



LAWS OF KENYA

THE ELECTIONS ACT

No. 24 OF 2011

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THE ELECTIONS ACT**No. 24 of 2011**

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THE ELECTIONS ACT
No. 24 of 2011

12 of 2012,
31 of 2012,
32 of 2012,
47 of 2012
48 of 2012.

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

ENACTED by the Parliament of Kenya as follows—

PART I—PRELIMINARY

Short title and
commencement.

1. This Act may be cited as the Elections Act, 2011 and shall come into operation on such date as the Minister may, by notice in the Gazette, appoint.

Interpretation.
12 of 2012, Sch,
47 of 2012, Sch.

2. 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;

“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 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 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 and 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;

“elections 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 Gazettement 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;

“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 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;

“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;

“parliamentary election” means the election of one or more members of Parliament;

“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;

“Principal 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;

“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;

“returning officer” means a person appointed by the Commission for the purpose of conducting an election or a referendum 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;

“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.

PART II—REGISTRATION OF VOTERS AND DETERMINATION OF QUESTIONS
CONCERNING REGISTRATION

Right to vote.

3. (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 Principal Register of Voters.

Principal Register of
Voters.

4. (1) There shall be a register to be known as the Principal 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 Principal Register of Voters referred to in subsection (1).

(3) The Principal Register of Voters shall contain such information as shall be prescribed by the Commission.

Registration of
voters.

31 of 2012, s. 2,
48 of 2012, s. 2.

5. (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

(c) in any other case, between the date of the declaration of the vacancy of the seat concerned and the date of such election.

(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) Despite subsection (3), a citizen who has attained the age of eighteen years and has registered for an identification card and is in the possession of an acknowledgement of registration certificate shall, upon application, be registered as a voter using the acknowledgement of registration certificate, but may only vote using an identification card.

(3B) For purposes of this section, an acknowledgement of registration certificate means a certificate issued by a registration officer under the Registration of Persons Act to a person who has applied for an identification card, pending the issuance of that card.

(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 Principal Register of voters.

6. (1) The Commission shall cause the Principal 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.

Inspection of register of voters.
47 of 2012, Sch.

(2) The Commission shall, within sixty days from the date of the notice for a general election, open the Principal Register of Voters for inspection for a period of at least fourteen days or such period as the Commission may consider necessary.

(3) The Commission shall, upon expiry of the period for inspection

specified under subsection (1), compile the amendments to the register of voters and as soon as practicable thereafter, at least fourteen days before an election—

- (a) publish a notice in the Gazette to the effect that such compilation has been completed; and
- (b) cause to be transmitted to every registration officer, a copy of the part of the Principal Register of Voters relating to the constituency for which the registration officer is responsible to be kept in safe custody.

(4) The Principal Register of Voters shall be kept at the headquarters of the Commission and copies of the part of the Principal 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.

Transfer of registration.

7. (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.

Updating of the Principal Register of Voters.

8. (1) The Commission shall maintain an updated Principal Register of Voters.

(2) For purposes of maintaining an updated register of voters, the Commission shall—

- (a) regularly revise the Principal Register of Voters;
- (b) update the Principal 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

- (d) revise the Principal Register of Voters whenever county boundaries are altered in accordance with Article 94 (3) of the Constitution.

9. 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.

Postponement of disqualification to enable appeal.

10. (1) A person whose name is 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.

Eligibility to vote.

(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.

Determination of questions concerning registration

11. Any question whether a person is qualified to be registered as a voter shall be determined in accordance with this Part.

Determination of questions as to registration.

12. (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.

Claims.

(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

Nomination of candidates by a political party. 12 of 2012, Sch.

13. (1) A political party shall nominate its candidates for an election under this Act at least forty-five 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.

(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 forty-five days before such election.

Presidential elections

Initiation of presidential election.

14. (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. (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:

Change of deputy president nominee candidate.

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. (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—

Initiation of election of member of Parliament.

- (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.

(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.

County governor elections

Initiation of county
governor election.

17. (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.

Change of deputy
county governor
nominee candidate.

18. 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

Initiation of county
assembly elections.

19. (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. The Commission may in addition publicise the notices under sections 14, 16, 17 and 19 in the electronic and print media of national circulation.

Notification in electronic media.

21. (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.

Election of county assembly speaker.

(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. (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 a certificate, diploma or other post secondary school qualification acquired after a period of at least three months study, recognized by the relevant Ministry and in such manner as may be prescribed by the Commission under this Act.

(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.

23. (1) A person qualifies for nomination as a presidential candidate if the person—

Qualifications and disqualifications for nomination as President.

- (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. (1) Unless disqualified under subsection (2), a person qualifies for nomination as a member of Parliament if the person—

Qualifications and disqualifications for nomination as member of Parliament.

- (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.

Qualifications for nomination as member of county assembly.

25. (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 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. (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.

Additional
disqualification.

(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. (1) A political party shall submit its nomination rules to the Commission at least three months before the nomination of its candidates.

Submission of party
nomination rules.
12 of 2012, Sch,
48 of 2012, s.4.

(2) A political party which has submitted its nomination rules to the Commission pursuant to subsection (1) may amend the rules and submit the rules as amended to the Commission, at least seven days before nomination of candidates for elections.

28. A political party that nominates a person for any election under this Act shall submit to the Commission a party membership list of the party at least forty-five days before the date of the general elections.

Submission of party
membership lists.
12 of 2012, Sch,
47 of 2012, Sch.

29. (1) The persons who nominate a presidential candidate shall be members of the candidate's political party.

Power to nominate.
47 of 2012, s. Sch.
48 of 2012, s. 5.

(2) The persons who nominate an independent presidential candidate shall not be members of any political party.

Appointment of
agents.
12 of 2012, Sch.

30. (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.

Nomination of
political party
candidates.

31. (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) Each political party shall bear the expenses relating to the nomination of candidates to contest in presidential, parliamentary, county governor and county assembly elections and a political party may, at its own expense and on such terms as may be agreed between the party and the Commission, request the Commission to supervise party nominations of candidates.

(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.

Approval of symbol
for independent
candidate.

