A public officer who has a duty to give advice shall give honest and impartial advice without fear or favour.

**19. Misleading the public, etc.**

A public officer shall not knowingly give false or misleading information to members of the public or to any other public officer.

**20. Conduct of private affairs**

- A public officer shall conduct his private affairs in a way that maintains public confidence in the integrity of his office.
- A public officer shall not evade taxes.
- A public officer shall not neglect his financial obligations or neglect to settle them.

**21. Sexual harassment**

(1) A public officer shall not sexually harass a member of the public or a fellow public officer.

(2) In subsection (1), “**sexually harass**” includes doing any of the following, if the person doing it knows or ought to know that it is unwelcome—

- (a) making a request or exerting pressure for sexual activity or favours;
- (b) making intentional or careless physical contact that is sexual in nature; and
- (c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.

**22. Selection, etc. of public officers**

A public officer shall practice and promote the principle that public officers should be—

- (a) selected on the basis of integrity, competence and suitability; or
- (b) elected in fair elections.

**23. Submitting of declarations, etc.**

A public officer shall submit any declaration or clarification required under Part IV to be submitted or made by him.

**24. Acting through others**

(1) A public officer contravenes the Code of Conduct and Ethics if—

- (a) he causes anything to be done through another person that would, if the public officer did it, be a contravention of the Code of Conduct and Ethics; or
- (b) he allows or directs a person under his supervision or control to do anything that is a contravention of the Code of Conduct and Ethics.

(2) Subparagraph (1)(b) does not apply with respect to anything done without the public officer’s knowledge or consent if the public officer took reasonable steps to prevent it.

**25. Reporting improper orders**

If a public officer considers that anything required of him is a contravention of the Code of Conduct and Ethics or is otherwise improper or unethical, he shall report the matter to an appropriate authority.

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**KENYA ANTI-CORRUPTION COMMISSION PROCEDURES FOR THE  
ADMINISTRATION OF PART IV OF THE PUBLIC OFFICER ETHICS ACT, 2005**

**ARRANGEMENT OF PARAGRAPHS**

*Paragraph*

1. Citation.
  2. Interpretation.
  3. Application of procedures.
  4. Responsibility for administration.
  5. To whom declarations submitted.
  6. Who may make requests for clarifications.
  7. Review of declarations and verification of information.
  8. Authorization of staff.
  9. Condition for disclosures.
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**KENYA ANTI-CORRUPTION COMMISSION  
PROCEDURES FOR THE ADMINISTRATION OF PART  
IV OF THE PUBLIC OFFICER ETHICS ACT, 2005**

[L.N. 75/2005.]

**1. Citation**

These procedures may be cited as the Kenya Anti-Corruption Commission Procedures for the Administration of Part IV of the Public Officer Ethics Act.

**2. Interpretation**

In these procedures, unless the context otherwise requires—

“the Act” means the Public Officer Ethics Act, 2003 (No. 4 of 2003);

“Advisory Board” means the Kenya Anti-Corruption Advisory Board;

“Assistant Director” means an Assistant Director of the Kenya Anti-Corruption Commission;

“Commission” means the Kenya Anti-Corruption Commission;

“Director” means the Director of the Kenya Anti-Corruption Commission;

**3. Application of procedures**

These procedures are for the administration of Part IV of the Act with respect to the public officers for whom the Commission is the responsible Commission under the Act.

**4. Responsibility for administration**

The Director, or an officer of the Commission designated by him for that purpose in writing, shall be responsible for the administration of Part IV of the Act by the Commission.

**5. To whom declarations to be submitted**

Declarations required to be submitted to the Commission under Part IV of the Act shall be submitted to the Director or to such officer or officers of the Commission as the Director may from time to time designate in writing for that purpose.

**6. Who may make requests for clarifications**

Requests for clarifications under section 28 of the Act shall be made, on behalf of the Commission, by the Director or by an Assistant Director who is expressly instructed to do so by the Director.

**7. Review of declarations, etc.**

(1) The Director, or an Assistant Director instructed for that purpose by the Director, shall—

(a) ascertain that all public officers who are required to submit their declarations have done so; and

(b) review each declaration to ascertain if any of the following conditions are satisfied—

(i) on the face of the declaration, or in light of any other information the Commission may have, there is reason to suspect the declaration may be false or incomplete;

(ii) the assets of the person who submitted the declaration appear disproportionate to his income;

(iii) the income, assets or liabilities of the person who submitted the declaration raise concerns of impropriety or conflict of interest.

(2) If it is ascertained that any of the conditions in subparagraph (1)(b) are satisfied, the person who submitted the declaration shall be given an opportunity to give an explanation.

(3) If no explanation is given, or if after considering any explanation the person who submitted the declaration may give, the Director is of the opinion that the conditions in subparagraph (1)(b) are still satisfied, the Director may, in addition to any other action including investigations and civil proceedings, take disciplinary action against the officer concerned.

## **8. Authorization of staff**

The authorized staff of the Commission for purposes of section 30(4)(a) of the Act are the following—

- (a) the Director;
- (b) assistant Directors;
- (c) any officer or officers authorized in writing by the Director.

## **9. Condition for disclosures**

(1) Disclosure of information contained in a declaration to any persons other than the authorized persons shall only be upon the written request of such persons addressed to the Director.

(2) The Director may decline to make a disclosure under subparagraph (1) above if he is of the opinion that such disclosure would be a violation of any written law.

(3) Nothing contained in this paragraph shall prevent an officer of the Commission from accessing the information contained in his/her own declaration.



**PUBLIC OFFICER ETHICS (PUBLIC SERVICE  
COMMISSION) ADMINISTRATIVE PROCEDURES, 2009**

[L.N. 76/2009.]

*Revoked by LN. 53/2016, r. 22.*

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**PUBLIC OFFICER ETHICS (MANAGEMENT, VERIFICATION, AND  
ACCESS TO FINANCIAL DECLARATIONS) REGULATIONS, 2011**

## ARRANGEMENT OF REGULATIONS

## PART I – PRELIMINARY

*Regulation*

1. Citation and commencement.
2. Interpretation.

PART II – STORAGE AND ACCESS TO INFORMATION IN  
DECLARATIONS OF INCOME, ASSETS AND LIABILITIES

3. Storage of declaration information by commissions.
4. Access to declaration information.
5. Commission to respond within thirty days of application.
6. Commission to notify applicant.
7. Grounds in which Commission may deny access.
8. Person dissatisfied with decision to appeal.

## PART III – MANAGEMENT OF DECLARATIONS

9. Certain functions of responsible Commissions.

## PART IV –GENERAL PROVISIONS

10. General provisions establishment of committee.

SCHEDEULE –

FORMS

**PUBLIC OFFICER ETHICS (MANAGEMENT, VERIFICATION, AND  
ACCESS TO FINANCIAL DECLARATIONS) REGULATIONS, 2011**

[L.N. 179/2011.]

**PART I — PRELIMINARY****1. Citation and commencement**

These Regulations may be cited as the Public Officer Ethics (Management, Verification and Access to Financial Declarations) Regulations, 2011 and shall come into operation on the 1st January, 2012.

**2. Interpretation**

In these Regulations unless the context otherwise requires—

**"authorised officer"** means any person authorized by the Commission generally or in relation to a particular declaration;

**"declaration"** means the declaration of income, assets and liabilities required of public officers under the Act and includes a clarification or additional information provided in respect of a declaration;

**"Minister"** means the Minister for the time being responsible for matters relating to integrity.

**PART II — STORAGE AND ACCESS TO INFORMATION IN  
DECLARATIONS OF INCOME, ASSETS AND LIABILITIES****3. Storage of declaration information by commissions**

A Commission may store the information contained in a declaration in electronic form, microfilm or any other form as it may consider appropriate.

**4. Access to declaration information**

(1) A person may access information contained in a declaration upon making an application to the authorised officer of the responsible Commission in the form set out in the Schedule.

(2) An application made under paragraph (1) shall provide—

- (a) full names and address of the applicant;
- (b) specific aspects of the information that is sought;
- (c) particulars on the manner and purpose for which the information is intended to be used; and
- (d) a declaration that the applicant will not publish such information unless with the written permission of the responsible Commission.

(3) Upon receipt of an application for access to information, the responsible Commission shall issue the applicant with an acknowledgement slip in the form set out in the Schedule.

**5. Commission to respond within thirty days of application**

An application for access to information contained in the declaration form shall be considered by the responsible Commission within thirty days of the date of receipt of the application and the applicant shall be notified of the responsible Commission's decision in writing.

**6. Commission to notify applicant**

(1) Upon receipt of an application made under regulation 4, the responsible Commission shall notify the concerned public officer of such an application in writing.

(2) The public officer shall make representations in writing to the notice within fourteen days.

(3) Where the public officer requests the responsible Commission to deny the application, he shall state his reasons in writing.

(4) Where the public officer does not respond to the notice within fourteen days, the responsible Commission may extend the period within which the public officer may respond by up to fourteen days.

## **7. Grounds in which Commission may deny access**

A Commission may deny in writing, access to the declaration or information contained in that declaration if, it is of the opinion that the application is frivolous, vexatious or that the disclosure of such information would be against public interest or is likely to be used in a manner that is detrimental to the security or safety of the concerned public officer.

## **8. Person dissatisfied with decision to appeal**

A person who is dissatisfied with the decision of a Commission to allow or deny disclosure of all or part of the information requested, may within fourteen days of such decision, appeal to the Minister in writing.

## PART III — MANAGEMENT OF DECLARATIONS

### **9. Certain functions of responsible Commissions**

Every responsible Commission shall undertake the following functions relating to the declarations of public officers—

- (a) develop a uniform information management system to store and analyse the declarations;
- (b) analyse, evaluate, inspect and verify the accuracy of the income, assets and liabilities of any declaration;
- (c) compare and contrast any information obtained from other sources with the information contained in the declaration of a particular public officer or category of public officers after analysis, inspection, evaluation and verification to ensure its authenticity;
- (d) at the request of any other commission or public body, advise and assist the Commission on ways and means of improving the administration of the declaration process;
- (e) examine its practices, systems and procedures in order to identify weaknesses in the declaration process and make recommendations to address them;
- (f) undertake such studies or systemic audits as may be necessary for purposes of enhancing its capacity to handle declarations;
- (g) prepare and submit to the Minister an annual report on declaration returns, trends, challenges and proposals for reform and such statistical or other information relating to declarations that the Minister may require; and
- (h) advise the Minister on policy or legislative reforms relating to the declaration process.

## PART IV – GENERAL PROVISIONS

### **10. General provisions establishment of committee**

Each responsible Commission shall establish a committee responsible to its chief executive, to oversee the management, verification, and access to declarations.

[Subsidiary]

**FORM A****SCHEDULE**

[Rule 4(1).]

**REQUEST TO ACCESS WEALTH DECLARATION OR CLARIFICATION**

The form is obtainable for free from any responsible Commission or may be downloaded from the Public Service Commission of Kenya website ([www.publicservice.go.ke](http://www.publicservice.go.ke)) or from the websites of other responsible Commissions.

**PART I – INFORMATION ON APPLICANT**

1. Name .....
2. National Identity Card/Passport Number .....
3. Postal Address .....
4. Physical Address .....
5. E-mail Address .....
6. Occupation .....

**PART II – INFORMATION ON THE PERSON WHOSE DECLARATION IS SOUGHT TO BE OBTAINED:**

- (a) Name .....
- (b) Ministry/Department/Agency .....
- (c) Work Station .....
- (d) Reason for requiring the information ..  
  - (i) Official .....
  - (ii) Other reason .....
- (e) State precisely the purpose for which the declaration sought will be used  
.....  
.....

**PART III – ADDITIONAL INFORMATION**

Give any other information you may consider relevant and useful to your request:

  
.....  
.....**PART IV – DECLARATION**

I, ....., solemnly declare that the information I have given above is true, complete and correct to the best of my knowledge

*Date* .....

*Signature of Applicant* .....

**FORM B**

[Rule 4(3).]

**REQUEST TO ACCESS WEALTH DECLARATION OR CLARIFICATION**  
**ACKNOWLEDGEMENT SLIP**

Name of Applicant .....

National Identity Card/Passport Number .....

Name of Organization (*where applicable*) .....

Postal Address .....

Date of Application .....

Delivered by .....

Comments .....

.....  
 .....

Name .....

For: (*Name of responsible Commission or agent*)

Signature: .....

Date: .....

Stamp: .....

**FOR OFFICIAL USE:**

1. Date of declaration .....
2. Date of receipt of declaration .....
3. Action taken:
  - (a) Acknowledgement Slip issued: .....
  - (b) Filed: .....
  - (c) Sent for verification/clarification:  
.....
  - (d) Representations by affected public officer .....
  - (e) Decision on the Application:
    - (i) Application approved (unconditionally)  
.....
    - (ii) Application approved subject to the following conditions:  
.....
    - (iii) Not approved due to the following reasons:  
.....

Name of receiving officer .....

Signature .....



**PUBLIC SERVICE COMMISSION PROCEDURES  
FOR ADMINISTERING PART IV OF THE ACT, 2016**

ARRANGEMENT OF PARAGRAPHS

PART I – PRELIMINARY

*Paragraph*

1. Citation.
2. Interpretation.
3. Application.
4. Commission's Administration Officer.
5. Delegated powers and functions.

PART II – PROCEDURE IN RELATION TO DECLARATIONS

6. Declaration forms.
7. Completion, return and confidentiality of declarations.
8. Register of declarations.
9. Returns to the Commission.

PART III – PROCEDURE IN RELATION TO CLARIFICATIONS

10. Requests for clarifications.
11. Nature of clarifications.
12. Action and reporting of failure to comply generally.

PART IV – PROCEDURE FOR THE DISCLOSURE, ACCESS,  
ACQUISITION OR PUBLICATION OF INFORMATION

13. Disclosure and publication of information in a declaration.
14. Access to information in a declaration.
15. Decisions to be final.

PART V – MISCELLANEOUS

16. Cessation of retention of information.
17. Digitalisation of records.
18. Commission may act in any event.
19. Audit and investigation.
20. Matters not covered by these Procedures.
21. Right of the Secretary or authorised officer to be heard.
22. Revocation of L.N. No. 76 of 2009.

## PUBLIC SERVICE COMMISSION PROCEDURES FOR ADMINISTERING PART IV OF THE ACT, 2016

[L.N. 53/2016.]

### PART I — PRELIMINARY

#### 1. Citation

These Procedures may be cited as the Public Service Commission Procedures for Administering Part IV of the Act, 2016.

#### 2. Interpretation

In these Procedures, unless the context otherwise requires—

“authorised officer” means a person to whom the Commission has delegated its powers and functions in accordance with section 4(1) of the Act;

“declaration form” means the form set out in the Schedule to the Act in accordance with section 26(2) of the Act;

“final declaration” means a declaration made in accordance with section 27(5) of the Act;

“initial declaration” means a declaration made in accordance with section 27(3) of the Act;

“two-year declaration” means a declaration made in accordance with section 26(1) of the Act; and

“Secretary” means the person appointed as the chief executive of the Commission in accordance with Article 233(5) of the Constitution.

#### 3. Application

These Procedures shall apply to the administration of Part IV of the Act with respect to the public officers for whom the Commission is the responsible Commission.

#### 4. Commission's Administration Officer

(1) The Secretary shall be the responsible officer of the Commission for the purpose of the application of these Procedures.

(2) The Secretary may designate in writing officers from among the staff of the Commission to assist the Secretary for the purpose of the application of these Procedures.

#### 5. Delegated powers and functions

Where the Commission has delegated its powers and functions under section 4 of the Act to another person, the provisions of paragraph 4 of these Procedures shall apply to that other person.

### PART II — PROCEDURE IN RELATION TO DECLARATIONS

#### 6. Declaration forms

(1) The Commission or each authorised officer shall issue each public officer who is under its or his or her authority, as the case may be, with a declaration form if that public officer is required to file a declaration in accordance with the Act.

(2) Where a public officer is required to make a two-year declaration, the Commission or the authorised officer, as the case may be, shall provide that public officer with a declaration form on or before the 1<sup>st</sup> November of the year in which the two-year declaration is to be made.

(3) Where a public officer is required to make an initial declaration or a final declaration, the Commission or the authorised officer, as the case may be, shall issue that public officer with the declaration form at least thirty days before that officer is to make the declaration.

(4) The Commission may publish the declaration form in a format that may permit the declaration form—

- (a) to be rendered in digital format on a website; or
- (b) to be downloaded from a website and printed out in paper format.