32. (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.

(2) The Commission shall, upon receipt of the symbol submitted

to it under subsection (1) 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.

33. 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—

Nomination of independent candidates.

- (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 on the day appointed by the Commission as the nomination day, a duly filled nomination paper as the Commission may prescribe;
- (c) has submitted the symbol that the person intends to use during the election; and
- (d) is selected in the manner provided for in the Constitution and by this Act.

Nomination of party lists members

34. (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.

Nomination of party lists members.
L.N. 142/2011,
32 of 2012, s. 2.

(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.

(5) The party lists under subsection (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.

(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 subsection (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 may contain a name of any Presidential or Deputy Presidential candidate nominated for an election under this Act.

(10) A party list submitted for purposes of subsection (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.

Submission of party lists.

35. (1) A political party shall submit its party list to the Commission on the same day as the day designated for submission to the Commission by political parties of nominations of candidates for an election before the nomination of candidates under Article 97 (1) (a) and (b), 98 (1) (a) and 177 (1) (a) of the Constitution.

Allocation of special seats.
12 of 2012, Sch.

36. (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 persons 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.

37. (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.

Re-allocation of special seat.

(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.

Holding of elections.
47 of 2012, Sch.

38. After a notice of an election has been published in the Gazette under sections 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.

(2) After receiving a notice under section 17 or 19, the returning officer to whom it is addressed shall proceed to hold the election according to the terms of the relevant notice published under subsection (4) of that section and in accordance with the Regulations relating to elections.

Determination and
declaration of results.

39. (1) The Commission shall determine, declare and publish the results of an election immediately after close of polling.

(2) Before determining and declaring the final results of an election under subsection (1), the Commission may announce the provisional results of an election.

(3) The Commission shall announce the provisional and final results in the order in which the tallying of the results is completed.

Voter education.

40. 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.

Access to and
obligation of media.
12 of 2012, Sch.

41. (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.

42. 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.

Accreditation of
observers, agents,
reporters, etc.

43. (1) 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 party, side or candidate participating in an election;
- (c) engage in political campaigns or other political activity; or
- (d) use 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.

Participation in
elections by public
officers.
12 of 2012, Sch.

(2) A public officer who contravenes 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.

(3) 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.

(4) A candidate who knowingly aids in contravention of subsection (1) shall not be eligible to contest in the election.

(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.

(6) This section shall not apply to—

- (a) the President;
- (b) the Prime Minister;
- (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.

Use of technology.

44. The Commission may use such technology as it considers appropriate in the electoral process.

PART IV — RECALL OF MEMBER OF PARLIAMENT

Right of recall.

45. (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. (1) A recall under section 45 shall be initiated by a petition Petition for recall. 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 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.

Recall elections.

47. (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).

Validity of recall election.

48. 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.

PART V—REFERENDUM

Initiation of a referendum.

49. (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. (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

Notice of holding referendum.

(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 answers to the referendum question;
- (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.

Referendum
Committees.
L.N. 19/2012.

51. (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.

Costs of referendum
committee.

52. (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.

Procedure for
conduct of
referendum.

53. The procedure for the conduct of an election shall apply with necessary modifications to the conduct of referendum.

Voting threshold.

54. A referendum question on an issue other than that contemplated in Articles 255 and 256 of the Constitution shall be decided by a simple majority of the citizens voting in the referendum.

General power of the
Commission.

55. Nothing in this Act shall preclude the Commission from taking any administrative measures to ensure effective conduct of the referendum.

56. 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)
- (c) *(Deleted by 12 of 2012, Sch.)*
- (d)
- (e)
- (f)
- (g) knowingly makes any false statement on, or in connection with any application to be registered in any register of voters; or
- (h) aids, abets, counsels or procures the commission of or attempts to commit any of the offences referred to in paragraphs (a) to (f),

Offences relating to register of voters and voter's cards. 12 of 2012, Sch.

commits an offence and is liable on conviction, to a fine not exceeding one million shillings and to imprisonment for a term not exceeding six years or to both.

57. (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 for 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,

Offences relating to multiple registrations as a voter.

commits an offence is liable on conviction, to a fine not exceeding one hundred thousand 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 hundred thousand 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 hundred thousand 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.

Offences relating to voting.

58. 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, purchases or offers to purchase any ballot paper from any person;
- (d) 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;
- (e) puts into any ballot box anything other than the ballot paper which he is authorised by law to put in;
- (f) without authority takes out of a polling station any ballot paper or is found in possession of any ballot paper outside a polling station;
- (g) not being an election official and not being authorised, removes election material from a polling station before, during or after an election;
- (h) 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;
- (i) without authority prints any ballot paper or what purports to be or is capable of being used as a ballot paper at an election;
- (j) 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;
- (k) not being authorised to do so under this Act, makes any mark on any ballot paper issued to any person other than to himself;
- (l) votes at any election when they are not entitled to vote;
- (m) votes more than once in any election;
- (n) interferes with a voter in the casting of his vote in secret;
- (o) pretends to be unable to read or write so as to be assisted in voting; or
- (p) 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.

59. (1) A member of the Commission, staff or other person having any duty to perform pursuant to any written law relating to any election who—

Offences by members and staff of the Commission.

- (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 this Act 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 and any other relevant authority, the commission of an electoral malpractice or offence committed under this Act,

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.

Maintenance of
secrecy at elections.

60. (1) Every elections officer, candidate or agent authorised 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 authorised 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.

(4) An election officer, candidate, agent or other person shall not—

- (a) without authority, obtain or attempt 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) communicate 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
- (c) disclose the serial number of the ballot paper issued to any voter at the station.

(5) No person, except a presiding officer or a person authorised by the presiding officer, shall communicate with any voter after the voter has received a ballot paper and before the voter has placed the ballot paper in a ballot box.

(6) Every election officer, candidate, or agent in attendance at the counting of votes shall maintain and aid in maintaining, the secrecy of the ballot, and shall not attempt 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.

(7) A person attending any proceedings relating to an election shall maintain and aid in maintaining the secrecy of the ballot and shall not without lawful excuse—

- (a) communicate, 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) communicate to any person at any time any information obtained at those proceedings as to the number of ballot papers issued to any person;
- (c) attempt to ascertain at the proceedings in connection with the receipt of ballot papers, the number on any ballot paper;
- (d) attempt 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) capture an image of any marked ballot for purposes of financial gain or for showing allegiance.

(8) A person who contravenes the provisions of this section 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.

Personation.

61. (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.

Treating.

62. (1) A candidate who corruptly, for the purpose of influencing a voter to vote or refrain from voting for a particular candidate or for any political party at an election—

(a) before or during an election—

- (i) undertakes or promises to reward a voter to refrain from voting;
- (ii) gives, causes to be given to a voter or pays, undertakes or promises to pay wholly or in part to or for any voter, expenses for giving or providing any food, drinks refreshment or provision of any money, ticket or other means or device to enable the procurement of any food, drink or refreshment or provision to or for any person for the purpose of corruptly influencing that person or any other person to vote or refrain from voting for a particular candidate at the election or being about to vote or refrain

from voting, for a particular candidate, at the election; or

- (b) after an election, gives, provides or pays any expense wholly or in part to or for any particular voter or any other voter for having voted or refrained from voting as aforesaid,

commits the offence of treating.

(2) A voter who accepts or takes any food, drink, refreshment, provision, any money or ticket, or adopts other means or devices to enable the procuring of food, drink, refreshment or provision knowing that it is intended to influence them commits the offence of treating.

63. (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—

Undue influence.

- (a) inducing or compelling a person to vote or not to vote for a particular candidate or political party at an election;
- (b) impeding or preventing the free exercise of the franchise of a voter;
- (c) inducing or compelling a person to refrain from becoming a candidate or to withdraw if he has become a candidate; or
- (d) 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.

64. (1) A candidate who—

Bribery.

- (a) directly or indirectly in person or by any other person on his behalf gives, lends or agrees to give or lend, or offers, promises or promises to procure or to endeavour to procure any money or valuable consideration to or for any voter, or to or for any person on behalf of any voter or to or for any other person in order to induce any voter—
 - (i) to vote or refrain from voting for a particular candidate;
 - (ii) to 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 an political party or candidate;
 - (iii) corruptly does any such act on account of such voter having voted for or refrained from voting at any election, for a particular candidate; or
- (b) directly or indirectly, in person or by any other person on his behalf, gives or procures or agrees to give or procure, or offers, promises, or promises to procure or to endeavour to procure, any office, place, or employment to or for any voter, or to or for any person on behalf of any voter, or to or for any other person, in order to induce any voter—
 - (i) to vote for or refrain from voting for a particular candidate; or
 - (ii) corruptly does any such act on account of such voter having voted for or refrained from voting;
- (c) in any manner unlawfully influences the result of an election;
- (d) directly or indirectly, in person or by any other person on his behalf, makes any gift, loan, offer, promise, procurement, or agreement to or for any person in order to induce that person to—

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- (i) procure or endeavour to procure the election of any person; or
 - (ii) procure the vote of any voter at any election;
- (e) upon or in consequence of any gift, loan, offer, promise, procurement or agreement, procures or engages, promises or endeavours to procure, the election of any person, or the vote of any voter at an election;
- (f) advances, pays or causes to be paid any money to, or to the use of any other person with the intent that such money or any part thereof shall be used in bribery at any election, or who knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part used in bribery at any election;
- (g) being a voter, before or during any election directly or indirectly, in person or by any other person on his behalf receives, agrees or contracts for any money, gift, loan, or valuable consideration, office, place or employment for himself or for any other person, for voting or agreeing to vote or for refraining or agreeing to refrain from voting for a particular candidate at any election;
- (h) after any election, directly or indirectly in person or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or to refrain from voting for a particular candidate at the election;
- (i) directly or indirectly, in person or by any other person on his behalf, on account of and as payment for voting or for having voted or for agreeing or having agreed to vote for any candidate at an election, or an account of and as payment for his having assisted or agreed to assist any candidate at an election, applies to the candidate or to the agent of the candidate for a gift or loan of any money or valuable consideration, or for the promises of the gift or loan of any money or valuable consideration or for any office, place or employment or for the promise of any office, place or employment; or
- (j) 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, gives or procures any office, place or employment to endeavour to procure any office, place or employment, to or for such other person, or gives or lends or agrees to give or lend, or offers or promises to procure or to endeavour to procure any money or valuable consideration to or for any person or to or for such other person on behalf of such other or to or for any person,

commits the offence of bribery.

(2) Any person who in consequence of that person's acceptance of any consideration votes or refrains from voting commits an offence.

Use of force or violence during election period.

65. 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 one million shillings or to imprisonment for a term not exceeding five years or to both.

Use of national security organs.

66. 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.

Offences relating to elections.
Corrigenda No. 18/2012.

67. (1) A person who—

- (a) commits the offence of personation, treating, undue influence or bribery;
- (b) 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;

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- (c) 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;
 - (d) forges, defaces or destroys any nomination paper, or delivers to a returning officer any nomination paper knowing it to be forged;
 - (e) 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 this Act;
 - (f) 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;
 - (g) 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 manner and during the hours prescribed, to voters in any particular area, whether public or private, for the purposes of conducting voter education.

- (h) refuses or fails to effect a direction, instruction or lawful order issued by or on behalf of the Commission;
- (j) 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 this Act;
- (j) enters or remains in an election centre or in any area designated by the Commission for electoral purposes in contravention of this Act;
- (k) obstructs or hinders any elections officer, candidate or agent in the execution of their lawful duties;
- (l) makes a false statement or furnishes false particulars in any statement which is required under this Act knowing the statement or particulars to be false or without reasonable grounds for believing the same to be true; or
- (m) 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
- (n) forges, defaces or destroys any campaign or promotional material of an opposing candidate or political party,

commits an offence and is liable on conviction, in the cases specified in paragraph (a), to a fine not exceeding one million shillings or to imprisonment for a term not exceeding six years or to both, and in any other case, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding five years or to both.