## **7. Completion, return and confidentiality of declarations**

(1) A public officer who is in job group "M" or below, or its equivalent, shall complete and return his or her declaration to the authorised officer to whom that public officer is responsible and that authorised officer shall retain that declaration in safe custody.

(2) A public officer who is in job group "N" or above, or its equivalent, shall complete and return his or her declaration to the Secretary so that the declaration is received by the Secretary within thirty days from the date on which the declaration should have been submitted in accordance with the Act.

(3) The Commission or an authorised officer shall not disclose, access, acquire or publish the information in the declaration except as may be provided in the Act and these Procedures.

## **8. Register of declarations**

(1) This paragraph shall apply to all public officers regardless of rank or grade.

(2) The Commission or an authorised officer shall maintain a register containing details of each public officer who is required to make a declaration in accordance with the Act including—

- (a) the name of the public officer;
- (b) the public officer's staff personal number;
- (c) the date a declaration form was delivered to the public officer;
- (d) the date the completed declaration was delivered by the public officer to the Commission or to the authorised officer, as the case may be;
- (e) the signature of the person authorised to receive the declaration on behalf of the Commission or the authorised officer;
- (f) any remarks relating to the declarations;
- (g) the date an authorised officer delivered the declarations to the Commission;
- (h) the name of the ministry, department, state corporation or public body to which the relevant public officers making the declarations belong; and
- (i) the number of declarations received from the authorised officer.

(3) The Commission or the authorised officer may maintain separate registers in respect of initial, two-year and final declarations.

## **9. Returns to the Commission**

(1) This paragraph applies to all public officers regardless of rank or grade.

(2) An authorised officer shall submit to the Commission, by the 31st January following the submission of two-year declarations, the following information in relation to the two-year declarations by public officers under his or jurisdiction or authority—

- (a) the total number of public officers on the payroll;
- (b) the total number of public officers who are unpaid or who are working on a part time basis or who are working on a temporary basis as on the 31st October of the year of declaration;
- (c) a certified copy of the register maintained in accordance with paragraph 8;

[Subsidiary]

- (d) the total number of public officers who have submitted declarations within the prescribed time;
- (e) the total number of public officers who have failed to submit declarations within the prescribed time;
- (f) any action taken by the authorised officer or report made to the Attorney-General or Director of Public Prosecutions in relation to the public officers in job group "G" and below, or its equivalent, who have failed to comply with the Act; and
- (g) any relevant remarks relating to the returns.

(3) In the case of initial and final declarations, an authorised officer shall submit to the Commission the information required in subparagraph (2) in respect of—

- (a) the six month period between January and June on the 31<sup>st</sup> July; and
- (b) the sixth month period between July and December, on the 31<sup>st</sup> January of the following year.

### PART III — PROCEDURE IN RELATION TO CLARIFICATIONS

#### **10. Requests for clarifications**

(1) Where the Commission wishes to make a request for a clarification in accordance with section 28(1) of the Act in relation to a declaration made by a public officer in job group "H" and above, or its equivalent, the Commission shall make that request in writing to that public officer.

(2) Where an authorised officer wishes to make a request for a clarification in accordance with section 28(1) of the Act in relation to the declaration made by a public officer under that authorised officer's authority in job group "G" and below, or its equivalent, that authorised officer shall make the request in writing to that public officer.

#### **11. Nature of clarifications**

(1) A request for a clarification shall be made by the Commission or an authorised officer only after an analysis of the declaration has been made.

(2) In the case of a public officer in job group "H" and above, or its equivalent, and in the case of a public officer in job group "G" and below, or its equivalent, the Commission or an authorised officer, as the case may be, shall analyse the declaration to ascertain if—

- (a) the declaration by the public officer is false or incomplete;
- (b) the assets of the public officer who submitted the declaration are disproportionate to his or her known income; or
- (c) the income, assets or liabilities of the public officer who submitted the declaration raise concerns of impropriety or conflict of interest or any other breach of the Code of Conduct and Ethics.

(3) Where, after an analysis by the Commission or an authorised officer, it is ascertained that—

- (a) a declaration by a public officer is false or incomplete;
- (b) the assets of the public officer who submitted the declaration are disproportionate to his or her known income; or
- (c) the income, assets or liabilities of the public officer who submitted the declaration raise concerns of impropriety or conflict of interest or any other breach of the Code of Conduct and Ethics,

that public officer shall be requested in writing by the Commission or the authorised officer, as the case may be, to make a clarification in accordance with section 28(1) of the Act.

(4) Where, after a clarification by a public servant, the Commission or an authorised officer, still finds that—

- (a) the declaration by a public officer is false or incomplete;
- (b) the assets of the public officer who submitted the declaration are disproportionate to his or her known income; or
- (c) the income, assets or liabilities of the public officer who submitted the declaration raise concerns of impropriety or conflict of interest or any other breach of the Code of Conduct and Ethics,

the Commission or the authorised officer may take such action as the Commission or the authorised officer considers appropriate including notifying the Attorney-General, the Director of Public Prosecutions or any other competent authority.

## **12. Action and reporting of failure to comply generally**

The Secretary shall inform the Commission of any public officer in job group "H" and above, or its equivalent, who does not comply with the provisions of the Act, and the Commission shall—

- (a) require the authorised officer to take appropriate action against that public officer in relation to any administrative disciplinary action; or
- (b) notify the Attorney-General, the Director of Public Prosecutions or any other competent authority in relation to civil or criminal action against that public officer.

## PART IV — PROCEDURE FOR THE DISCLOSURE, ACCESS, ACQUISITION OR PUBLICATION OF INFORMATION

### **13. Disclosure and publication of information in a declaration**

(1) A person who wishes to gain access or to publish information in relation to a declaration under the Act by a public officer shall—

- (a) apply in writing to the Commission or authorised officer;
- (b) demonstrate to the Commission or authorised officer that he or she has a legitimate interest in the information; and
- (c) demonstrate to the Commission or authorised officer that the access to or publication of that information shall be in furtherance of the objectives of the Act.

(2) Where a written application is in relation to a declaration made by a public officer in job group "H" and above, or its equivalent, the application shall be made to the Commission.

(3) Where a written application is in relation to a declaration made by a public officer in job group "G" and below, or its equivalent, the application shall be made to the relevant authorised officer.

(4) Subparagraph (1) shall not apply to the staff authorised by the Commission or by the authorised officer to have access to the information for the purposes of these Procedures.

(5) Where a person has made an application to the Commission or an authorised officer in accordance with this paragraph—

- (a) the Commission or the authorised officer, as the case may be, shall inform the concerned public officer of the application;
- (b) the Commission or the authorised officer, as the case may be, shall give the public officer a reasonable opportunity to make a representation in relation to the application; and
- (c) the Commission or the authorised officer, as the case may be, shall take into consideration the representation by the public officer while determining the application.

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[Subsidiary]

(6) The Commission or an authorised officer shall determine an application made in accordance with this paragraph within a reasonable time.

(7) The Commission or the authorised officer shall maintain a register of applications and decisions made under this paragraph setting out—

- (a) the name of each applicant;
- (b) the date each application was received;
- (c) the name and staff personal number of the public officer who was the subject of the application;
- (d) the ministry, department, state corporation or public body to which the public officer belongs;
- (e) a brief description of the information applied for; and
- (f) a brief description of the decision made in relation to the application.

#### **14. Access to information in a declaration**

The Commission or a relevant authorised officer shall not give access to the information in a declaration to—

- (a) the public officer who made the declaration unless the public officer can verify his or her identity; or
- (b) a representative of the public officer who made the declaration unless that representative—
  - (i) can provide proof of his or her authority to act as a representative of the public officer; and
  - (ii) can provide proof that shall verify the identity of the public officer.

#### **15. Decisions to be final**

Except as provided under the Act and these Procedures, the decisions of the Commission or an authorised officer in relation to a declaration by a public officer shall be final.

### PART V — MISCELLANEOUS

#### **16. Cessation of retention of information**

(1) Where the period for retaining information obtained in accordance with Part IV of the Act has lapsed, the Commission shall determine what action shall be taken in relation to that information.

(2) The Secretary or an authorised officer may make a written proposal to the Commission in relation to the action to be taken by the Commission in accordance with subparagraph (1).

#### **17. Digitalisation of records**

The Secretary or the relevant authorised officer shall render the declaration records in digital formats for ease of retrieval, reference and storage.

#### **18. Commission may act in any event**

Despite a delegation by the Commission for the purposes of these Procedures, the Commission may—

- (a) exercise the delegated power or perform the delegated function; or
- (b) on its own motion, revise a decision of the Secretary or of a relevant authorised officer made for the purposes of these Procedures.

**19. Audit and investigation**

The Commission may audit or investigate the manner in which an authorised officer has discharged his or her duties under these Procedures.

**20. Matters not covered by these Procedures**

The Commission may issue written instructions in relation to any matter that has not been provided for in these Procedures in relation to the application of Part IV of the Act.

**21. Right of the Secretary or authorised officer to be heard**

The Commission shall, at the request of the Secretary or an authorised officer, hear him or her, or his or her representative in relation to any matter the Secretary or the authorised officer has referred to the Commission during the application of these Procedures.

**22. Revocation of L.N. No. 76 of 2009**

The Public Service Commission Procedures for the Administration of Part IV of the Act of 2009 (L.N. 76/2009) are revoked.

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**PUBLIC SERVICE CODE OF CONDUCT AND ETHICS, 2016**

## ARRANGEMENT OF PARAGRAPHS

## PART I – PRELIMINARY

*Paragraph*

1. Citation.
2. Application.
3. Interpretation.
4. General objective.
5. Specific objectives.
6. Professional and statutory codes to be binding.

## PART II – CODE OF CONDUCT AND ETHICS FOR PUBLIC OFFICERS

7. Rule of law.
8. Responsibility and duties.
9. Performance of duties.
10. Professionalism.
11. Conduct of private affairs.
12. Financial Integrity.
13. Tax, financial and legal obligations.
14. Moral and ethical requirements.
15. Gifts and benefits in kind.
16. Wrongful and unlawful acquisition of property.
17. Conflict of interest.
18. Participation in tenders.
19. Collections and harambees.
20. Bank accounts outside Kenya.
21. Acting for foreigners.
22. Care of property.
23. Misuse of official information.
24. Political neutrality.
25. Impartiality.
26. Gainful employment.
27. Offers of future employment.
28. Former public officer acting in a Government or public entity matter.
29. Bullying.
30. Sexual harassment.
31. Submitting of declarations.
32. Acting through others.
33. Reporting improper orders.

PART III – ENFORCEMENT OF THE CODE OF CONDUCT  
AND ETHICS FOR OFFICERS IN THE PUBLIC SERVICE

34. A public officer to sign and commit to the Code.
35. Disciplinary procedures, etc.
36. Lodging of complaints and investigations.
37. Referral for possible civil or criminal proceedings.

[Subsidiary]

PART IV – OFFENCES AND PENALTIES

38. Contravention of the Code.

PART V – MISCELLANEOUS MATTERS

39. Revocation of Legal Notice No. 124 of 2003.

SCHEDULES

FIRST SCHEDULE —

Registrable Interests.

SECOND SCHEDULE —

Register of Gifts.

THIRD SCHEDULE —

Register of Declaration of Conflicts of Interests  
(Template).

FOURTH SCHEDULE —

Commitment Form.

FIFTH SCHEDULE —

Register of Complaints (Template).

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**PUBLIC SERVICE CODE OF CONDUCT AND ETHICS, 2016**

[L.N. 54/2016.]

**PART I — PRELIMINARY****1. Citation**

This Code of Conduct and Ethics may be cited as the Public Service Code of Conduct and Ethics, 2016, and shall come into operation on such date as the Commission may appoint by notice in the *Gazette*.

**2. Application**

This Code shall apply to all public officers for whom the Commission is the responsible Commission.

**3. Interpretation**

In this Code, unless the context otherwise requires—

**"authorised officer"** means an officer of a public entity responsible for the discipline of public officers serving in that public entity;

**"Commission"** means the Public Service Commission established under Article 233(1) of the Constitution;

**"gainful employment"** means employment that a public officer pursues or performs for money or for other compensation or remuneration which is incompatible with the responsibilities of his or her office or which results in the impairment of his or her judgment or results in a conflict of interest;

**"harambee"** means the public collection of funds;

**"Member"** means the Chairperson, Vice-chairperson or a Commissioner of the Commission;

**"public officer"** means a public officer as defined in Article 260 of the Constitution; and

**"Secretary"** means the Secretary and chief executive officer of the Commission.

**4. General objective**

The general objective of the Code is to give effect to the provisions of Chapter Six of the Constitution.

**5. Specific objectives**

The specific objectives of this Code shall include—

- (a) to ensure accountability by a public officer for his or her decisions or actions;
- (b) to promote discipline;
- (c) to promote honesty;
- (d) to provide mechanisms for the management of conflicts of interest;
- (e) to protect the integrity of the public service; and
- (f) to provide a framework for reporting of misconduct by a public officer.

**PART II — SPECIFIC CODE OF CONDUCT AND ETHICS FOR PUBLIC OFFICERS****6. Professional and statutory codes to be binding**

A public officer, who is a professional in the public service, shall be bound by, and observe, the professional code of conduct he or she might be required to subscribe to.

[Subsidiary]

**7. Rule of law**

A public officer shall carry out his or her duties in accordance with the law.

**8. Responsibility and duties**

A public officer shall be responsible for the reasonably foreseeable consequences of any acts or omissions arising from the performance of his or her duties.

**9. Performance of duties**

A public officer shall—

- (a) carry out his or her duties efficiently and honestly;
- (b) carry out his or her duties in a transparent and accountable manner;
- (c) keep accurate records and documents relating to his or her duties;
- (d) not be absent from duty without official permission; and
- (e) not engage in private business during official working hours.

**10. Professionalism**

A public officer shall—

- (a) carry out his or her duties in a manner that protects the integrity of his or her office;
- (b) treat members of the public and other public officers with courtesy and respect;
- (c) not discriminate against any person;
- (d) ensure the efficient, effective and economic use of resources in his or her charge;
- (e) be accountable for his or her administrative acts;
- (f) maintain an appropriate standard of dress and personal hygiene;
- (g) discharge any professional responsibilities in a professional manner; and
- (h) where the public officer is a member of a professional body, observe and subscribe to the ethical and professional requirements of that body.

Provided that those ethical and professional requirements shall not contravene the Constitution, this Code or any other written law.

**11. Conduct of private affairs**

A public officer shall conduct private affairs in a manner that maintains public confidence in his or her integrity.

**12. Financial integrity**

(1) A public officer shall not use his or her office to unlawfully or wrongfully enrich himself, herself or any other person.

(2) A public officer shall not seek or accept a personal loan or benefit that may compromise his or her integrity.

(3) A public officer shall live within his or her means and shall not incur any financial liability that he or she cannot satisfy.

**13. Tax, financial and legal obligations**

(1) A public officer shall pay any taxes due from him or her within the prescribed period.

(2) A public officer shall not neglect his or her financial or legal obligations.

## 14. Moral and ethical requirements

A public officer shall—

- (a) be honest in the conduct of public affairs;
- (b) not engage in activities that amount to abuse of office;
- (c) accurately and honestly present information to the public;
- (d) not engage in wrongful conduct in furtherance of personal benefit;
- (e) not misuse public resources;
- (f) not falsify any records; and
- (g) not engage in actions that may lead to his or her removal from the membership of a professional body to which he or she may belong.

## 15. Gifts and benefits in kind

(1) A gift or donation given to a public officer in his or her official capacity shall be treated as a gift or donation to his or her office.

(2) Notwithstanding sub-paragraph (1), a public officer may receive a gift given in his or her official capacity provided that—

- (a) the gift is within the ordinary bounds of propriety;
- (b) the gift is an ordinary expression of courtesy or protocol, or within the ordinary standards of hospitality;
- (c) the gift is not in monetary form; and
- (d) the gift does not exceed such value as may be prescribed by the Ethics and Anti-Corruption Commission.

(3) Without limiting the generality of sub-paragraph (2), a public officer shall not—

- (a) accept or solicit gifts, hospitality or other benefits from a person who—
  - (i) has an interest that may be achieved by the carrying out or not carrying out of the public officer's duties;
  - (ii) carries on regulated activities with respect to which the public entity has a role; or
  - (iii) has a contractual or legal relationship with the public entity;
- (b) accept or offer gifts of jewelry or other gifts comprising precious metals or stones, ivory or any other animal part protected under the Convention on International Trade in Endangered Species of Wild Fauna and Flora; or
- (c) any other type of gift specified by the Ethics and Anti- Corruption Commission.

(4) A public officer shall not receive a gift which is given with an intention of compromising his or her integrity, objectivity or impartiality.