(2) The offences specified in subsection (1)(a) shall be cognizable.

68. (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. Use of public resources.

(2) 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.

(3) A person who is requested to supply information required under subsection (2) shall submit the information within a period of fourteen days from the date of the notice.

(4) The provisions of subsection (2) shall apply with necessary modifications, to an employee of a statutory corporation or of a company in which the Government owns a controlling interest.

(5) 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.

(6) 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 unlawfully used in an election campaign.

(7) A candidate, who after conviction under this section repeats the offence, shall—

(a) be disqualified by the Commission and shall not be eligible to participate in the ongoing election and the next election; and

(b) be disqualified from holding any public office.

Illegal Practices

69. (1) A payment, contract for payment or any other consideration of any kind shall, for the purpose of promoting or procuring the election of a candidate at any election, not be made— Certain expenditure illegal practice.

(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 no account of the exhibition of any address bill or notice.

(2) 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, it shall be an offence to—

- (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.

(3) Subject to any exception under this Act, if any payment or contract for payment is knowingly made in contravention of this section either before, during or after an election, the person making such payment commits an offence and any person receiving such payment or being a party to any such contract knowing it to be in contravention of this section commits the offence of an illegal practice.

(4) A person shall not let, lend or employ, for the purpose of conveying voters to and from the poll, any vehicle, vessel, aircraft or animal of transport of any kind which they keep or use for the purposes of letting out for hire.

(5) 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 the offence of illegal practice.

(6) A person who hires, borrows or uses for the purpose of conveying voters to and from a poll, any vehicle, vessel or animal of transport of any kind whatsoever which he knows the owner thereof is prohibited by subsection (4) to let, lend or employ for that purpose commit the offence of an illegal practice.

(7) Nothing in subsection (4) or subsection (6) 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.

(8) 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 illegal practice 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.

(9) The means of conveyance referred to in subsection (8) (b) shall be made available equally to all voters who wish to be conveyed to vote.

70. (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.

Employers to allow employees reasonable period for voting.

(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 this Act.

(4) The provisions of this section shall bind the Government.

71. (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 Part commits an offence.

Aiding and abetting offences under this Part.

(2) An offence under subsection (1) shall be cognizable.

72. (1) A candidate who, during a nomination or an election campaign engages in or knowingly aids or abets an agent or any person who supports the candidate to engage in bribery violence or intimidation against the opponents of the candidate or any other person, under this Part, shall be disqualified by the Commission and shall not be eligible

Election offence by candidate or political party.

to participate in the elections.

(2) Where a political party knowingly nominates a candidate who does not meet the requirements of the Constitution, the political party commits an offence and shall be disqualified from nominating a candidate to contest in that election or in the next election in that electoral area.

(3) Where the offence under subsection (2) is discovered—

- (a) after the candidate has been nominated to contest in an election, that candidate shall be disqualified by the Commission and shall not be eligible to contest in that election; or
- (b) after the candidate has been elected, that candidate shall be disqualified by the Commission and shall not be eligible to contest in the next election.

(4) Where a political party under subsection (2) commits an election offence which the Commission considers to be of a grave nature or continuously repeats the offence, the presidential candidate of the political party shall not be eligible to contest in a presidential election during the elections or subsequent election as a result of any vacancy in the office of the President where the presidential candidate knowingly abets or aids in the election offence.

Postponement of elections by the Commission.

73. (1) The Commission may, where election offences of such a nature as to make it impossible for an election to proceed are committed in a constituency, county or ward and where it considers it necessary, postpone the elections in that constituency, county or ward for such a period as it may consider necessary.

(2) Where a date has been appointed for holding an election and—

- (a) there is reason to believe that a serious breach of peace is likely to occur if the election is held on that date; or
- (b) it is impossible to conduct the elections as a result of a natural disaster or other emergencies,

the Commission may postpone the election and shall in respect of the constituency concerned, appoint another date for the holding of the postponed election.

(3) Where an election is postponed under subsection (2), the election shall be held at the earliest practicable time.

(4) 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.

PART VII—ELECTION DISPUTES RESOLUTION

Dispute resolution by the Commission

74. (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.

Settlement of certain disputes.

(2) An electoral dispute under subsection (1) shall be determined within seven 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

Election Petitions

75. (1) A question as to validity of a election of a county governor shall be determined by High Court within the county or nearest to the county.

County election petitions.
47 of 2012, Sch.

(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.

Presentation of petitions.

76. (1) A petition—

- (a) to question the validity of an election shall be filed within twenty eight days after the date of publication of the results of the election in the Gazette 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 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.

77. (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. Service of petition.

(2) A petition may be served personally upon a respondent or by advertisement in a newspaper with national circulation.

78. (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. Security for costs.

(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 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. Upon receipt of a petition, an election court shall peruse the petition and— Procedure of election court on receipt of petition.

- (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.

Powers of election court.

80. (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).

Prohibition of disclosure of vote.

81. 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.

Scrutiny of votes.

82. (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. No election shall be declared to be void by reason of non-compliance with any written law relating to that election if it appears that the election was conducted in accordance with the principles laid down in the Constitution and in that written law or that the non-compliance did not affect the result of the election. Non compliance with the law.

84. An election court shall award the costs of and incidental to a petition and such costs shall follow the cause. Costs.

85. An election petition under this Act shall be heard and determined within the period specified in the Constitution Determination of election petition.

Appeals to the Court of Appeal.
47 of 2012, Sch.

85A. 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 decisions of the High Court; and
- (b) heard and determined within six months of the filing of the appeal.

Certificate of court as to validity of election.

86. (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 which shall then notify the relevant Speaker.

(2) Upon receipt of a certificate under this section, the relevant Speaker shall give the necessary directions for altering or confirming the return, and shall issue any notification which may be necessary.

Report of court on election offences.
47 of 2012, Sch.

87. (1) An election court shall, at the conclusion of the hearing of a petition, in addition to any other orders, send to the Director of Public Prosecutions, the Commission and the relevant Speaker a report in writing indicating whether an election offence has been committed by any person in connection with the election, and the names and descriptions of the persons, if any, who have been proved at the hearing to have been guilty of an election offence.

(2) Before a person, not being a party to an election petition or a candidate on whose behalf the seat is claimed by an election petition, is reported by an election court, the elections court shall give that person an opportunity to be heard and to give and call evidence to show why he should not be reported.

(3) The relevant Speaker shall publish a report made under this section in the Gazette, and the Commission shall consider the report and delete from the register of voters, the name of a person who is disqualified from being registered in that register of voters.

Referendum Petitions

Election petition procedures to apply to referendum petition.

88. Unless specifically provided for in this Act, the procedure applicable to an election petition shall apply to a referendum petition.

Referendum petition.

89. (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. A referendum petition shall be heard and determined by a bench of three judges appointed by the Chief Justice. Composition of Court.

91. (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— Operation of declared result of issue submitted to referendum.

- (a) have effect from the date on which the result is gazetted;
- (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 the votes of a majority of the persons entitled to vote 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 the votes of a majority of the persons entitled to vote in such referendum did not support the provisions of the said law.

Persons who may present referendum petition.

Corrigenda No. 18/2012.

92. (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.

Respondents to referendum petition.

93. (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.

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. (1) A referendum petition shall be signed by the petitioner or by all the petitioners, if more than one. Filing of referendum petition.

(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. (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. Duty of Registrar to make list of referendum petitions.

(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. (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— Practice procedure and security for costs.

(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 a election and referendum petition; and
- (iii) the fees to be charged in respect of proceedings of a election and referendum petition; and

(b) generally with regard to any other matter relating to a 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.

Death of or delay by petitioner.
47 of 2012, Sch.

97. 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.

Hearing of referendum petition.

98. (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.

Powers of a court to summon witnesses in a referendum petition.

99. (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. A voter who has voted at a referendum shall not, in proceedings to question the referendum be required to state how he voted. Prohibition of disclosure of vote.

101. (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. Examination of votes.

(2) The provisions of section 82 shall apply with respect to scrutiny of votes under this section.

Powers of Court.

102. (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.

Petition expenses.

103. (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. In any prosecution for an offence under this Act alleged to have been committed at or in connection with a referendum in any constituency, the certificate of the returning officer for that constituency stating that the referendum mentioned therein was being or had been held shall be sufficient evidence of the fact that the referendum was being or had been held in that constituency.

Certification of referendum.

PART VIII—GENERAL PROVISIONS

105. (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.

Duty to co-operate.

(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.

General penalty.

106. (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 under this Act for a period of five years following the date of conviction.

Powers of arrest and prosecution.

107. (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.

Airtime by state radio and television for election campaign. 12 of 2012, Sch.

108. All candidates and political parties participating in an election shall be allocated reasonable airtime on all broadcasting media during the campaign period.

109. (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—

Regulations.
47 of 2012, Sch.

- (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;
- (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

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- for the issue a 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 officers as being invalid;
 - (q) prescribe conditions for the use of private motor vehicles, vessels or buildings at elections;
 - (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 six months preceding a general election.

(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).

110. (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.

Electoral code of conduct.

(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) Every officer of a political party or a referendum committee which, and every nominated candidate who, attempts to participate in or participates in an election or referendum 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.

(4) Any person who contravenes the Electoral Code of Conduct commits an offence.

(5) The trial of an offence under this section shall be without prejudice to any proceedings in or consequent upon a petition.

(6) Subject to the provisions of the Criminal Procedure Code, the Commission may designate any of its officers to conduct any prosecution for an offence under this Act and the Electoral Code of Conduct, and such officer shall, for that purpose, have all the powers conferred upon a public prosecutor by the Constitution and the Criminal Procedure Code (Cap. 75).

Repeals.

111. The National Assembly and Presidential Elections Act (Cap. 7) and the Election Offences Act (Cap 66) are repealed.

Transitional provisions.
12 of 2012, Sch,
L.N. 76/2012.

112. (1) Notwithstanding the provisions of this Act—

- (a) the register of voters prepared under the National Assembly and Presidential Elections Act shall be deemed to have been prepared under this Act;
- (b) (*Deleted by 12 of 2012, Sch.*)
- (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 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.

FIRST SCHEDULE (S. 22 (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.

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 spoiled, 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.

SECOND SCHEDULE (S. 51(6), 110(1))

ELECTORAL CODE OF CONDUCT

(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;

“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 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 Commission's 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 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 sub-paragraph (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) cooperate 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 or the Evidence Act 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) cooperate 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 take effect from the date of dissolution of

parliament until polling day.

19. Any person may complain about the breach of this Code.

THIRD SCHEDULE

(s. 60(1))

12 of 2012, Sch.

OATH OF SECRECY

I
I.D./Passport No. swear that I will not at this
election for the
constituency/county/ward do anything forbidden under Part VI of the
Elections Act which has been read to me.

.....
Signature of person taking the oath

Before me

.....

(Signature)
*Member/Secretary/Returning Officer of the Independent Electoral and
Boundaries Commission*

Date

[Subsidiary]
L.N 126/2012.

SUBSIDIARY LEGISLATION

THE ELECTIONS (REGISTRATION OF VOTERS) REGULATIONS, 2012

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- 34— Registration of Kenyan citizens residing outside Kenya.
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[Subsidiary]

**THE ELECTIONS (REGISTRATION OF VOTERS)
REGULATIONS, 2012**

PART I—PRELIMINARY

Citation. 1. These Regulations may be cited as the Elections (Registration of Voters) Regulations, 2012.

Interpretation. 2. In these Regulations, unless the context otherwise requires—

“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;

“register” means the register of voters prepared pursuant to section 8 of the Act and includes any part thereof.

PART II—ADMINISTRATION

Registration centres. 3. (1) The Commission may, from time to time, designate and Gazette such—

(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—

Cap. 211. (a) a room or rooms in any public school as defined in the Education Act;

(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;

(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

[Subsidiary]

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.

4. The Commission shall appoint—

Registration officers.

(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. (1) The Commission may appoint one or more assistant registration officers to assist a registration officer.

Assistant registration officers.