(5) Subject to sub-paragraph (2), a public officer who receives a gift or donation shall declare the gift or donation to the public entity.

(6) Whereas a public officer can accept gifts dictated by custom such gifts shall not be given or accepted in the public office.

(7) The public entity shall keep a register in the form set out in the Second Schedule to this Code of—

- (a) all gifts received by public officers in that public entity; and
- (b) all gifts given by the public entity.

(8) The public entity shall comply with the Ethics and Anti- Corruption Commission Regulations on the receiving and disposal of gifts.

## 16. Wrongful and unlawful acquisition of property

A public officer shall not use his or her office to wrongfully or unlawfully acquire or influence the acquisition of property.

[Subsidiary]

**17. Conflict of interest**

(1) A public officer shall use the best efforts to avoid being in a situation where that public officer's personal interests conflict with or appear to conflict with the officer's official duties.

(2) Without limiting the generality of sub-paragraph (1), a public officer shall not hold shares or have any other interest in a company, partnership or other body, directly or through another person, if the holding of those shares or having that interest would result in a conflict with his or her official duties.

(3) A public officer whose personal interests are or may be in conflict with his or her official duties shall declare those personal interests to the public entity.

(4) The public entity may give directions on the appropriate action to be taken by the officer to avoid the conflict of interest and the officer shall—

(a) comply with the directions; and

(b) refrain from participating in any deliberations with respect to the matter.

(5) Notwithstanding any directions to the contrary under subparagraph (4), a public officer shall not award or influence the award of a contract to—

(a) himself or herself;

(b) his or her spouse or child; or

(c) business associate or agent.

(6) In this paragraph, a "conflict of interest" includes the interest of a spouse, a child, a business associate or an agent, or any other matter in which the public officer has a direct or indirect pecuniary or non-pecuniary interest.

(7) Where a public officer is present at a meeting where an issue that is likely to result in a conflict of interest is to be discussed, he or she shall declare the interest at the beginning of the meeting or before the issue is deliberated upon.

(8) A declaration of a conflict of interest under sub-paragraph (7) shall be recorded in the minutes of that meeting.

(9) The public entity shall maintain a register of conflicts of interest in the form set out in the Third Schedule to this Code in which an affected officer shall register the particulars of registrable interests, stating the nature and extent of the conflict.

(10) For the purposes of sub-paragraph (9), the registrable interests include the interests set out in the First Schedule to this Code.

(11) The public entity shall keep the register of conflicts of interests for five years after the last entry in each volume of the register.

(12) A public officer shall amend the record of his or her registrable interest in the register maintained under sub-paragraph (9) whenever there is a change in those registrable interest and such an amendment shall be made within thirty days of the change in the conflict of interest.

**18. Participation in tenders**

A public officer shall not, in his or her private capacity, participate in a tender for the supply of goods or services to the public entity in which he/she serves.

**19. Collections and harambees**

(1) A public officer shall not—

(a) use his or her office or place of work as a venue for soliciting or collecting harambees;

(b) either as a collector or a promoter of collection harambee, obtain money or other property from a person by using his or her official position in any way to exert pressure;

- (c) preside at a harambee, or play a central role in the organization of a harambee, or appear as a guest of honour at a harambee; or
- (d) participate at a harambee in such a way as to reflect adversely on his integrity or impartiality or interfere with the performance of his or her duties.

(2) For the purposes of this rule, "collection", "collector" and "promoter" have the same meanings as are assigned to them in section 2 of the Public Collections Act (Cap. 106).

## **20. Bank accounts outside Kenya**

A public officer shall not maintain a bank account outside Kenya except with the approval of the Ethics and Anti-Corruption Commission or in accordance with any written law.

## **21. Acting for foreigners**

A public officer shall not be an agent of, or further the interests of a foreign government, organisation or individual in a manner that may be detrimental to the interests of Kenya.

## **22. Care of property**

- (1) A public officer shall take all reasonable steps to ensure that any public property in his or her custody, possession or control is taken care of and is in good repair and condition.
- (2) A public officer shall not use public property, funds or services that are acquired in the course of, or as a result of, the official duties for activities for which they were not intended.
- (3) A public officer shall return to the issuing authority all the public property in his or her custody, possession or control at the end of his or her appointment or employment.
- (4) A public officer who contravenes sub-paragraph (2) or (3) shall, in addition to any other penalties provided for under the Constitution or any other written law, be personally liable for any loss or damage of the public property.

## **23. Misuse of official information**

- (1) A public officer shall not use or allow any person under the officer's authority to use any information obtained through or in connection with the office, which is not available to the public, for the furthering of any private interest.
- (2) Sub-paragraph (1) shall not apply where the information is used for—
  - (a) furthering the purposes of this Code; or
  - (b) education, research, literary, scientific or other purposes not prohibited by law.

(3) Notwithstanding the generality of sub-paragraph (1), a public officer shall take all reasonable steps to ensure that confidential or secret information or documents entrusted to his or her care are adequately protected from improper or inadvertent disclosure.

## **24. Political neutrality**

- (1) A public officer shall not, in the performance of his or her duties—
  - (a) act as an agent for, or further the interests of, a political party or a political candidate at an election; or
  - (b) manifest support for, or opposition to, any political party or political candidate at an election.
- (2) A public officer shall remain politically neutral during his or her term of employment.
- (3) Without prejudice to the generality of sub-paragraph (2) a public officer shall not—
  - (a) engage in the activities of any political party or political candidate or act as an agent of a political party or a political candidate at an election; or
  - (b) publicly indicate support for or opposition against any political party or political candidate at an election.

**25. Impartiality**

A public officer shall—

- (a) at all times carry out his or her duties with impartiality and neutrality; and
- (b) not practice favouritism, nepotism, tribalism, cronyism, religious bias or any other kind of bias or discrimination, or engage in corrupt or unethical practices.

**26. Gainful employment**

A public officer who is serving on a full-time basis shall not participate in any other gainful employment during his term of employment.

**27. Offers of future employment**

(1) A public officer shall not be influenced in the performance of his or her duties by plans or expectations for or offers of future employment or benefits from any person.

(2) A public officer shall disclose in writing to the public entity all offers of future employment or benefits that may place him or her in a situation of a conflict of interest.

**28. Former public officer acting in a Government or public entity matter**

A former public officer shall not be engaged by or act for a person or in a manner in which the former officer was originally engaged in as an officer of the public entity for at least two years after his or her employment with the public entity ends.

**29. Bullying**

(1) A public officer shall not bully any person.

(2) For the purposes of sub-paragraph (1), "bullying" shall include offensive behavior which is vindictive, cruel, malicious or humiliating and which is intended to undermine another person.

**30. Sexual harassment**

(1) A public officer shall not sexually harass a member of the public or another public officer.

(2) For the purposes of sub-paragraph (1), "sexual harassment" shall include—

- (a) making a request or exerting pressure for sexual activity or favours;
- (b) making intentional or careless physical contact that is sexual in nature; or
- (c) making gestures, noises, jokes or comments including innuendos regarding another person's sexuality;
- (d) sending of sexually suggestive texts, pictures or videos.

**31. Submitting of declarations**

A public officer shall submit any declaration or clarification required under Part IV of the Public Officer Ethics Act, 2003.

**32. Acting through others**

(1) A public officer shall not—

- (a) cause anything to be done through another person that would constitute a contravention of any provision of this Code if such thing was done by the officer; or
- (b) allow or direct a person under his or her supervision or control to do anything that would be in contravention of this Code.

(2) Sub-paragraph (1)(b) shall not apply where anything is done without the officer's knowledge or consent, or where the officer has taken reasonable steps to prevent the doing of that thing.

(3) A public officer who acts under an unlawful direction shall be personally responsible for his or her acts.

### 33. Reporting improper orders

(1) Where a public officer considers that anything required of him or her is a contravention of this Code or is otherwise improper or unethical, the officer shall report the matter to the authorized officer.

(2) The authorized officer shall investigate the matter reported under sub-paragraph (1) and take appropriate action within ninety days of receiving the report.

## PART III — ENFORCEMENT OF THE CODE OF CONDUCT AND ETHICS FOR OFFICERS IN THE PUBLIC SERVICE

### 34. A public officer to sign and commit to the Code

(1) On appointment to a public entity, a public officer shall sign and commit to this Code in the form set out in the Fourth Schedule to this Code.

(2) A public officer who is in service at the time of the coming into force of this Code shall sign and commit to this Code within seven days of the coming into force of this Code.

### 35. Disciplinary procedure, etc

(1) Subject to sub-paragraph (2), a breach of this Code shall be deemed to be an act of misconduct for which the public officer may be subject to disciplinary proceedings.

(2) Where an allegation of a breach of this Code has been made against a public officer in respect of whom the Constitution or a written law provides for the procedure of removal or dismissal, the question of the removal or dismissal of the public officer shall be determined in accordance with the Constitution or that other written law.

### 36. Lodging of complaints and investigations

(1) A person who alleges that a public officer has committed a breach of this Code may notify the authorized officer of the public entity and the authorized officer shall register the complaint in the form set out in the Fifth Schedule to this Code and investigate the allegation.

(2) The authorized officer may assign any officer or a competent authority to inquire into the allegation and determine whether or not the public officer has contravened this Code.

(3) A public officer against whom an allegation has been made under this paragraph shall be informed of the allegation by the authorized officer and shall be given adequate opportunity to challenge the allegation.

(4) A person who makes an allegation against a public officer shall be entitled to be informed of any action taken in relation to the allegation.

(5) Where an investigation against a public officer under this paragraph has been initiated, and the public officer resigns his or her office before the investigation has been completed, the investigation may be continued even after the resignation of the public officer.

(6) Subject to any other written law, a public officer against whom an allegation has been made under this paragraph may be suspended from office while an inquiry is made regarding the allegation.

(7) The authorized officer may take disciplinary action against a public officer for the contravention of a provision of this Code.

**37. Referral for possible civil or criminal proceedings**

If upon investigation under this Part the authorized officer is of the opinion that civil or criminal proceedings should be preferred against a public officer, the authorized officer shall refer the matter to—

- (a) the Ethics and Anti-Corruption Commission;
- (b) the Attorney-General;
- (c) the Director of Public Prosecutions; or
- (d) any other competent authority.

**PART IV — OFFENCES AND PENALTIES****38. Contravention of the Code**

A public officer who contravenes any provision of this Code shall be liable to disciplinary action as may be prescribed in any written law.

**PART V — MISCELLANEOUS MATTERS****39. Revocation of Legal Notice No. 124 of 2003**

The Public Service Commission Code of Conduct and Ethics, 2003 (L.N. 124/2003), is revoked.

**SCHEDULES****FIRST SCHEDULE**

[Paragraph 15 (10).]

**REGISTRABLE INTERESTS**

1. Directorships in public or private companies, whether or not remunerated directly or indirectly.
  2. Remunerated employment, including office, trade, professional, or vocational, or in which the public officer has any pecuniary interest.
  3. Securities (shares, bonds, debentures or other similar holding) in a company, enterprise or undertaking the aggregate, nominal or market of a value which exceeds the value prescribed by the public entity.
  4. Contracts for supply of goods and services to the public entity.
  5. Offers of future employment.
  6. Shareholdings in public or private companies amounting to a controlling interest.
  7. Landholdings.
  8. Gifts, benefits and hospitality, including to a spouse, child, partner or business associate, or other material benefit of a value prescribed by the public entity from a company, organisation or person within or outside Kenya which relates to the public office.
  9. Pending civil claims against the public officer.
  10. Pending criminal charges against the public officer.
  11. Citizenship of another country.
-

## SECOND SCHEDULE

[Paragraph 16 (7).]

## REGISTER OF GIFTS

(TEMPLATE)

NAME OF PUBLIC ENTITY .....

F/Y .....

Name of Officer	Name of Person or Entity Giving the Gift	Value and Purpose of Gift	Date Gift Given	Date Recorded in the Register	Decision on the Gift - for Officer/Organization/to Be Returned
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## THIRD SCHEDULE

[Paragraph 18(9).]

## REGISTER OF DECLARATION OF CONFLICT OF INTEREST

(TEMPLATE)

NAME OF PUBLIC ENTITY .....

F/Y .....

Name of Officer	Date Conflict Recorded	Business Under Transaction	Nature of Conflict	Decision Made on Participation of Officer	Signature of Officer Making Declaration
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**[Subsidiary]**

## **FOURTH SCHEDULE**

[Paragraph 41(1).]

## COMMITMENT FORM

Name of the Employee .....

Employee Number .....

Department: .....

**Job Title:** \_\_\_\_\_

I, ..... hereby affirm that I have read, understood, and agree to adhere to the Public Service Code of Conduct and Ethics, 2016, and further affirm that I will comply fully to the extent that it is written.

Signature .....

Date .....

## FIFTH SCHEDULE

[Paragraph 43 (1).]

## REGISTER OF COMPLAINTS

(TEMPLATE)

NAME OF STATE OFFICE .....

F/Y .....

**Supreme Court Act  
(No. 7 of 2011)**



**THE REPUBLIC OF KENYA**

**LAWS OF KENYA**

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**SUPREME COURT ACT**

**NO. 7 OF 2011**

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**NO. 7 OF 2011****SUPREME COURT ACT**  
**ARRANGEMENT OF SECTIONS**  
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1. Short title.
2. Interpretation.
3. Object of the Act.

**PART II – ADMINISTRATION OF THE SUPREME COURT**

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6. Presiding judge.
7. Procedure if judges absent.
8. Manner of arriving at decisions.
9. Registrar of the Supreme Court.
10. Functions of the Registrar.
11. Revision of decisions of the Registrar.

**PART III – JURISDICTION OF THE SUPREME COURT**

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**NO. 7 OF 2011****SUPREME COURT ACT**

[*Date of assent: 22nd June, 2011.*]

[*Date of commencement: 23rd June, 2011.*]

**An Act of Parliament to make further provision with respect to the operation of the Supreme Court pursuant to Article 163(9) of the Constitution, and for connected purposes**

[Act No. 7 of 2011, Act No. 36 of 2016.]

**PART I – PRELIMINARY****1. Short title**

This Act may be cited as the Supreme Court Act.

**2. Interpretation**

In this Act, unless the context otherwise requires—

“**Chief Justice**” means the Chief Justice appointed under Article 166 of the Constitution;

“**Chief Registrar**” means the Chief Registrar of the Judiciary referred to in Article 161 of the Constitution;

“**Court**” means the Supreme Court;

“**Deputy Chief Justice**” means the Deputy Chief Justice appointed under Article 166 of the Constitution;

“**Registry**” means the registry where all pleadings and supporting documents and all orders and decisions of the Court are recorded and maintained in accordance with the rules;

“**Registrar**” means the Registrar of the Supreme Court appointed pursuant to section 9;

“**rules**” mean the Rules of the Supreme Court made pursuant to Article 163(8) of the Constitution;

“**Supreme Court**” means the Supreme Court of Kenya established by Article 163 of the Constitution.

**3. Object of the Act**

The object of this Act is to make further provision with respect to the operation of the Supreme Court as a court of final judicial authority to, among other things—

- (a) assert the supremacy of the Constitution and the sovereignty of the people of Kenya;
- (b) provide authoritative and impartial interpretation of the Constitution;

- 
- (c) develop rich jurisprudence that respects Kenya's history and traditions and facilitates its social, economic and political growth;
  - (d) enable important constitutional and other legal matters, including matters relating to the transition from the former to the present constitutional dispensation, to be determined having due regard to the circumstances, history and cultures of the people of Kenya;
  - (e) improve access to justice; and
  - (f) provide for the administration of the Supreme Court and related matters.

## PART II – ADMINISTRATION OF THE SUPREME COURT

### **4. Vacancy not to affect jurisdiction**

A vacancy in the Supreme Court as constituted under Article 163(1) of the Constitution shall not affect the jurisdiction of the Court.

### **5. Order of precedence of judges of the Supreme Court**

- (1) As the head of the Judiciary, the Chief Justice shall have precedence over the other judges of the Supreme Court.
- (2) The Deputy Chief Justice shall take precedence immediately after the Chief Justice.
- (3) The other judges of the Supreme Court shall take precedence among themselves, according to the dates on which they respectively took office as judges of the Supreme Court.
- (4) Where, under subsection (3), two or more judges of the Supreme Court took office on the same day, precedence among them shall be determined according to professional seniority with the most senior judge taking precedence.