(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.

PART III—THE PRINCIPAL REGISTER OF VOTERS

6. 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.

Preparation of register.

7. (1) The Commission shall—

Registration areas and Registration centres.

(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;

[Subsidiary]

- (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.

Registration particulars.

8. A register of voters shall contain the particulars set out in Form A in the Schedule.

Changes to register.

9. 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;

[Subsidiary]

- (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

10. The following provisions shall apply to any proposed change not initiated by the person in respect of whom they relate — Other changes requiring notice, etc

- (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. (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. Periodic list of changes.

(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. (1) Where, as a result of the operation of section 5 of the Act, the registration of voters may not be carried out, the registration officer shall certify the register of voters in Form B set out in the Schedule. Certification of register.

[Subsidiary]

(2) The Commission shall publish a notice in the Gazette to the effect that the compilation of the register of voters has been completed.

(3) The Commission may amend the register of voters after it is certified to the extent necessary to reflect the result of determination of any claim, or appeal that was pending at the time the register was certified.

(4) The registration officer shall publish the certified register of voters in the following manner—

- (a) by making the register available for inspection at such places as the Commission may designate, by notice in the Gazette;
- (b) by posting, at a place within the registration area where the public has access, a notice 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 and such other electronic media as the Commission may determine.

PART IV—REGISTRATION OF VOTERS

Application for new registration.

13. (1) A person who is not already registered as a voter but who wishes to be so registered shall make an application in Form C set out in the Schedule.

(2) An application under subregulation (1) shall be made to the registration officer for the constituency in which the person wishes to be registered.

(3) The registration officer shall, for the purpose of registration, collect such biometric data which include palm print and facial impressions of the persons applying for registration, as the Commission may determine.

Application for change in registration.

14. (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 C, 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

[Subsidiary]

be made in Form D, to the registration officer for the constituency in which the applicant wishes to be registered.

(5) An applicant under this regulation shall surrender any previously held voters card when making an application or, where such card is unavailable, make a declaration to that effect.

15. (1) A person may not make an application for registration under regulation 13 or 14— When applications not allowed.

(a) during a time in which the registration of voters and revision of the register of voters is not allowed under section 4 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.

16. (1) The registration officer to whom an application is made under regulation 13 or 14 shall consider the application and— Consideration by registration officer.

(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 a voter's card, in Form E set out in the Schedule, to the applicant.

PART V—CLAIMS

17. (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. Time for making claims.

(2) A claim under sub regulation (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. A claim shall be in Form F set out in the Schedule and shall be accompanied by a new application for registration under Part IV. Method for making claim.

19. (1) The registration officer shall, within seven days of receipt of a claim publish a notice of the claim. Notice of claims

[Subsidiary]

(2) The notice of claim under subregulation (1) shall set out the names and addresses of all persons who have made claims.

Consideration of claims.

20. (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 give the claimant a written notice of the determination of the claim.

Time for appeal.

21. 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.

Method of appeal.

22. (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.

Request.

23. 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.

Hearing of appeal.

24. (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.

Changes to register.

25. 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

[Subsidiary]

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 under this Part shall not affect the validity of the register of voters. Claims not to affect register.

PART VI—INSPECTION OF REGISTER

27. (1) Inspection of the register shall be carried out as provided for in section 6 of the Act. Publication of register, etc.

(2) The Commission shall publish a notice of the availability of the register for inspection in the Gazette and in at least two newspapers of national circulation and through other easily accessible medium.

(3) The notice shall set out—

(a) a statement calling on the public to inspect the register;

(b) a statement specifying where and within which period the inspection may be carried out; and

(c) the hours during which inspection may be carried out.

(4) The notice shall be in Form G set out in the Schedule.

28. (1) After the last day of inspection specified in regulation 27, the registration officer for each constituency in respect of which the inspection was carried out shall revise the register of voters for the respective constituency. Revision of register.

(2) Within fourteen days after the close of inspection, the registration officer shall prepare a list of changes to the register of voters for his or her relevant register and the Principal Voter register.

PART VII—PREPARATION OF NEW REGISTER

29. The Commission may direct that a new register of every constituency be prepared. Direction from Commission.

30. (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. Notice.

[Subsidiary]

(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 H 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.

Registrations.

31. (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.

Preparation of new register.

32. 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.

Publication of register.

33. (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 Form I 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.

[Subsidiary]

PART VIII—REGISTRATION OF KENYAN CITIZENS RESIDING
OUTSIDE KENYA

- 34 (1). The Commission shall, at regular intervals, publish the names of countries in which registration and voting is scheduled to take place. Registration of Kenyan citizens residing out of Kenya.
- (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. A register of voters who are Kenya citizens residing outside Kenya shall contain the particulars set out in Form J in the Schedule Registration particulars of Kenyan citizens residing out of Kenya.
36. A Kenya citizen residing outside Kenya shall apply for registration as a voter in Form J set out in the Schedule. Application for Registration by Kenyan citizens residing out of Kenya
37. A Kenya citizen residing outside Kenya shall apply for registration as a voter upon production of a valid Kenyan Passport. Eligibility to Vote.
38. 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. Registration personnel.
39. A Kenya citizen residing outside Kenya shall only participate in a presidential election or a referendum. Type of elections.

PART IX—MISCELLANEOUS

40. A registration officer may, for the purpose of considering or determining an application or claim— Summoning witnesses, evidence, etc.
- (a) summon any person to appear before him or her to give evidence on oath and administer an oath for that purpose; or
- (b) order the production of any document relevant to an issue that the registration officer is required to consider and determine.
41. 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— Notice to individuals.
- (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.

[Subsidiary]
Publication of
notices.

42. (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.

Minor inaccuracies
immaterial.

43. 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.

Observation of the
registration process.

44. (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

Alternative means of
signification.

45. 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.

Revocation of L.N.
173/2002.

46. The National Assembly Elections (Registration of Electors) Regulations, 2002, are revoked.

[Subsidiary]

SCHEDULE

FORM A

(r. 8)

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

[Subsidiary]

Witnessed by:

Registration Officer/Assistant Registration Officer
Official stamp.