### **6. Presiding judge**

- (1) The Chief Justice shall preside over the Supreme Court and in the absence of the Chief Justice, the Deputy Chief Justice shall preside.
- (2) If the Chief Justice and the Deputy Chief Justice are absent or unable to preside, or the offices of Chief Justice and the Deputy Chief Justice are vacant, the most senior available judge of the Supreme Court shall preside over the Court.
- (3) The presiding by a judge over the Supreme Court pursuant to subsection (2) shall be conclusive proof of the judge's authority to do so and no action of the Judge, and no judgment or decision of the Court shall be questioned on the ground that the necessity for the judge to preside over the Court had not arisen or had ceased.

### **7. Procedure if judges absent**

- (1) If at the time appointed for a sitting of the Supreme Court one or more judges are absent, the judge or judges present may adjourn the sitting on such terms as the Court thinks fit.

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(2) If at the time appointed for a sitting of the Supreme Court all the judges are absent, the Registrar shall adjourn the sitting until such time as the Court shall next convene.

**8. Manner of arriving at decisions**

(1) The judgment of the majority of the judges of the Supreme Court shall be the judgment of the Court.

(2) A judge of the Supreme Court shall not sit at a hearing of an appeal against a judgment or order given in a case previously heard before the judge.

**9. Registrar of the Supreme Court**

(1) There shall be a Registrar of the Supreme Court who shall, pursuant to Article 161(3) of the Constitution, be appointed by the Judicial Service Commission.

(2) The Registrar and other officers appointed shall exercise such powers and perform such duties as may be conferred upon them upon directions of the Court, the rules of court and the directions of the Chief Justice.

**10. Functions of the Registrar**

(1) In relation to proceedings before the Supreme Court, the Registrar shall act in accordance with the directions of the Chief Justice, the Court and the rules and shall, in particular, be responsible for—

- (a) the establishment and maintenance of the Registry;
- (b) the acceptance, transmission, service and custody of documents in accordance with the rules;
- (c) the enforcement of decisions of the Court;
- (d) certifying that any order, direction or decision is an order, direction or decision of the Court, or of the Chief Justice or other judge, as the case may be;
- (e) causing to be kept records of the proceedings and the minutes of the meetings of the Court and such other records as the Court may direct;
- (f) the management and supervision of the staff of the Court;
- (g) the day to day administration of the Court;
- (h) the management of the library of the Court;
- (i) ensuring the publication of the judgments of the Court; and
- (j) undertaking any duties assigned by the Court.

(2) The Registrar may consider and dispose of procedural or administrative matters in accordance with the rules or on the direction of the Chief Justice.

**11. Reviews of decisions of the Registrar**

(1) A person aggrieved by a decision of the Registrar made in accordance with the rules may apply to a judge of the Supreme Court for a review of such decision.

- (2) The judge may confirm, modify, or reverse the decision in issue.
- (3) No fee shall be payable for an application under this section.

### PART III – JURISDICTION OF THE SUPREME COURT

#### **12. Determination of disputes arising out of presidential elections**

(1) An application to the Supreme Court in respect of a dispute to which Article 163(3)(a) of the Constitution applies shall be submitted by petition and shall further comply with the procedures prescribed by the rules.

(2) The Independent Electoral and Boundaries Commission shall, within a period of forty-eight hours from the date of the service of a presidential election petition, submit to the Supreme Court certified copies of the documents used to declare the results of the presidential election, including the forms used to announce the results of the election at the polling station and the constituency tallying centre and to declare the result at the national tallying centre.

[Act No. 36 of 2016, s. 39]

#### **13. Advisory role**

An advisory opinion by the Supreme Court under Article 163(6) of the Constitution shall contain the reasons for the opinion and any judges who differ with the opinion of the majority shall give their opinions and their respective reasons.

#### **14. Special jurisdiction**

(1) To ensure that the ends of justice are met, the Supreme Court shall, within twelve months of the commencement of this Act, either on its own motion or on the application of any person, review the judgments and decisions of any judge—

- (a) removed from office on account of a recommendation by a tribunal appointed by the President, whether before or after the commencement of this Act; or
- (b) removed from office pursuant to the Vetting of Judges and Magistrates Act (Cap. 8B); or
- (c) who resigns or opts to retire, whether before or after the commencement of this Act, in consequence of a complaint of misconduct or misbehaviour.

(2) To qualify for review under subsection (1), the judgment or decision shall have been the basis of the removal, resignation or retirement of, or complaint against, the judge.

(3) The Court shall, in exercise of its powers under this section—

- (a) conduct a preliminary enquiry to determine the admissibility of the matter; and
- (b) have all the necessary powers to determine the review under this section, including calling for evidence.

(4) An application for review in respect of a judgment or decision made before the commencement of this Act shall not be entertained two years after the commencement of this Act.

(5) Nothing in this section shall be construed as limiting or otherwise affecting the inherent power of the Court, either on its own motion or on the application of a party, to make such orders as may be necessary for the ends of justice to be met or to prevent abuse of the due process of the Court.

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## PART IV – APPEALS TO THE SUPREME COURT

### **15. Appeals to be by leave**

(1) Appeals to the Supreme Court shall be heard only with the leave of the Court.

(2) Subsection (1) shall not apply to appeals from the Court of Appeal in respect of matters relating to the interpretation or application of the Constitution.

(3) References in any written law, other than this Act, to the leave of the Supreme Court shall be construed subject to the provisions of sections 17 and 18 of this Act.

### **16. Criteria for leave to appeal**

(1) The Supreme Court shall not grant leave to appeal to the Court unless it is satisfied that it is in the interests of justice for the Court to hear and determine the proposed appeal.

(2) It shall be in the interests of justice for the Supreme Court to hear and determine a proposed appeal if—

(a) the appeal involves a matter of general public importance; or

(b) a substantial miscarriage of justice may have occurred or may occur unless the appeal is heard.

(3) The Supreme Court shall not grant leave to appeal against an order made by the Court of Appeal or any other court or tribunal on an interlocutory application unless satisfied that it is necessary, in the interests of justice, for the Supreme Court to hear and determine the proposed appeal before the proceedings concerned is concluded.

(4) The Supreme Court may grant leave to appeal subject to such conditions as it may determine.

(5) The Supreme Court may, on application, vary any conditions imposed under subsection (4) if it considers it fit.

### **17. Direct appeals only in exceptional circumstances**

The Supreme Court shall not grant leave to appeal directly to it against a decision made, a conviction entered, or a sentence imposed in proceedings in any court or tribunal, other than the Court of Appeal, unless in addition to being satisfied that it is necessary, in the interests of justice, for the Supreme Court to hear and determine the proposed appeal, it is also satisfied that there are exceptional circumstances that justify taking the proposed appeal directly to the Supreme Court.

### **18. Reasons for refusal of leave to appeal**

(1) The Supreme Court shall state its reasons for refusing to grant leave to appeal to the Court.

(2) The reasons under subsection (1) may be stated briefly and in general terms.

**19. Extent of appellate jurisdiction of the Supreme Court**

The Supreme Court shall hear and determine appeals from the Court of Appeal or any other court or tribunal against any decision made in proceedings, only to the extent that—

- (a) a written law, other than this Act, provides for the bringing of an appeal to the Supreme Court against such decision; or
- (b) the decision is not a refusal to grant leave to appeal to the Court of Appeal.

**PART V – GENERAL****20. Appeals to proceed by fresh hearing**

Appeals to the Supreme Court may, where the Court considers it necessary, proceed by way of a fresh hearing.

**21. General powers**

(1) On an appeal in proceedings heard in any court or tribunal, the Supreme Court—

- (a) may make any order, or grant any relief, that could have been made or granted by that court or tribunal; and
- (b) may exercise the appellate jurisdiction of the Court of Appeal according to Article 163(4)(b) of the Constitution.

(2) In any proceedings, the Supreme Court may make any ancillary or interlocutory orders, including any orders as to costs that it thinks fit to award.

(3) The Supreme Court may make any order necessary for determining the real question in issue in the appeal, and may amend any defect or error in the record of appeal, and may direct the court below to inquire into and certify its findings on any question which the Supreme Court thinks fit to determine before final judgment in the appeal.

(4) Within fourteen days of delivery of its judgment, ruling or order, the Court may, on its own motion or on application by any party with notice to the other or others, correct any oversight or clerical error of computation or other error apparent on such judgment, ruling or order and such correction shall constitute part of the judgment, ruling or order of the Court.

**22. Power to remit proceedings**

The Supreme Court may remit proceedings that began in a court or tribunal to any court that has jurisdiction to deal with the matter.

**23. Exercise of powers of the Court**

(1) For the purposes of the hearing and determination of any proceedings, the Supreme Court shall comprise five judges.

(2) Any two or more judges of the Supreme Court may act as the Court—

- (a) to decide if an oral hearing of an application for leave to appeal to the Court should be held, or whether the application should be determined solely on the basis of written submissions; or
- (b) to determine an application for leave to appeal to the Court.

**24. Interlocutory orders and directions by the Court**

(1) In any proceeding before the Supreme Court, any judge of the Court may make any interlocutory orders and give any interlocutory directions as the judge thinks fit, other than an order or direction that determines the proceeding or disposes of a question or issue before the Court in the proceeding.

(2) Any person dissatisfied with the decision of one judge in the exercise of a power under subsection (1) is entitled to have the matter determined by a bench of five judges.

(3) Any judge of the Supreme Court may review a decision of the Registrar made within the civil jurisdiction of the Court under a power conferred on the Registrar by the rules, and may confirm, modify, or revoke that decision as the judge thinks fit.

(4) The judges of the Supreme Court who together have jurisdiction to hear and determine a proceeding may—

- (a) discharge or vary an order or direction made or given under subsection (1); or
- (b) confirm, modify, or revoke a decision confirmed or modified under subsection (2).

**25. Judgment of the Court**

(1) The judgment of the Supreme Court shall be in accordance with the opinion of a majority of the Judges hearing the proceeding concerned.

(2) If the judges are equally divided in opinion, the decision appealed from or under review shall be considered as having been affirmed.

**26. Delivery of judgment**

(1) A judgment of the Supreme Court shall be delivered in open court.

(2) Where a matter is heard before the Supreme Court and judgment reserved for delivery on another day, it shall not be necessary for all the judges before whom the matter was heard to be present in court on the day appointed for the delivery of judgment.

(3) A judge who has heard a case and who is absent from the delivery of judgment may sign a copy of the judgment with which the judge concurs or, where the judge has written an opinion, give the opinion to a judge present at the delivery of judgment to announce or read the concurrence or opinion in open court.

(4) Where a judgment is delivered pursuant to subsection (3), a majority of the judges who have heard the case shall be present.

**27. Decisions of the Court may be enforced by the High Court**

A judgment, decree, or order of the Supreme Court may be enforced by the High Court as if it had been given or made by the High Court.

**28. Contempt of Court**

(1) A person who—

- (a) assaults, threatens, intimidates, or wilfully insults a judge of the Supreme Court, the Registrar of the Court, a Deputy Registrar or officer of the Court, or a witness, during a sitting or attendance in Court, or in going to or returning from the Court; or
- (b) wilfully interrupts or obstructs the proceedings of the Supreme Court, in the Court; or
- (c) wilfully and without lawful excuse disobeys an order or direction of the Supreme Court in the course of the hearing of a proceeding, commits an offence.

(2) A police officer, with or without the assistance of any other person, may, by order of a judge of the Supreme Court, take into custody and detain a person who commits an offence under subsection (1) until the rising of the Court.

(3) The Supreme Court may sentence a person who commits an offence under subsection (1) to imprisonment for a period not exceeding five days, or to pay a fine not exceeding five hundred thousand shillings, or both, for every offence.

(4) The Supreme Court shall have the same power and authority as the High Court to punish any person for contempt of Court in any case to which subsection (1) does not apply.

(5) Nothing in subsections (1) to (3) shall limit or affect the power and authority referred to in subsection (4).

**29. Seal of the Supreme Court**

The seal of the Supreme Court shall be such device as may be determined by the Supreme Court and shall be kept in the custody of the Registrar.

**30. Representation before the Supreme Court**

Parties may appear in person or be represented by an advocate in all proceedings before the Supreme Court.

**31. Rules**

Without limiting the generality of Article 163(8) of the Constitution, the rules made by the Supreme Court under that Article may make provision for—

- (a) regulating the sittings of the Supreme Court and the selection of judges for any particular purpose;
- (b) regulating the right of any person other than an advocate of the High Court of Kenya to practise before the Supreme Court and the representation of persons concerned in any proceedings in the Supreme Court;
- (c) prescribing forms and fees in respect of proceedings in the Supreme Court and regulating the costs of and incidental to any such proceedings;

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- (d) prescribing the time within which any requirement of the rules shall be complied with;
  - (e) empowering the Registrar, in order to promote access to justice, to waive, reduce, or postpone the payment of a fee required in connection with a proceeding or intended proceeding, or to refund, in whole or in part, such a fee that has already been paid, if satisfied on the basis of criteria prescribed under paragraph (f) that—
    - (i) the person otherwise responsible for payment of the fee is unable to pay or absorb the fee in whole or in part; or
    - (ii) unless one or more of those powers are exercised in respect of a proceeding that concerns a matter of genuine public interest, the proceeding is unlikely to be commenced or continued;
  - (f) prescribing, for the purposes of the exercise of a power under paragraph (e), the criteria—
    - (i) for assessing a person's ability to pay a fee; and
    - (ii) for identifying proceedings that concern matters of genuine public interest; and
  - (g) any other matter required under the Constitution, this Act or any other written law.
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**NO. 7 OF 2011**

**SUPREME COURT ACT**

SUBSIDIARY LEGISLATION

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**SUPREME COURT RULES, 2011**

[L.N. 141/2011.]

*Revoked by L.N. 123/2012, r. 56.*

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**SUPREME COURT RULES, 2012**

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**SUPREME COURT RULES, 2012**

[L.N. 123/2012, L.N. 14/2013, L.N. 14/2016.]

**PART ONE – PRELIMINARY****1. Citation**

These Rules may be cited as the Supreme Court Rules, 2012.

**2. Interpretation**

In these Rules, unless the context otherwise requires—

“**Act**” means the Supreme Court Act (Act No. 7 of 2011).

“**amicus curiae**” means a person who is not party to a matter, but has been allowed by the Court to appear as a friend of the Court;

“**appeal**” in relation to appeals to the Court, includes an intended appeal from the Court of Appeal or any other court or tribunal;

“**appellant**” deleted by L.N. 14 of 2016, s. 2(b);

“**association**” includes a company, corporation or other body of persons, whether incorporated or not;

“**Bench**” means a judge or any number of judges as may be constituted by the Chief Justice in connection with any proceeding;

“**Court**” means the Supreme Court;

“**electronic media**” includes a compact disc, memory stick, digital versatile disc, e-mail or any unalterable electronic media;

“**guardian ad litem**” means a person appointed as such to defend a minor or a person with a disability in a matter;

“**in forma pauperis**” means proceedings instituted, with leave of the Court, by a person who is unable to pay the prescribed fees;

“**Judge**” means a judge of the Court;

“**next friend**” means a person who institutes a matter on behalf of a minor or a person with a disability;

“**party**” includes a petitioner, respondent, interested party or an applicant;

“**pleadings**” include affidavits, reports or other documents filed in the Court;

“**proceedings**” means presentations made before the Court for final determination on any matter and includes presentations made before a division of the Court or the Registrar on preparatory issues;

“**Registrar**” has the meaning assigned to it under the Act;

“**Registry**” has the same meaning as assigned to it under the Act;

“**Rules**” means these Rules and as amended from time to time.

[L.N. 14/2016, r. 2.]

**3. Scope and objectives**

(1) These Rules apply to proceedings under the Court’s jurisdiction and includes petitions, references and applications.

(2) The overriding objective of these Rules is to ensure that the Court is accessible, fair and efficient.

(3) The Court may use appropriate technology in its proceedings and operations.

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[Subsidiary]

(4) The Court shall interpret and apply these Rules without undue regard to technicalities and procedure.

(5) Nothing in these Rules shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders or give directions as may be necessary for the ends of justice or to prevent abuse of the process of the Court.

## PART TWO—ADMINISTRATION OF THE COURT

### **4. Role of the Chief Justice**

- (1) The Chief Justice shall coordinate the activities of the Court, including—
  - (a) constituting a Bench to hear and determine any matter filed before the Court;
  - (b) determining the sittings of the Court and the matters to be disposed of at such sittings; and
  - (c) determining the vacations of the Court.
- (2) The Chief Justice may delegate the roles under sub-rule (1) to the Deputy Chief Justice.
- (3) Without prejudice to the provisions of sub-rule (1) or sub-rule (2), a single Judge of the Court may hear applications and make orders with regard to —
  - (a) change of representation;
  - (b) admission of consent;
  - (c) consolidation of matters;
  - (d) dismissal of a matter for want of prosecution;
  - (e) correction of errors on the face of the record;
  - (f) withdrawal of documents;
  - (g) review of the decision of the Registrar;
  - (h) leave to file additional documents;
  - (i) admission of documents for filing in the Registry; or
  - (j) substitution of service.
- (4) A party aggrieved by the decision of a single Judge of the Court may file an application for review of the decision to the Court.