FORM B

(r. 12) (1))

CERTIFICATION OF REGISTER OF VOTERS

I hereby certify the document or documents described as follows as the Principal Registers of Voters or part of components of the register relating to thewardconstituency.....county.

Dated the, 20

Registration Officer
Constituency.....

FORM C

(r. 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/Kenyan passport
numberexpiry date.....

Telephone number

[Subsidiary]

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 D

(r.14 (4))

APPLICATION FOR TRANSFER OF REGISTRATION IN WHICH A
PERSON IS REGISTERED

Current Constituency.....

Surname.....

Other Name(s).....

Identity card No./Kenyan passport No:.....

Date of birth:.....

Sex.....

Residential address:.....

Contact Telephone.....

Postal address:.....

Tel:

Email:

[Subsidiary]

I, the applicant, am registered in the register of voters for the constituency noted above.

I wish to be registered in the register of voters for the following:

New Constituency:.....

County Assembly Ward:.....

New Polling Station

Contact (postal) address.....

Physical address.....

Telephone.....

Dated.....20.....

Signature or thumbprint of the applicant

Witnessed byRO/RA

FORM E

(r. 16(2))

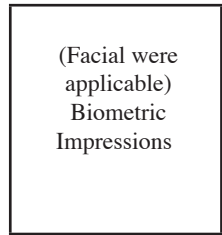
VOTER'S CARD

Surname.....

Other Name(s):.....

Voter's Number

Voter's Identity Card/Kenyan Passport Number:



Identity Card Serial No:.....

County:

Constituency:

Ward:

Polling Station..... [Subsidiary]

Elections at which Voter is entitled to vote:.....

Presidential/Parliamentary/County/Ward/Referenda

Note:- You must produce your identity card or Kenyan passport in order to vote.

You are not entitled to vote unless your name appears in the register of voters.

FORM F

(r.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

[Subsidiary]

FORM G

(r. 27(4))

NOTICE—REGISTER OF VOTERS TO BE REVISED

NOTICE is hereby given that the Principal Register of Voters/part of the principal register of voters relating to..... will be open for inspection fordays.

The purpose of the inspection shall be to—

- (a) ensure that no person is incorrectly registered;
- (b) ensure that no person is registered more than once;
- (c) ensure that no registered person is omitted from the register;
- (d) ensure that no deceased person is in the register; and
- (e) to correct clerical errors.

Inspection may be made on or after, 20but not later than, 20.....

Inspection 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 inspection, a notice will be posted at that place indicating the other places where applications may be made.

Forms for application may be obtained at any place of registration, while it is open.

SCHEDULE

PLACES WHERE APPLICATION MAY BE MADE

- 1.
- 2.
- 3.

Dated the, 20

.....
Chairperson
Independent Electoral and Boundaries Commission

[Subsidiary]

FORM H

(r. 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 I

(r. 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 fordays. The register may be inspected at the places listed in the Schedule.

How to make a claim:

[Subsidiary]

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.....

SCHEDULE

Places where application may be made:

- 1.
- 2.
- 3.



FORM J

(r. 35)

**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

[Subsidiary]

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.....

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

[Subsidiary]

DECLARATION

I declare that:

- (i) I am qualified to be, and not disqualified from being, registered as an 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.....
- 3.....

**THE ELECTIONS (VOTER EDUCATION) REGULATIONS,
2012**

[Subsidiary]
L.N. 127/2012.

ARRANGEMENT OF REGULATIONS

Regulation

PART I—PRELIMINARY

- 1—Short title.
- 2—Interpretation.
- 3—Objective of regulations.

PART II—VOTER EDUCATION COMMITTEES

- 4—Establishment of voter education committees.
- 5—Composition of National Committee.
- 6—Sub committee of the National Committee.
- 7—Commission may assign staff.
- 8—Chairperson and vice-chairperson.
- 9—Functions of the National Committee.
- 10—Procedure of the National Committee.
- 11—Composition of constituency committees.
- 12—Functions of constituency committees.
- 13—Procedure of constituency committees.
- 14—Declaration.
- 15—Remuneration.
- 16—Reports.

PART III—VOTER EDUCATORS

- 17—Voter educations.
- 18—Manner of carrying out the tasks of voter educators.
- 19—Qualifications.

PART IV—ACCREDITATION OF NON STATE VOTER EDUCATION
PROVIDERS

- 20—Application for accreditation.
- 21—Accreditation criteria.
- 22—Certificate of accreditation.
- 23—Inspection of register.
- 24—Accredited persons and organisations to sign code of conduct..
- 25—Commission may revoke accreditation, etc.
- 26—Impartiality of voter education providers.
- 27—Submission of information.

SCHEDULE—Forms

[Subsidiary]

**THE ELECTIONS (VOTER EDUCATION) REGULATIONS,
2012**

PART I—PRELIMINARY

Short title. 1. These Regulations may be cited as the Elections (Voter Education) Regulations, 2012 and shall come into effect upon publication in the Gazette.

Interpretation. 2. In these Regulations, unless the context otherwise requires—

“constituency committee” means a constituency voter education committee established under regulation 4;

“National Committee” means the National Voter Education Committee under regulation 4;

“voter education” means all forms of information or communication whose purpose is to educate members of the public on their rights and responsibilities in the electoral process and generally on the electoral process;

“voter education committee” means the National Committee or a constituency committee;

“voter educator” means a person engaged by a constituency committee or by a voter education provider to carry out voter education under these Regulations.

Objective of Regulations. 3. 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 harmonisation of the content of the voter education material; and
- (d) promote optimum use of resources available for voter education in Kenya.

PART II—VOTER EDUCATION COMMITTEES

Establishment of voter education committees. 4. The Commission shall establish the following voter education committees—

- (a) a committee at the national level to be known as the National Voter Education Committee; and
- (b) a committee in each constituency to be known as the constituency voter education committee.

5. The National Committee shall consist of the following members appointed by the Commission—

[Subsidiary]
Composition of
National committee.