[L.N. 14/2016, r. 3.]

### **4A. Role of the Registrar.**

- (1) The role of the Registrar shall be to —
  - (a) schedule matters filed before the Court for a scheduling conference in accordance with rule 15;
  - (b) decline to admit pleadings that are not in accordance with the Constitution, the Act, the relevant rule or the Court's Practice Directions for filings;
  - (c) where the Registrar considers it fit and just to do so, impose sanctions or order costs against a party who does not comply with the directions of the Court and causes unnecessary delay by way of adjournments; and
  - (d) fix matters for hearing in consultation with the Chief Justice.
- (2) Any party aggrieved by the decision of the Registrar made under this rule may apply to a single Judge of the Court for a review of the decision.
- (3) In reviewing the decision of the Registrar under sub-rule (2), the decision of the Judge of the Court shall be final.

[L.N. 14/2016, r. 4.]

### **5. Registry of the Court**

- (1) The Registry of the Court shall be located at Nairobi.
- (2) The working hours of the Registry shall be—

- (a) 8.30 a.m. to 5.00 p.m.; and
- (b) 9.00 a.m. to 12 noon during vacation.

[L.N. 14/2016, r. 5.]

## 6. Language of the Court

(1) The language of the Court shall be English.

(2) Where a party intends to address the Court in any language other than the official language of the Court, including in Braille or sign language, the party shall give the Registrar a seven days' notice before the date of the hearing.

[L.N. 14/2016, r. 6.]

## PART THREE— CASE MANAGEMENT

### 7. Pleadings, affidavits, etc.

(1) All pleadings, affidavits, reports or any other documents filed in the Court shall be in both print and electronic form, in accordance with practice directions issued by the Chief Justice.

(2) Where a document is lodged in a sub-registry the deputy registrar receiving the document shall transmit the document to the Registry.

(3) A document prepared for use in the Court shall, unless the nature of the document renders it impracticable, be on an A4 size paper of durable quality with writings on only one side of the paper, and a margin of not less than one and a half inches on the left side of the sheet.

(4) Any document prepared for use in the Court shall be clear and legible, and may be produced by printing, type lithography, stencil duplicating, photography, xerography, typewriting, writing, other appropriate technology, or any combination of these media.

(5) In every criminal appeal, the record of appeal, and, in every civil appeal, the memorandum of appeal together with the record of appeal, shall be bound in book form with a cover of durable paper and may be in more volumes than one, and the title of the appeal shall appear on the cover page.

(6) The pages of every application and, in criminal cases, of the record of appeal, and, in civil cases, of the memorandum of appeal and the record of appeal, shall be numbered consecutively.

(7) In all applications and appeals, every tenth line of each page of the record shall be indicated in the margin on the right side of the sheet.

(8) The Court may limit the number of pages of any set of documents to be filed.

(9) Notwithstanding any other provision in this Rule the Court may where necessary and in the interest of justice, vary the requirements relating to filing of documents in the Court.

### 7A. Hours for lodging documents.

(1) Parties shall file documents in the registry or present documents to the registry during the working hours specified in rule 5(2).

(2) Despite sub-rule (1), the Chief Justice may, from time to time, direct such other time during which parties may file documents in the registry or present documents to the registry.

[L.N. 14/2016, r. 7.]

### 7B. Maintenance of registers.

(1) The Registrar shall maintain a register of all documents lodged in the registry.

(2) A register maintained under this rule shall contain the particulars of documents including —

- (a) the number of the application;
- (b) in the case of an appeal, the file number of the proceedings in the lower court;

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[Subsidiary]

- (c) the names of the parties; and
- (d) the date when any action is required to be taken.

[L.N. 14/2016, r. 7.]

### **7C. Sittings of the Court.**

- (1) The Court shall have three sittings in every year.
- (2) Notwithstanding the generality of sub-rule (1), the sittings of the Court shall be—
  - (a) from the 14th January to the second Wednesday before Good Friday;
  - (b) from the first Wednesday after Easter Week to the 31st July; and
  - (c) from the 16th September to the 20th December.
- (3) The sittings of the Court during vacation shall be conducted as directed by the Chief Justice.

[L.N. 14/2016, r. 7.]

### **7D. Computation of time.**

- (1) The provisions of section 57 of the Interpretations and General Provisions Act (Cap. 2) shall apply to the Court in relation to the computation of time.
- (2) Where the Constitution provides for specific timelines in relation to any matter, the computation of time under these Rules shall be modified to accord with the constitutional timelines.

[L.N. 14/2016, r. 7.]

### **7E. Filing of documents**

- (1) Parties shall file with the Court all documents in print and electronic form.
- (2) The Registrar may refuse to accept any document that does not comply with the Act or these Rules and may issue an order of rectification of pleadings so that the document complies with the Act or these Rules.
- (3) Parties shall prepare all documents in A4 size paper unless the nature of the documents renders them impracticable to do so and shall be written only on one side of the page with a margin of at least one and- a-half inches from the left edge of the page.
- (4) Any document filed with the Court by a party shall be clear and legible and may be produced by printing, type lithography, stencil duplicating, photography, typewriting, any other appropriate technology, or a combination of these forms.
- (5) In criminal or civil appeals —
  - (a) the memorandum of appeal and record of appeal shall be bound in book form with a cover of durable paper, shall have the title of the appeal on the cover page, and may be bound in more than one volume; and
  - (b) the pages of each application, the memorandum of appeal and the record of appeal shall be numbered consecutively.
- (6) In each application or appeal, every tenth line of each page of the application or appeal shall be indicated on the right side of the page.
- (7) The Court may limit the number of pages of any documents to be filed with the Court.
- (8) The Court may, where necessary, vary the requirements relating to the filings of pleadings with the Court.
- (9) Pleadings shall be deemed to have been filed with the Court where —
  - (a) all the relevant copies of the pleadings have been lodged in the Registry; and
  - (b) where applicable —
    - (i) the requisite fee has been paid; or
    - (ii) the security for costs has been deposited as directed by the Court.

[L.N. 14/2016, r. 7.]

### **8. Further pleadings, affidavits etc.**

- (1) A party may, with leave of the Court or with the consent of other party, lodge further pleadings or affidavits.
- (2) An application for leave under this Rule may be made orally.
- (3) Any pleadings, affidavits or other documents filed under this rule shall be served on all parties in accordance with rule 10.

[L.N. 14/2016, r. 8.]

### **9. Contents of a petition**

- (1) A petition filed in the Court shall be in Form D set out in the First Schedule and shall contain—
  - (a) a concise statement of the facts relied upon;
  - (b) a summary of the grounds for the petition;
  - (c) a concise presentation of arguments supporting each of the grounds of the petition;
  - (d) the relief sought in the petition and any directions sought pursuant to these Rules; and
  - (e) a schedule listing all the documents annexed to the petition.
- (2) *Deleted by L.N. 14/2016, r. 9.*
- (3) The Registrar may allow a party to file a document in any other manner than in the prescribed form where it appears to the Registrar that the deviation is necessary for the just determination of the issue before the Court.

[L.N. 14/2016, r. 9.]

### **10. Service and transmission of documents**

- (1) Where under these Rules a document is required to be served on a person, service may be affected—
  - (a) personally by hand or through a licensed courier service provider approved by the Registrar or, as a last resort, by registered post; or
  - (b) on a person entitled to appear on that person's behalf; or
  - (c) by electronic means in accordance with the practice directions; or
  - (d) in such other manner as the Registrar may direct.
- (2) Unless the Court requires proof of service by oral evidence, proof shall be by way of an affidavit of service which shall specify the details of the persons served, the place, date, time and mode of service.
- (3) The Registrar may give notice of any directions in any manner approved by the Court.

[L.N. 14/2016, r. 10.]

### **11. Responses to petitions**

Unless otherwise provided in these Rules or directed by the Court, a respondent shall within fourteen days of service of petition, file grounds objection, an affidavit or both.

### **12. Representation in Court**

- (1) A party may, in any proceedings before the Court —
  - (a) appear in person;
  - (b) be represented by an advocate; or
  - (c) with the leave of the Court, be assisted by any other person chosen by the party.
- (2) An association, in any proceedings before the Court—

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[Subsidiary]

- (a) may be represented by an advocate, a director, manager or secretary appointed in accordance with a resolution of the association and the appointment of the advocate, director, manager or secretary shall be in writing and shall be sealed with the official seal of the association; and
- (b) shall file the resolution made under paragraph (a) with the Court.

(3) Subject to sub-Rule (4), the Court may appoint a guardian *ad litem* or a next friend for the purpose of lodging an appeal or petition at the Court and may, at any time and for sufficient reason, remove or substitute the guardian *ad litem*.

(4) Where a person has acted as a guardian *ad litem* or next friend in the preceding court, and the minor or person with disability for which the guardian *ad litem* or next had acted is a respondent in an appeal or petition at the Court, the guardian *ad litem* or next friend may file a consent to act as a guardian *ad litem* or next friend with the Court if he or she wishes to continue acting for the minor or person with disability.

(5) A party may remove or substitute that party's representative at any stage of the proceedings.

(6) Where a party —

- (a) removes or substitutes that party's representative;
- (b) elects to act in person without representation; or
- (c) having elected to act in person without representation, elects to appoint a representative

that party shall lodge with the Registrar a notice of change of representation and shall serve the notice on the other party or parties to the proceedings.

(7) An advocate may, at any stage in proceedings before the Court, apply to the Court to cease acting for a party.

(8) An advocate who applies to the Court to cease acting for a party under sub-rule (7) shall serve the application on the other party or parties to the proceedings.

[L.N 14/2016, r. 11.]

### **13. Assignment of advocates by the Court**

(1) The Chief Justice may, in the interest of justice, assign an advocate to represent a party.

(2) The fees and expenses of an advocate assigned under the sub-rule (1) may be paid out of the Judiciary Fund on a scale that shall be determined by the Chief Justice.

### **14. Consolidation of proceedings and selection of a test case**

The Court may, upon application by any party or on its own motion, where it is satisfied that the issues to be tried in any two or more proceedings are precisely similar, order—

- (a) that any proceedings be consolidated on such terms as it may determine; or
- (b) that any of the proceedings be tried as a test case and stay all steps in the other suits until the selected suit shall have been determined or shall have failed to be determined or to be a real trial of the issues.

### **15. Scheduling conference**

(1) A party shall, within seven days after the close of pleadings before the Court, fill in and submit to the Registrar a scheduling questionnaire as set out in Form G in the First Schedule to these Rules.

(2) The Registrar shall, within three days of receiving the filled-in questionnaire, convene a scheduling conference to—

- (a) determine the contested issues and agreed issues;
- (b) determine whether the parties can reach a settlement out of court;

- (c) determine the form of evidence to be adduced by the parties and the number of witnesses parties shall call, if any;
- (d) receive proposals, and give directions, on the proposed time frame for oral submissions, the filing of written submissions, and the lists of authorities, bundles of authorities and digests by parties;
- (e) confirm whether or not the parties' pleadings conform with these Rules and the practice directions of the Court; and
- (f) where the question of the jurisdiction of the Court is raised by a party, refer the matter to the Chief Justice for determination.

(3) The presiding judge of the Court shall, within seven days after the registrar certifies that the parties have complied with the directions made at the scheduling conference, convene a pre-trial conference in order to determine preliminary matters including —

- (a) whether or not to allow amicus curiae or interested parties to participate in the proceedings before the Court; and
- (b) any other matter that requires determination that may have been raised at the scheduling conference.

[L.N 14/2016, r. 12.]

## **16. List of authorities**

(1) A party shall file and serve a list of authorities at least working days before the hearing.

(2) The list of authorities under sub-rule (1) shall contain a summarised analysis of each of the listed authorities specifying the *ratio decidendi*, relevance, and applicability to the matter before the Court.

(3) A party shall file written submissions in addition to, or *in lieu* of, oral submissions.

## **17. Hearing in Court**

(1) The Registrar shall, unless the Court otherwise directs in the case of an urgent matter, give all parties to any proceedings a notice of not less than seven days, of the date fixed for the hearing of any matter.

(2) Proceedings shall either be in open court or in chambers as the Court may direct.

(3) The Court may prescribe the time allowed for making oral presentations, address by the parties, their advocates or other recognised representatives.

## **18. Evidence before the Court**

(1) The Court may in any proceedings, call for additional evidence.

(2) A party seeking adduce additional evidence under this rule shall make a formal application before the Court.

(3) On any appeal from a decision of the Court of appeal, or any other court or tribunal acting in the exercise of its original jurisdiction, the Court shall have power—

- (a) to call for or receive any record on any matter connected with the proceedings before it;
- (b) to re-appraise the evidence and to draw inferences of fact; and
- (c) in its discretion, for sufficient reason, to take additional evidence or to direct that additional evidence be taken by the trial court or by the Registrar.

(4) Where additional evidence is taken by the Court, it may be oral or by affidavit, and the Court may allow cross-examination of any witness.

(5) Where additional evidence is taken by the trial court, the trial court shall certify such evidence to the Court, with a statement of its opinion on the credibility of the witness giving the additional evidence.

(6) Where evidence is taken by the Registrar, the Registrar shall give statements of opinion on the credibility of the witness.

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[Subsidiary]

(7) The parties to an appeal shall be entitled to be present when such additional evidence is taken.

### **19. Withdrawal of proceedings**

A party may, at any time before or after the hearing but before the delivery of judgment, with the leave of the Court, withdraw any proceedings.

[L.N 14/2016, r. 13.]

### **20. Judgment**

(1) Unless otherwise provided for in these Rules, the Court shall deliver a ruling or judgment within ninety days from the last day of hearing, unless the Court, for reasons to be recorded, orders otherwise.

(2) The Court may, at the close of any hearing, give its decision but reserve its reasons.

(3) Where the Court reserves its reasons in a decision under sub-rule (2) any judge of the Court may deliver the reasons.

(4) The Court may, in circumstances it considers exceptional, on an application by any party or on its own motion, review any of its decisions.

(4A) An application for the correction of a judgment, ruling or order as provided under section 21(4) shall be made in Form A as set out in the First Schedule to these Rules.

(5) The Court may, in a subsequent matter, depart from its previous decision.

[L.N 14/2016, r. 14.]

### **21. Decrees and Orders**

(1) Except for an advisory opinion, a decision of the Court on any proceeding shall be in form of a decree or an order as may be appropriate.

(2) A decree of the Court shall be in Form J set out in the First Schedule and an Order of the Court shall be in Form H set out in the First Schedule.

(3) Any party may, within fourteen days from the date of judgment or ruling, prepare a draft order and submit it for the approval of the other party or parties and who shall, within seven days of receiving the draft order—

- (a) approve it, with or without any changes; or
- (b) reject it.

(4) Where the draft is approved by the parties, it shall be submitted to the Registrar who shall, if satisfied that it is properly drawn, certify the Order accordingly.

(5) Where parties do not agree on the content of the Order, any judge who sat at the hearing shall settle the terms of the Order.

(6) An Advisory opinion shall be in writing and shall be pronounced by the Court.

[L.N 14/2016, r. 15.]

### **21A. Signature and sealing of court documents**

A summons, warrant, order, notice or other formal document issued by the Court shall be signed by the Registrar and sealed with the seal of the Court.

[L.N 14/2016, r. 16.]

### **22. Execution**

(1) decision of the Court given in exercise of its jurisdiction under the Constitution may be executed and enforced as if it were a judgment of the High Court.

(2) The Registrar shall certify every decision of the Court for transmission to the High Court for execution.

## PART FOUR — APPLICATIONS

### 23. Interlocutory applications

An interlocutory application to the Court shall be by way of a written submission only:

Provided that where a party is not represented, that party may address the Court orally.

[L.N 14/2016, r. 17.]

### 24. Application for certification

(1) An application for certification shall first be made in the court or tribunal it is desired to appeal from.

(2) Where the Court of Appeal has certified or has declined to certify a matter to be of general public importance, an aggrieved party may apply to the Court for review within fourteen days.

(3) The Court shall in granting the certification review matters that have been certified to be of general public importance.

(4) An application under this rule shall be by originating motion in Form K set out in the First Schedule.

(5) An application under this rule shall be determined on the basis of written submissions: Provided that the Court may, where an applicant is unrepresented, direct that the submissions may be made orally.

[L.N 14/2016, rr. 18, 19, 20.]

### 25. Interventions

(1) A person may at any time in any proceedings before the Court apply for leave to be joined as an interested party.

(2) an application under this rule shall include —

- (a) a description of the interested party;
- (b) any prejudice that the interested party would suffer if the intervention was denied; and
- (c) the grounds or submissions to be advanced by the person interested in the proceeding, their relevance to the proceedings and the reasons for believing that the submissions will be useful to the Court and different from those of the other parties.

(4) An application under this rule shall be determined on the basis of written submissions.

Provided that the Court may, where the applicant is unrepresented, direct that submissions may not be made orally.

[L.N 14/2016, r. 21.]

### 26. Urgent applications

(1) A party who seeks to have an application heard on a priority basis shall file an application which shall be —

- (a) accompanied by a certificate of urgency; and
- (b) supported by an affidavit setting out the urgency.

(2) A single judge of the Court may grant or decline to certify the application as urgent.

(3) Where the single judge declines to certify an application as urgent, the applicant may apply informally at the time the decision is made or formally within seven days, for the matter to be placed before the single judge for hearing *inter partes*.

(4) At the hearing of an application previously decided by a single judge, no additional evidence shall be adduced.

(5) The provisions of this rule shall apply to the hearing of urgent applications during the term of the Court or during vacation.

**27. Service of notice of motion**

Any person served with a notice of motion may lodge one or more affidavits in reply and shall within seven days serve a copy on the applicant.

**PART V – PETITIONS RELATING TO PRESIDENTIAL ELECTIONS****28. Procedure on non-attendance**

- (1) If on the date fixed for the hearing of an application —
  - (a) neither party attends court, the Court may dismiss the application; or
  - (b) the applicant does not attend court or the respondent does not attend court, the Court may allow or dismiss the application, or may proceed in any manner that the Court deems fit.
- (2) A party that did not attend court and is aggrieved by the decision of the Court under sub-rule (1) may apply to the Court to have the application heard afresh:  
Provided that the party shall demonstrate sufficient cause for non-attendance.
- (3) The Court shall consider an application under sub-rule (2) and may set aside or vary the decision made under sub-rule (1).
- (4) Where in a criminal matter the applicant does not attend court by reason of being in custody but is represented by an advocate, the application shall be heard in the absence of the applicant:  
Provided that the Court may direct that the applicant shall be presented in court for the hearing.

[L.N 14/2016, r. 22.]

**29. Abatement of applications**

- (1) An application which is criminal in nature shall abate where the applicant is the State, on the death of the respondent, and in any other case, on the death of the applicant.
- (2) An application which is civil in nature shall not abate on the death of any party but the Court shall, on the application of an interested person, cause the legal representative of the deceased to be made a party in place of the deceased.
- (3) If no application is made under sub-rule (2) within twelve months from the date of death, the proceedings shall abate.
- (4) A legal representative of a deceased party or any other interested person may apply for an order to revive an application which has abated under sub-rule (3).
- (5) The Court shall, if it is proved that an applicant under sub-rule (4) was prevented by sufficient cause from continuing with the application, revive the application on such terms as to costs or otherwise as it shall deem fit.

**PART FIVE— PETITIONS RELATING TO VALIDITY OF STATE OF EMERGENCY****30. Petition upon declaration of a state of emergency under Article 58 of the Constitution.**

- (1) A person may petition the Court for determination of the validity of matters relating to a state of emergency within seven days of its declaration by the President, or upon extension of the state of emergency by the National Assembly.
- (2) A petition under this rule shall be served on the respondent within three days of the filing of the petition.
- (3) Upon receipt of the petition, the respondent may, within three days file a response by way of grounds of objection or replying affidavit, or both.

## PART SIX—APPEALS

**31. Notice of Appeal**

(1) A person who intends to appeal to the Court shall file a notice of appeal within fourteen days from the date of judgment or ruling, in Form B set out in the First Schedule, with the Registrar of the court or with the tribunal, it is desired to appeal from.

(2) Where an appeal lies only on a certificate that a matter of general public importance is involved, it shall not be necessary to obtain such certification before lodging the notice of appeal.

(3) Upon receipt of the notice of appeal of the court or tribunal against whose decision it is intended to appeal, the court or tribunal shall transmit a copy of the notice to the Registrar.

**32. Service of notice of appeal**

(1) An appellant shall, within seven days of lodging a notice of appeal, serve copies of the notice of appeal on all persons directly affected by the appeal.

(2) A person upon whom a notice of appeal is served shall—

- (a) within fourteen days of receiving the notice of appeal file a notice of address for service which shall contain that person's contact details including telephone numbers and email address, in the registry and serve the intended appellant with copies of the notice; and
- (b) within a further fourteen days serve a copy of the notice of address for service on every other person named in the notice of appeal.

(3) Where a party cannot serve a petition or a response to a petition or cannot make any other service under these Rules the party may apply in writing to the Court for an order of substituted service through a newspaper with a nationwide circulation and the Court may, for sufficient cause, grant such an order.

[L.N 14/2016, r. 23.]

**33. Institution of appeals**

(1) An appeal to the Court shall be instituted by lodging in the registry within thirty days of the date of filling of the notice of appeal where the appeal is as of right, or within thirty days after the grant of certification where such certification is required—

- (a) a petition of appeal;
- (b) a record of appeal; and
- (c) the prescribed fee.

(2) A petition for purposes of appeal shall be in Form D set out in the First Schedule and shall contain—

- (a) the grounds of objection to the decision appealed against, under concise and distinct heads, without argument or narrative;
- (b) points which are alleged to have been wrongly decided;
- (c) the nature of the order which it is proposed to request the court to grant.

(3) The Record of Appeal from a court or tribunal exercising original jurisdiction shall contain—

- (a) an index of the documents in the record with the numbering of the pages in which they appear;
- (b) the notice of appeal;
- (c) the certificate, if any, certifying that the matter is of general public importance;
- (d) a statement showing the address for service of the appellant including telephone numbers and email address;
- (e) the address for service furnished by the respondent and as regards any respondent who has not furnished an address or service, the address and proof of service on the respondent of the notice of appeal;

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[Subsidiary]

- (f) the pleadings;
- (g) the record of proceedings;
- (h) the trial judge's notes of the hearing;
- (i) the transcript of any shorthand notes taken at the trial;
- (j) the affidavits read and all documents of evidence at the hearing, or, if such documents are not in the English language, certified translations thereof;
- (k) the judgment or order;
- (l) the certified decree or order;
- (m) such other documents, if any, as may be necessary for the proper determination of the appeal, including any interlocutory proceedings which may be directly relevant.

(4) For the purpose of an appeal from a court or tribunal in its appellate jurisdiction, the record of appeal shall contain documents relating to the proceedings in the trial court corresponding as nearly as possible to the requirements under sub-rule (3) and shall further contain the following documents relating to the appeal in the first appellate court—

- (a) the certificate, if any, certifying that the matter is of general public importance;
- (b) the memorandum of appeal;
- (c) the record of proceedings; and
- (d) the certified decree or order.

(5) The court may, on the application of any party, direct which documents or parts of documents should be excluded from the record and an application for such direction may be made orally.

(6) Where a document referred to in sub-rules (3) and (4) is omitted from the record of appeal the appellant may within fifteen days of lodging the record of appeal, without leave, include the document in a supplementary record of appeal.

(7) For the avoidance of doubt, the record of appeal shall contain the judgment being appealed, the judgment or ruling of the High Court, the proceedings of the Court of Appeal, and the relevant pleadings required to make a determination of the appeal.

[L.N 14/2016, rr. 24 & 25.]

### **34. Service of petition of appeal**

(1) The appellant shall, within seven days after lodging the petition of appeal and the record of appeal in the registry, serve the copies of the petition of appeal and record of appeal on each respondent.

(2) The appellant shall serve copies of the petition and record of appeal on such other parties to the original proceedings as the Court may at any time on application or of its own motion, and within a specified period, direct.

### **35. Death of respondent before service of notice**

A notice of appeal shall not be incompetent by reason that the person on whom it is required to be served was dead at the time when the notice was lodged, but a copy of the notice shall be served as soon as practicable on the legal representative of the deceased.

### **36. Respondent to give address for service**

A person on whom a notice of appeal is served shall within fourteen days after service of the notice of appeal lodge in the registry and serve on the appellant and every other person named in the notice—

- (a) an address for service; and
- (b) a notice of address for service which shall be in Form C set out in the First Schedule.

### **37. Default in instituting appeal**

(1) Where a party has lodged a notice of appeal but fails to institute the appeal within the prescribed time, the notice of Appeal shall be deemed to have been withdrawn, and the Court may on its own motion or on application by any party make such orders as may be necessary.

(2) The party in default shall be liable to pay the costs arising therefrom to any person on whom the notice of appeal was served.

### **38. Notice of cross – appeal**

(1) A respondent who intends to cross-appeal shall specify the grounds of contention and the nature of the relief which the respondent seeks from the Court.

(2) The respondent shall—

- (a) provide contact details including the names, postal address, telephone number and email address of any persons intended to be served with the notice; and
- (b) lodge eight copies of the memorandum of appeal and record of appeal in the registry within thirty days of service on the respondent or not less than thirty days before the hearing of the appeal, whichever is the later.

(3) An application for notice to cross appeal under sub-rule (1) shall be in Form F set out in the First Schedule.

(4) In a criminal appeal, the registrar of the court or tribunal from which it is intended to appeal shall prepare the record of appeal and shall cause copies to be served upon the parties and to the Registrar

### **39. Notice of grounds for affirming decision and service**

(1) A respondent who contends on an appeal that a decision of a court or tribunal should be affirmed on grounds other than, or additional to those relied upon by the court, shall give notice in Form G set out in the First Schedule, specifying the grounds of the contention.

(2) A respondent who intends to contend at the hearing of the appeal that part of the decision of the court should be varied or reversed, and that part of that decision should be affirmed on grounds other than or additional to those relied upon by that court, may include both such contentions in a notice of cross-appeal under rule 38 and shall not be required to give further notice Under this rule.

(3) The provisions of sub-rules (1) and (2) shall apply, with necessary modifications, to an appellant who desires to contend in opposition to a cross-appeal that the decision of a court or tribunal should be affirmed on grounds other than or additional to those relied on by that court.

(4) A notice under this rule shall be served upon the other parties within seven days after lodging.

### **40. Withdrawal of notice of cross-appeal or notice of grounds for affirming decision**

(1) A withdrawal of a notice of cross-appeal or notice of grounds for affirming decision shall be in the manner provided under rule 19.

(2) Where an appeal is withdrawn under rule 19 after notice of cross appeal is given, the respondent who gave the notice may withdraw it within fourteen days of receiving the notice of withdrawal; if it is not so withdrawn, the cross-appeal shall proceed to hearing, and the provisions of these Rules shall apply as if the cross-appellant were an appellant and the appellant a respondent

(3) Where an appeal is withdrawn within fourteen days of the date when it was instituted, any respondent who has not lodged a notice of cross-appeal shall be entitled to give notice of appeal despite the expiry of time, except where the respondent gives the notice within fourteen days from the date when he or she received the appellant's notice of withdrawal.

## PART SEVEN — ADVISORY OPINIONS

**41. Reference for an advisory opinion**

(1) The national government, state organ or county government may apply to the Court by way of reference for an advisory opinion under Article 163(6) of the Constitution.

(2) The reference under this rule shall—

- (a) be in Form E set out in the First Schedule;
- (b) be signed by a duly authorised officer;
- (c) specify the questions or issues for determination by the Court; and
- (d) concisely and briefly state the question upon which advice is sought.

(2A) Where an *amicus curiae* or an expert has been admitted in any proceedings before the Court, the *amicus curiae* or expert shall file written submissions with the Court or shall orally address the Court as the Court may direct.

(3) Upon filing of a reference the Registrar shall give—

- (a) notice to the applicant to appear before the Court for directions on the persons to be served with notice of such reference; and
- (b) notice of the reference to all parties, if any, inviting them to attend the Court for directions on the mode and date of hearing.

(4) The court may on giving the parties an opportunity to be heard, reject a reference in whole or in part if—

- (a) it is incompetent within the meaning of Article 163(6) of the Constitution;
- (b) it considers that the applicant does not have or does not represent those who have interest in the opinion;
- (c) the matter in respect of which the reference is made can in the opinion of the Court be resolved by the advice of the attorney-General, and such advice has not been sought;
- (d) it satisfied that the application is frivolous, vexatious or otherwise an abuse of the process of the Court.
- (e) the applicant has failed to comply with any rule, directions or order of the Court; or
- (f) the reference is materially incomplete or lacking in clarity and the applicant has failed to remedy the defects as directed by the Court under sub-rule (3).

(5) The Court shall, within sixty days of the close of hearing, deliver its opinion, and the Registrar shall publish the decision of the Court in the manner approved by the Court.

[L.N 14/2016, rr. 26, 27.]

## PART EIGHT — [DELETED]

**42.** Deleted by L.N. 14/2016, r. 28.

**43.** Deleted by L.N. 14/2016, r. 28.

**44.** Deleted by L.N. 14/2016, r. 28.

## PART NINE — FEES AND COSTS

**45. Fees payable**

Subject to Article 22 of the Constitution and section 11 of the Act, there shall be payable to the Court such fees, including fees for service by the Court of any application, petition, statement or process as prescribed in the Second Schedule to these Rules.

**46. Assessment or taxation of costs**

(1) Any costs payable by a party shall be—

- (a) assessed by the Court when making its decision; or

- (b) be taxed by the Registrar; or
- (c) by consent of the parties.

#### **47 Taxation**

(1) The Registrar shall be taxing officer with power to tax costs arising out of any proceedings before the Court as between the parties.

(2) Costs under sub-rule (1) shall be taxed in accordance with the rules and scale set out in the Third Schedule.

#### **48. Costs improperly incurred**

If it appears to the Court that costs have been incurred improperly or without reasonable cause, or that by reason of any undue delay in proceedings, or of any misconduct or default of the advocate or other recognized representative, any costs properly incurred have nevertheless proved fruitless to the person incurring the same, the Court may call on the advocate or the representative by whom such costs have been so incurred to show cause why such costs should not be borne by the advocate or the representative personally, and thereupon may make such order as the justice of the case may require.

#### **49. Reference on taxation**

(1) A person who is dissatisfied with a decision of the Registrar as the taxing officer may refer the matter in writing within seven days to a single Judge for determination.

(2) Any person dissatisfied by the decision of a judge given under sub-rule (1) may apply to the Court to vary, discharge or reverse the decision.

(3) An application under sub-rule (2) may be made in writing to the Registrar within seven days of the decision.

#### **50. Proceedings *in forma pauperis***

(1) A party may apply in any proceedings in the Court to proceed *in forma pauperis*.

(2) Where the Registrar of the court is satisfied in any proceedings that a party lacks the means to pay the required fees, the Registrar may by order direct that the matter be lodged—

- (a) without prior payment of fees of Court, or on payment of any specified amount less than the required fees; and
- (b) on condition that the applicant undertakes to pay the fees or the balance of the fees out of any money or property that may be recovered in or as a consequence of the proceedings.

(3) In considering an application under sub-rule (2), the Registrar shall consider—

- (a) whether the person has the capacity to pay the costs;
- (b) whether the matter in the court preceding was instituted *in forma pauperis*.
- (c) the affidavit of means deponed by the party;
- (d) the objective merit of the case; and
- (e) any practice directions made by the Chief Justice.

(4) No fee shall be payable on the lodging of an application under sub-rule (1).

(5) Any expenses arising from waiver of fees under this Rule shall be charged on the Judiciary Fund.

[L.N 14/2016, r. 29.]

#### **PART TEN — MISCELLANEOUS PROVISIONS**

#### **51. Practice directions**

(1) The Chief Justice may issue practice directions for the better carrying out of the provisions of these Rules.

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[Subsidiary]

(2) Where these Rules contain no provision for exercising a right or procedure, the Court may adopt any procedure that is not inconsistent with the Act, these Rules or practice directions.

## 52. Review of Rules

The Court may review these Rules from time to time.

## 53. Extension of time

The Court may extend the time limited by these Rules, or by any decision of the Court.

## 54. *Amicus curiae*, experts or advocates

(1) The Court may—

- (a) in any matter allow an *amicus curiae*;
- (b) appoint a legal expert to assist the Court in legal submissions; or
- (c) at the request of a party or on its own initiative, appoint an independent expert to assist the Court on any technical matter.

(2) The Court shall before allowing an *amicus curiae* take into consideration the expertise, independence and impartiality of the person in question and it may take into account the public interest, or any other relevant factor.

(3) The fees and expenses of an advocate or expert appointed by the Court on its own initiative shall be paid out of the Judiciary Fund in accordance to the scale of fees set by the Chief Justice from time to time.

## 55. Effect of non-compliance with the Rules

These Rules and Practice Directions issued thereunder, shall bind all parties in all proceedings before the Court provided that—

- (a) where any provision in these Rules or any relevant practice direction is not complied with, the Court may give such directions as may be appropriate, having regard to the gravity of the non-compliance, and generally to the circumstances of the case.
- (b) any direction given under this rule may include the dismissal of the petition, reference or application.

## 55A. Disposal of records

The disposal of records in the custody of the Court shall be in accordance with the provisions of the Records Disposal Act (Cap. 124) or as the Chief Justice may direct.

[L.N 14/2016, r. 30.]

## PART ELEVEN — REVOCATION AND TRANSITIONAL PROVISIONS

## 56. Revocation of L.N. 141 of 2011

The Supreme Court Rules, 2011 (L.N. 141/2011) are hereby revoked.

## 57. Transitional provisions

In all proceedings pending, whether in the Court or in a superior court preparatory or incidental to, or consequential upon any proceedings in the Court at the time of the coming into force of these Rules, the provisions of these Rules shall thereafter apply, but without prejudice to the validity of anything previously done—

Provided that—

- (a) if and so far as it is impracticable in any such proceedings to apply the provisions of these Rules, the practice and procedure heretofore obtaining shall be followed; and

- (b) in any case of difficulty or doubt the Judge or the Registrar may informally give directions as to the procedure to be adopted
- 

## FIRST SCHEDULE

## FORMS

**FORM A**

[Rule 23.]

## In the Supreme Court

Criminal (1) Application No. .... of ..... 20.....

Civil

an intended appeal (1)

In the matter of .....

In the matter of .....

Criminal/Civil Appeal No. .... of ..... 20.....

between ..... Applicant

and ..... Respondent

(Appeal from the ..... (2) of the High Court of Kenya/Court of Appeal

..... at ..... (Mr. Justice) .....

dated ..... 20....., in .....

Criminal(1) Application(1) No. .... of 20 .....

Civil Appeal.

**NOTICE OF MOTION**

TAKE NOTICE that on ..... the ..... day of ..... 20 ...., at ..... o'clock in the morning (1) afternoon as soon thereafter as he can be heard, Mr. ...., Advocate for the above-named applicant, will move the Court (1) a judge of the Court for an order that ..... on the grounds that .....

And for an order that the costs of and incidental to this application abide the result of the said appeal (2). \_\_\_\_\_

The application will be supported by the affidavit of .....

sworn on the ..... day of ..... 20.....

The address for service of the applicant is .....

Dated this ..... day of ..... 20 .....

Signed..... Applicant

Advocate for the applicant

Lodged in the Registry on the ..... day of ..... 20 .....

.....  
Registrar

- (1) Delete inappropriate words.
  - (2) Insert conviction, sentence, judgement, decree, order or as the case may be.
  - (3) Amend as necessary.
-

[Subsidiary]

**FORM B**

(r. 31)

*(Heading as in proceeding appealed form)***NOTICE OF APPEAL**

TAKE NOTICE that ..... being dissatisfied with the decision of .....  
 (Court or Tribunal) given at ..... on the ..... day of ..... , 20 .....  
 intends to appeal to the Supreme Court against the whole of the said decision or such part of the  
 said decision as decided that .....

The address for service of the appellant is .....

It is intended to serve copies of this notice on .....

Dated this ..... day of ..... , 20 .....

The Registrar of the Supreme Court

Lodged in the ..... (Court or Tribunal) at .....  
 this ..... , day of ..... , 20 .....

*Registrar***FORM C**

(r. 36)

*(Heading as in proceeding appealed form)***NOTICE OF ADDRESS FOR SERVICE**

TAKE NOTICE that the address for service of a respondent served with notice of appeal, is .....

Dated this ..... day of ..... , 20 .....

*Signed* ..... Respondent Advocate for the respondent

To—

The Registrar/Deputy Registrar of the Supreme Court of Kenya Copies to be served on .....  
 ..... lodged in the registry/sub-registry at ..... , of ..... , 20 .....

*Registrar*

## FORM D

(r. 9, 33 &amp; 42)

## In the Supreme Court of Kenya

Petition No. .... of 20 .....

Between

Appellant

and

Respondent

Appeal from judgment or ruling of ..... (Court or Tribunal)

..... at ..... dated the ..... day of

, 20 ..... , in Case No. ..... of ..... , 20 .....

**PETITION**

1. **The humble petition of AB is as follows .....** [set out, in consecutive paragraphs the specific issues contended by [each of the] petitioner[s] referring where necessary to the section of the Constitution or any Act of Parliament or decided cases relied upon.]
2. [briefly set out the point of law raised]
3. [briefly set out the facts necessary to enable the Court to properly decide the point of law raised]
4. [set out in summary of the grounds for the petition]
5. [set out succinctly presentation of the arguments supporting each of the grounds of the petition]
6. **The question or issue for the determination by the Court is .....** [state the question].
7. The relief sought by the petitioner is .....

DATED this ..... day of ..... , 20 .....

*Signed* .....*Petitioner* .....*Advocate for the petitioner*

To:

The Supreme Court of Kenya

Copies to be served on .....

Lodged in the Registry at ..... on the ..... day of .....

*Registrar*

## FORM E

(r. 41)

## In the Supreme Court of Kenya

Reference No. .... of 20 .....

In the matter of an application by (National Government, State Organ or County Government) for  
Advisory Opinion under Article 163(6) of the Constitution

Between

....., Applicant

WhereasWhereasWhereasThe Advisory Opinion of the Court is sought on the following issues:

1. ....
2. ....
3. ....
4. .... etc.

Dated this ..... day ..... of ..... 20 .....

Petitioner

Signed .....  
To:-

The Supreme Court of Kenya

Copies to be served on .....

Lodged in the Registry at ..... on the ..... day of ..... , 20 .....

.....  
*Registrar*  
.....

## FORM F

(r. 38)

*(Headings as in Form D)*

## NOTICE OF CROSS-APPEAL

TAKE NOTICE that on the hearing of this appeal the above-named respondent will contend that the above-mentioned decision ought to be varied or reversed to the extent and in the manner and on the grounds hereinafter set out, namely—

1 .....

2 .....

It is proposed to ask the Court for an order that .....

It is intended to serve copies of this notice on .....

Dated this ..... day of ..... 20 .....

Signed .....

Respondent .....

Advocate for the petitioner

To:

The Supreme Court of Kenya

Copies to be served on .....

Lodged in the Registry at ..... on the ..... day of .....

Registrar

[Subsidiary]

## FORM H

(r. 21)

*(Heading as in the proceeding form)*

## ORDER

Before ..... in Chambers/in Court

Upon hearing .....

and upon reading the affidavit of .....  
filed herein on the .....

IT IS ORDERED that .....

and that the costs of this application be .....

Dated this ..... day of .....

ISSUED on .....

*Registrar*

## FORM J

(r. 21)

*(Heading as in the proceeding form)*

## DECREE

## CLAIM FOR—

- (a) .....
- (b) .....
- (c) .....
- (d) .....

THIS PETITION COMING UP FOR HEARING ON THE .....

DAY OF ..... and for orders and upon hearing counsel for the .....  
and counsel for .....

IT IS HEREBY ORDERED THAT—

1. .....
2. .....

GIVEN under my hand and seal of the Court this ....., day of .....  
ISSUED on .....*Registrar, Supreme Court of Kenya*

**FORM K**

(r. 24)

Motion No. .... of ..... 20 .....

Between

..... Applicant  
and

..... Respondent

**ORIGINATING MOTION**

Let ..... of ..... within ..... days  
after service of this motion on him/her which is issued on the application of .....  
who claims to (state the nature of the claim) ..... for the  
determination of the following questions (state questions).

Dated the ..... day of ..... 20 .....

This motion was taken out by ..... of ..... advocate  
for the above-named .....

Appearance may be effected personally or advocate.

*Note.*—If the respondent does not enter appearance within the time above-mentioned such order  
may be made and proceedings taken as the Court may think just and expedient.

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## SECOND SCHEDULE

[Rule 45.]

## FEES

## PART 1

Fees in connection with applications	KSh.
1. Upon lodging a notice of motion	500
2. Upon lodging a notice of motion under certificate of urgency	750
For each subsequent day of hearing or part thereof excluding the first day	800
3. Upon lodging an affidavit, other than an affidavit annexed to a notice of motion	150
4. Upon giving notice under rule 30	3,000
5. Filling Notice of objection or address of service	100
6. Filling annexures (per folio)	10
7. Filling in written submissions	100

## PART 2

## FEES IN CONNECTION WITH PETITIONS AND REFERENCES

## PART 3

## MISCELLANEOUS

For serving a document in addition to all necessary expenses of travel—	
(a) where the person to be served resides or has his place of business within the city town where the registry or sub-registry where the Court is situated	1000
(b) in any other case	250
15. For sealing an order	250
16. For preparing certified copies of a document—	
(a) for each folio or part thereof	20
(b) for each subsequent copy	10
17. Upon applying to inspect the proceedings or an application or appeal that has been determined	300

## PART 4

## FEES IN CONNECTION WITH THE TAXATION OF COSTS

18. Upon lodging a bill of costs for taxation	750
17. For applying for the certificate of the result of taxation	KSh. 500 and Ksh. 5 for each KSh. 100 or part of the amount allowed excluding the fee.
20. Upon applying for a reference under rule 112	1,000

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## THIRD SCHEDULE

[Rule 47.]

## TAXATION OF COSTS

**1. Interpretation**

In this Schedule, “**a folio**” means one hundred words, and a single figure or a group of figures up to seven shall count as one word.

**2. Lodging and service of bill of costs**

(1) Where costs are to be taxed, the advocate for the party to whom the costs were awarded shall lodge his or her bill with the taxing officer and shall before or within seven days after lodging it, serve a copy of it on the advocate for the party liable to pay it.

(2) A bill of costs shall be lodged as soon as practicable after the making of the order for costs and not later than twenty-one days after a request in writing therefor by the party liable, or such further time as the Registrar may allow.

(3) A bill of costs may not be lodged by an advocate who is not on the record.

**3. Form of bill**

(1) A bill of costs shall be instituted and filed in the proceedings and shall be prepared in five columns as follows—

- (a) the first or left hand column for the dates of the items;
- (b) the second column for the serial numbers of the items;
- (c) the third column for the particulars of the services charged for;
- (d) the fourth column for the professional or scale charges;
- (e) the fifth column for the taxing officer's deductions.

(2) Every bill of costs shall be endorsed with—

- (a) the name and address of the advocate lodging the same;
- (b) the name and address of every party to be served or party's advocate;
- (c) a certificate signed by the advocate lodging the bill that the number of folios; in respect of any item in the bill charged for by the folio, is correct. If such certificate is found to be incorrect the item may be disallowed.

(3) Every bill of costs shall be endorsed at the end thereof with a form of certificate for signature by the taxing officer certifying the result of the taxation.

**4. Disbursements**

(1) Disbursements shall be shown separately at the foot of the bill of costs.

(2) Receipts for all disbursements shall be produced to the taxing officer at the time of taxation.

(3) No disbursement shall be allowed which has not been paid at the time of taxation.

**5. Bills not to be altered after lodging**

No alteration or addition to a bill of costs once lodged shall be made except by consent of the parties or by permission of the taxing officer or a judge.

**6. Notice of taxation**

When a bill of costs has been lodged as aforesaid, the taxing officer shall issue a notice to all parties concerned or their advocates giving the date, time and place at which the bill will be taxed.

**7. Time and adjournment**

The taxing officer shall have power to limit or extend the time for proceedings before him or her, and to adjourn the same from time to time and from place to place.

**8. Failure to attend taxation**

If any party or advocate who has been duly served with a notice of taxation fails to appear at the date and time specified in such notice, the taxing officer may proceed to tax the bill notwithstanding such absence.

**9. Quantum of costs**

(1) The fee to be allowed for instruction to make, support or oppose any application shall be such sum as the taxing officer shall consider reasonable but shall not be less than one thousand shillings.

(2) The fees to be allowed for instructions to appeal or to oppose an appeal shall be such sum as the taxing officer shall consider reasonable, having regard to the amount involved in the appeal, its nature, importance and difficulty, the interest of the parties, the other costs to be allowed, the general conduct of the proceedings, the fund or person to bear the costs and all other relevant circumstances.

(3) The sum allowed under sub-paragraph (2) shall include all works necessary and properly done in connection with the appeal and not otherwise chargeable, including attendances, correspondence, perusals, and consulting authorities

(4) Other costs shall, subject to the provisions of paragraphs 10, 11 and 12, be awarded in accordance with the scale set out below or, in respect of any matter for which no provision is made in those scales, in accordance with the scales applicable in the High Court.

**10. Fees for drawing documents**

The fee for drawing a document shall include the preparation of all copies for the use of the party drawing it and for filing and service when only one other party or one advocate for other parties has to be served; where there are additional parties, fees may be charged for making the necessary additional copies.

**11. Taxation of bills**

(1) On taxation the taxing officer shall allow such costs, charges and disbursements as shall appear to him to have been reasonably incurred for the attainment of justice but no costs shall be allowed which appear to the taxing officer to have been incurred through overpayment, extravagance, over caution, negligence or mistake or payment of special charges or expenses to witnesses or other persons or by other unusual expenses.

(2) In taxing the costs of any civil appeal, the taxing officer shall disallow the costs of any matter improperly included in the record of appeal or in any supplementary record of appeal.

**12. Overriding discretion**

If, after a bill of costs has been taxed, the taxing officer considers that, having regard to all the circumstances, the total of the bill before signing the certificate of taxation is excessive, the taxing officer may make such a deduction from the total as will in the taxing officer's opinion render the sum reasonable.

**13. Excessive claims**

If more than one quarter of the profit costs claimed is disallowed on taxation, the costs of drawing, filing and serving the bill and of attending taxation shall be disallowed.

**14. Set-off of costs**

Where a party entitled to receive costs is also liable to pay costs, the taxing officer may tax the costs which that party is liable to pay and adjust them by way of deduction or set-off and direct payment of any balance.

**15. Costs of more than one advocate**

(1) Costs of more than one advocate shall not be allowed unless the Court has so directed—

Provided that if an advocate has instructed another advocate to appear at the hearing of an appeal, the fee paid to the latter, or so much thereof as the taxing officer considers reasonable, may be allowed but so that the total of such fee and the instructions fee allowed to the instructing advocate shall not be greater than it would have been if one advocate only had acted in the matter.

(2) Where the Court has directed that the costs of two advocates be allowed—

- (a) where the senior advocate is not a member of the same firm as the advocate on the record, the senior advocate shall be allowed the fee paid to him or her, including fees for attending in court, or so much thereof as the taxing officer shall consider reasonable;
- (b) where the senior advocate is a member of the same firm as the advocate on the record, the senior advocate shall be allowed such fee as would have been allowed in the case of an advocate not a member of that firm; and
- (c) the advocate on record shall be allowed the usual instruction, hearing and other fees.

(3) The fee paid to another advocate by the advocate on the record shall be shown as a disbursement.

**16. Costs where advocate changed during proceedings**

If there has been a change of advocates the bill of costs of the first advocate may be annexed to that of the current advocate and its total shown as a disbursement and the bill will be taxed in the ordinary way, the current advocate being heard on it, but the taxing officer may require the first advocate to attend.

**17. Two or more parties**

Where the same advocate is employed for two or more parties and separate proceedings are taken by or on behalf of any two such parties, the taxing officer shall consider in the taxation of such advocate's bill of costs whether such separate proceedings were necessary and proper, and if the taxing officer is of opinion that any part of the costs occasioned thereby has been unnecessarily or improperly incurred, the same shall be disallowed.

**18. Costs where trustees defend separately**

In taxing the costs as between party and party or for payment out of a trust fund of joint executors or trustees who are separately represented, the taxing officer shall, unless otherwise ordered by the Court or a Judge, allow only one set of costs for such parties, such costs to be apportioned among them as the taxing officer shall deem fit.

**19. Expenses of persons attending hearing**

The taxing officer shall allow the reasonable expenses of a party who appeared in person at the hearing of an application or appeal and those of a witness who gave evidence at any such hearing but shall not allow the expenses of any other person who may have attended the hearing, unless the Court has so ordered.

## SCALE OF COSTS

	KSh.
1. For instructions to file a notice of appeal	1,500
2. For instructions to act for a respondent—	
(a) in any petition, reference or application	1,500
(b) where no appeal is subsequently instituted, to cover all costs arising out of the notice of appeal, other than disbursements and those of any application to the court or tribunal appealed from or the Court	750
3. For drawing a petition, reference, originating motion or notice of motion	1,000
4. For drawing an affidavit, for each folio or part thereof, exclusive of exhibits	100
5. For drawing a notice of appeal	500
6. For drawing a notice of address for service	500
7. For drawing Petition of appeal	2,000
8. For drawing a notice of cross-appeal	1,000
9. For drawing a notice of grounds for affirming a decision	1,000
10. For drawing an order, for each folio or part thereof	100
11. For drawing a bill of costs, for each folio or part thereof	100
12. For drawing any other necessary documents to be filed or used in the court, for each folio or part thereof	100
13. For making any necessary copies, for each folio or part thereof—	
(a) for the first copy	20
(b) for each subsequent copy	20
14. For attendance at the Registry	200
15. For attendance on the Registrar—	
(a) for the first 15 minutes	300
(b) for each subsequent 15 minutes	100
16. For attending on a judge in chambers—	
(a) for the first 30 minutes	1,000
(b) for each subsequent 30 minutes	500
17. For attending in court, where the matter was listed but not reached, for each day	750
18. For attending in court on the hearing of any petition, reference or application—	
(a) for the first 30 minutes	1,000
(b) for each subsequent 30 minutes	500
19. For attending in court to take judgment	1,000

**SUPREME COURT (PRESIDENTIAL ELECTION PETITION) RULES, 2013**

[L.N. 15/2013.]

*Revoked by L.N. 113/2017, r. 27.*

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**SUPREME COURT (PRESIDENTIAL ELECTION PETITION) RULES, 2017****ARRANGEMENT OF RULES***Rule*

1. Citation.
2. Interpretation.
3. Object of these Rules.
4. Application of these Rules.
5. Compliance with these Rules.
6. Filing of petition.
7. Petitions generally.
8. Grounds of a petition.
9. Affidavits by witnesses.
10. Service of petition.
11. Response to petition.
12. Close of pleadings.
13. Computation of time in multiple petitions.
14. Pre-trial conference.
15. Issues for determination during pre-trial conference.
16. Written submissions.
17. Interlocutory applications.
18. Hearing of petition.
19. Hearing to proceed uninterrupted.
20. Withdrawal of the petition and substitution of a petitioner.
21. Abatement
22. Orders of the Court
23. Determination of a petition.
24. Fees and costs.
25. Practice directions.
26. Review of these Rules.
27. Revocation of L.N. No. 15 of 2013.

**SCHEDULES**

FIRST SCHEDULE —	PROVISIONS RELATING TO PETITIONS AND AFFIDAVITS
SECOND SCHEDULE —	FORMS
THIRD SCHEDULE —	FEES

**SUPREME COURT (PRESIDENTIAL ELECTION PETITION) RULES, 2017**

[L.N. 113/2017.]

**1. Citation**

These Rules may be cited as the Supreme Court (Presidential Petition) Rules, 2017.

**2. Interpretation**

In these Rules, unless the context otherwise requires—

“**Act**” means the Supreme Court Act (No. 7 of 2011);

“**Commission**” means the Independent Electoral and Boundaries Commission established under Article 88 of the Constitution;

“**Court**” means the Supreme Court;

“**document**” includes an electronic document;

“**electronic document**” means any text, graphic or spreadsheet generated and stored in any electronic media content, other than computer programs or system files, that is intended to be used in either electronic form or as printed output;

“**election**” means an election of the President in accordance with the Article 138 and 140 of the Constitution;

“**Judge**” means a Judge of the Court;

“**nomination**” has the meaning assigned to it under the Elections Act (No. 24 of 2011);

“**petition**” means a presidential election petition, and includes an affidavit required by these Rules to accompany the petition;

“**petitioner**” means a person filing a petition and includes a cross-petitioner;

“**practice directions**” means practice directions issued by the Chief Justice under Rule 25;

“**Registrar**” means the Registrar of the Court and includes a Deputy Registrar; and

“**respondent**” means the President-elect and includes the Deputy President-elect, and any other person named in the petition as a respondent.

**3. Object of these Rules**

The object of these Rules is to enable the Court to exercise its exclusive original jurisdiction under Article 163(3) (a) of the Constitution.

**4. Application of these Rules**

(1) These Rules apply to petitions in respect of presidential elections and includes petition arising—

(a) upon declaration by the Commission of the President-elect;

(b) pursuant to Article 138 (1), (2), (3), (4), (5), (6) and (10); and

(c) pursuant to Article 140 of the Constitution.

(2) Where there is no applicable provision in the Act or in these Rules, the procedures set out in the Supreme Court Rules, 2012, in so far as they are not inconsistent with the Act or these Rules, shall apply to all election petitions.

**5. Compliance with these Rules**

The effect of any failure to comply with these Rules shall be a matter for determination at the Court's discretion subject to the provisions of Article 159 (2) (d) of the Constitution.

## **6. Filling of petition**

- (1) A petition challenging the election of the President-elect shall be filed in Court within seven days after the date of the declaration of the results of the presidential election.
- (2) The petitioner shall, on filing a petition, deposit a sum of one million shillings as security for costs.
- (3) A petition is considered filed upon—
  - (a) payment of the prescribed court fee;
  - (b) depositing the security for costs; and
  - (c) stamping by the Registrar.

## **7. Petitions generally**

A petition under these Rules shall conform to the provisions of the First Schedule and shall be in Form A set out in the Second Schedule.

## **8. Grounds of a petition**

The grounds upon which a petition may be filed include—

- (a) the validity of the conduct of a presidential election;
- (b) the validity of the qualification of a President-elect;
- (c) the commission of an election offence as provided under the Election Offences Act (No. 37 of 2016);
- (d) the validity of the nomination of a presidential candidate; or
- (e) any other ground that the Court deems sufficient, provided such ground shall not be frivolous, vexatious or scandalous.

## **9. Affidavits by witnesses**

A petitioner shall, at the time of filing the petition, file an affidavit sworn by a witness setting out the substance of the evidence relied on.

## **10. Service of petition**

- (1) A petitioner shall, within two days of filing, serve the petition on the respondent—
  - (a) directly on the respondent; or
  - (b) by advertisement in a newspaper with nationwide circulation.
- (2) Subject to sub rule (1), the petitioner shall, within six hours of filing the petition, serve the respondent with the petition by electronic means.

## **11. Response to petition**

- (1) On service of a petition under rule 10, a respondent who intends to oppose the petition may, within four days of service of the petition, file and serve a response which shall—
  - (a) be in form of an answer to the petition in the manner specified in Form B set out in the Second Schedule; and
  - (b) be accompanied by a replying affidavit(s) sworn by the respondent and any witnesses, setting out the substance of the evidence relied on.
- (2) Where the respondent does not intend to oppose the petition, the respondent shall—
  - (a) file a notice of intention not to oppose the petition within three days of service of the petition in Form C set out in the Second Schedule; and
  - (b) cause a copy of the notice to be served upon the petitioner.
- (3) Subject to the Court's direction, a respondent who has given notice of intention not to oppose a petition under sub-rule (2) shall not be allowed to appear or act as a party in the Petition in any subsequent proceedings.

**12. Close of pleadings**

The pleadings shall be closed upon filing a response to a petition or notice of intention not to oppose the petition under Rule 11.

**13. Computation of time in multiple petitions**

Where multiple petitions are filed, time, for purposes of Article 140 (2) of the Constitution, starts running on the date the last petition is filed.

**14. Pre-trial conference**

- (1) There shall be a pre-trial conference on the eighth day after filing of the petition.
- (2) The Registrar shall notify all the parties to the petition of the date and time of the conference in Form D set out in the Second Schedule.

**15. Issues for determination during pre-trial conference**

The Court shall, at the pre-trial conference—

- (a) frame contested and uncontested issues in the petition;
- (b) consider consolidation of petitions in cases where more than one petition is filed;
- (c) give directions specifying the place and time of the hearing of the petition; and
- (d) make such other orders as may be necessary to ensure a fair determination of the petition.

**16. Written submissions**

- (1) Written submissions shall be lodged in accordance with the directions of the Court.
- (2) Written submissions shall be divided into paragraphs, numbered consecutively and each paragraph confined to a distinct portion of the subject.
- (3) Written submissions shall be printed—
  - (a) on one side of the paper only with the printed pages facing up on the left;
  - (b) in at least font size twelve;
  - (c) with at least one and one-half line spacing, except for quotations from authorities, which shall be indented and single-spaced; and
  - (d) with margins of no less than three centimetres by one and one-half inches.

**17. Interlocutory applications**

(1) An interlocutory application may be made within a day after the close of pleadings and shall be determined before the hearing commences on the basis of written submissions not exceeding five pages.

(2) An interlocutory application shall not be filed after the hearing of the petition has commenced, if the interlocutory application could have, by its nature, been brought before the commencement of the hearing of the petition.

**18. Hearing of petitions**

- (1) The Court shall immediately after the pre-trial conference commence the hearing of the petition.
- (2) The petition shall be determined on the basis of affidavit evidence and written submissions.
- (3) A party who has lodged written submissions under this rule may, with leave of the Court, address the Court at the hearing of the petition.

**19. Hearing to proceed uninterrupted**

Save in exceptional circumstances as may be determined by the Court, the hearing of a petition once commenced shall proceed uninterrupted on a day to day basis until its conclusion.

**20. Withdrawal of the petition and substitution of a petitioner**

(1) A petitioner may, with leave of the Court, withdraw the petition at any stage of the proceedings.

(2) An application under sub rule (1) shall be by notice of motion in Form E set out in the Second Schedule and shall be supported by an affidavit.

(3) The Court may, on an application for withdrawal of a petition under sub-rule (2), grant leave on such terms as it may deem fit and just.

**21. Abatement**

(1) A petition shall not abate on the sole ground that a petitioner or a respondent has died in the course of the proceedings.

(2) Subject to sub-rule (1), the Court may make any order as it may deem fit and just in the circumstances.

**22. Orders of the Court**

At the conclusion of the hearing of an election petition, the Court may make an order—

- (a) dismissing the petition;
- (b) invalidating the declaration made by the Commission under Article 138(5) of the Constitution;
- (c) declaring the election of the President-elect to be—
  - (i) valid; or
  - (ii) invalid;
- (d) on payment of costs; or
- (e) as it may deem fit and just in the circumstances.

**23. Determination of a petition**

(1) Within fourteen days after filing of a petition, the Court shall determine the petition but may reserve its reasons to a date not later than twenty one days from the date the Court determines the petition.

(2) The decision of the Court shall be final.

**24. Fees and costs**

(1) The filing fees for petitions and other documents filed under these Rules shall be as set out in the Third Schedule.

(2) The Registrar shall be a taxing officer with power to tax the costs arising out of the proceedings under these Rules as between the parties.

(3) The costs taxed by the registrar under sub rule (2) shall be certified by the Court.

**25. Practise directions**

(1) The Chief Justice may issue practice directions for the better carrying out of the provisions of these Rules.

(2) Where these Rules do not provide for the exercising of a right or for a procedure, the Court may adopt any procedure that is not inconsistent with the Constitution, the Act, these Rules or practice directions.

**26. Review of these Rules**

The Court may review these Rules from time to time.

**27. Revocation of L. N. 15/2013**

The Supreme Court (Presidential Election Petition) Rules, 2013 (L.N. 15/2013) are revoked.

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**FIRST SCHEDULE****PROVISIONS RELATING TO PETITIONS AND AFFIDAVITS**

[Rule 7.]

1. A petition may be filed by several persons who may be joined as co-petitioners.
2. A petition shall be signed by the petitioner or all the petitioners if they are more than one, or by the duly authorized advocate.
3. A petition shall be divided into paragraphs, numbered consecutively, each paragraph being confined to a distinct portion of the subject, and shall be printed or typed legibly.
4. A petition shall briefly set out the facts and grounds relied on to sustain the relief claimed.
5. A petitioner shall lodge, together with the petition, at least eight copies of the petition and all documents which accompany it.
6. An Affidavit in support of the petition shall be sworn personally by the petitioner or by one of the petitioners, if more than one, and shall—
  - (a) contain the grounds on which relief is sought, setting out the facts relied on by the petitioner or petitioners;
  - (b) be divided into paragraphs, each of which, as nearly as may be, shall be confined to a distinct portion of the subject, and every paragraph shall be numbered consecutively; and
  - (c) conclude with a statement setting out particulars of the relief sought.

**SECOND SCHEDULE****FORM A**

[Rule 7.]

IN THE SUPREME COURT OF KENYA AT NAIROBI

Petition No. .... of 20 .....

Between

..... Petitioner

AND

..... Respondent.

**PETITION**

1. The humble petition of AB is as follows ..... (set out, in consecutive paragraphs the specific issues contended by (each of the) petitioner(s) referring where necessary to the section of the Constitution or any Act of Parliament or decided cases relied upon.)
2. (briefly set out the point of law raised).
3. (briefly set out the facts necessary to enable the Court to properly decide the point of law raised).
4. (set out in summary the grounds for the petition).
5. (set out the arguments supporting each of the grounds of the petition).
6. The question or issue for the determination by the Court is ..... (state the question).
7. The relief sought by the petitioner is .....

DATED this ..... day of ..... 20 .....

Signed .....

Petitioner.....

..... Advocate for the petitioner

To:

The Supreme Court of Kenya

Copies to be served on .....

Lodged in the Registry at ..... on the ..... day of .....

.....

*Registrar*

[Subsidiary]

**FORM B**

[Rule 11(1)(a).]

IN THE SUPREME COURT OF KENYA AT NAIROBI

Petition No. .... of 20 .....

Between

..... Petitioner

AND

..... Respondent.

**RESPONSE TO PETITION**

In response to the petition, the respondents state that .....

(state the facts and grounds on which the respondents rely).

Wherefore your respondents pray that it be determined that the said ..... was duly elected and the election was valid or invalid.

DATED....., 20 ..... (Signed) A.

DATED....., 20 ..... (Signed) B.

**FORM C**

[Rule 11(2)(a).]

IN THE SUPREME COURT OF KENYA AT NAIROBI

Petition No. .... of 20 .....

Between

..... Petitioner

AND

..... Respondent.

**NOTICE OF INTENTION NOT TO OPPOSE THE PETITION**

TAKE NOTICE that the respondent in this petition intends not to oppose the petition.

Dated this ..... day of ..... 20 .....

Signed ..... Respondent .....

Advocate for the respondent

To:

The Registrar/Deputy registrar of the Supreme Court of Kenya Copies to be served on ..... lodged in the registry/sub-registry at ..... of ....., 20 .....

*Registrar*

**FORM D**

[Rule 14(2).]

IN THE SUPREME COURT OF KENYA AT NAIROBI

Petition No. .... of 20 .....

Between

..... Petitioner

AND

..... Respondent.

**NOTICE BY REGISTRAR OF PRE-TRIAL CONFERENCE**

TAKE NOTICE that the date of the pre-trial conference has been fixed on this

..... day of ....., 20 .....

Signed

*Registrar***FORM E**

[Rule 20(2).]

IN THE SUPREME COURT OF KENYA AT NAIROBI

Petition No. .... of 20 .....

Between

..... Petitioner

AND

..... Respondent.

**NOTICE OF MOTION**TAKE NOTICE that on ..... the ..... day of ....., 20 ....., at ..... o'clock in  
the morning/afternoon or as soon thereafter as he can be heard, .....  
Advocate for the above-named applicant, will move the Court for an order  
that ..... on the grounds that .....And for an order that the costs of and incidental to this application abide the result of the  
said appeal .....The application will be supported by the affidavit of ..... sworn on the ..... day  
of ....., 20 ..... The address for service of the applicant is .....

DATED this ..... day of ....., 20 .....

Signed ..... Applicant .....

Advocate for the applicant

Lodged in the Registry on the ..... day of ....., 20 .....

*Registrar*

[Subsidiary]

**THIRD SCHEDULE**

[Rule 24(1).]

**FEES**

<i>Item</i>	<i>KSh.</i>
On lodging a petition.	500,000
On filing a response to the petition.	20,000
On lodging a notice of motion.	1,500
On lodging a notice of motion under certificate of urgency.	2,750
On lodging an affidavit, other than an affidavit annexed to a notice of motion.	1,150
On filing notice of intention not to oppose the petition.	4,000
Filing annexures (per folio).	50
Filing written submissions (per folio).	50