- (a) two persons from civil society organisations;
- (b) a representative of the Ministry responsible for matters relating to education, who shall be a person who is qualified and has experience in matters relating to curriculum development or delivery;
- (c) a representative of the Ministry responsible for matters relating to the public service;
- (d) three representatives nominated by a forum of faith based organisations;
- (e) a representative of persons with disabilities;
- (f) a representative of the youth;
- (g) two persons from institutions of higher learning;
- (h) one representative of the Political Parties Liaison Committee; and
- (i) the director of voter education at the Commission who shall be secretary to the Committee.

6. The National Committee may establish such sub committees as it may consider necessary for the purposes of carrying out its functions.

Sub committees
of the National
Committee.

7. The Commission may assign such members of its staff to the National Committee as may be necessary to enable the National Committee perform its functions.

Commission may
assign staff.

8. (1) The members of the National Committee shall elect a chairperson and vice- chairperson of the National Committee from amongst themselves.

Chairperson and
vice-chairperson.

(2) The chairperson and vice- chairperson of the National Committee shall not be of the same gender.

(3) The composition of the National Committee shall reflect the principle of gender balance and regional diversity of the people of Kenya.

9. (1) The National Committee shall, under the general direction of the Commission, be responsible for the design and dissemination of voter information and education relevant to the participation of the citizens in the electoral and referenda processes.

Functions of National
Committee.

(2) Without prejudice to the generality of subregulation (1), the National Committee shall be responsible under the general direction of the Commission, for—

[Subsidiary]

- (a) general policy and strategies for voter education;
- (b) voter education curriculum;
- (c) voter education materials;
- (d) monitoring and evaluating voter education programmes;
- (e) collaborating with other stakeholders on voter education; and
- (f) overseeing the functions of the constituency committees.

Procedure of
National Committee.

10. (1) Subject to this regulation, the National Committee shall regulate its own procedure.

(2) The National Committee shall hold such number of meetings in such place, time, and manner as the National Committee may consider necessary for the discharge of its functions under these regulations.

(3) A member of the National Committee, other than an ex officio member, shall be appointed for a term of three years and shall be eligible for reappointment for one further term of two years.

(4) The quorum for meetings of the National Committee shall be seven members.

(5) A member of the National Committee may resign upon giving one month's notice in writing to the Commission.

(6) Where the position of a member of the National Committee becomes vacant before the expiry of the term of office of that member, the Commission may appoint another member from the organisation represented by the member who resigned, to serve for the unexpired term.

Composition
of constituency
committees.

11. (1) A constituency committee shall consist of the following members appointed by the Commission —

- (a) two persons from civil society organisations operating in the Constituency;
- (b) two representatives of government ministries within the Constituency;
- (c) three representatives from faith based organizations operating in the constituency; and .
- (d) the constituency elections coordinator who shall be the secretary and spokesperson of the Committee.

(2) The members of the constituency committee shall elect a chairperson

[Subsidiary]

and vice-chairperson, from amongst themselves.

(3) The chairperson and vice-chairperson of the constituency committee shall not be of the same gender.

(4) The composition of the constituency committee shall reflect the principle of gender balance and the geographical diversity within that constituency.

12. (1) A constituency committee shall be responsible for overseeing and advising on the coordination and implementation of voter education programmes at the constituency level. Functions of constituency committees.

(2) Without prejudice to the generality of subregulation (1), a constituency committee shall advise on—

- (a) constituency voter education programmes;
- (b) recruitment, induction and deployment of constituency voter educators;
- (c) supervision and monitoring of the activities and operations of constituency voter educators; and
- (d) evaluation of constituency voter education activities and programmes.

13. (1) Subject to this regulation, a constituency committee shall regulate its own procedure. Procedure of constituency committees.

(2) A constituency committee shall hold such number of meetings in such place, time, and manner as the National Committee may consider necessary for the discharge of its functions under these Regulations.

(3) A member of the constituency committee, other than an ex officio member, shall be appointed for a term of three years and shall be eligible for reappointment for one further term of two years.

(4) The quorum for meeting of a constituency committee shall be four members.

(5) A member of the constituency committee may resign upon giving one month's notice in writing to the Commission.

(6) Where the position of a member becomes vacant before the expiry of the term of office of that member, the Commission may appoint another member from the organisation represented by the member who resigned, to serve for the unexpired term.

14. A member of the National Committee or a constituency committee shall make a declaration in Form 1 set out in the Schedule. Declaration.

[Subsidiary]

Remuneration.

15. (1) Members of the National Committee and the constituency committees shall be paid such allowances as the commission may determine.

(2) The costs and expenses of the national and constituency committees shall be borne by the Commission.

Reports.

16. (1) Each constituency committee shall, every six months, prepare and submit a report to the National Committee.

(2) A report made under subregulation (1) shall contain the following information—

- (a) activities carried out by the constituency committee;
- (b) statistical information considered appropriate; and
- (c) any other information relating to the functions of the constituency committee.

PART III—VOTER EDUCATORS

Voter educators.

17. Each constituency committee shall recruit persons to act as voter educators at the ward or other levels in such manner as the National Committee may, from time to time, direct.

Manner of carrying out the tasks of voter educators.

18. A voter educator appointed under this regulation shall carry out voter education under the direction of the constituency committee and in accordance with the voter education curriculum prescribed under these Regulations

Qualifications.

19. The National Committee shall prescribe the qualifications for voter educators.

PART IV—ACCREDITATION OF NON STATE VOTER EDUCATION PROVIDERS

Application for accreditation.

20. (1) A Non State agency or organisation may apply to the Commission to be accredited to provide voter education.

(2) An application for accreditation to provide voter education shall be made to the National Committee in Form 2 set out in the Schedule.

Accreditation criteria.

21. The National Committee may, with the approval of the Commission accredit an applicant if that applicant—

- (a) possesses valid registration certificates;
- (b) has an operational bank account;
- (c) has civic education as an objective in the instrument of registration;

[Subsidiary]

- (d) has a presence in at least one constituency in Kenya;
- (e) possesses at least three years demonstrable experience in the provision of voter or civic education;
- (f) demonstrates to the National Committee that it has the necessary institutional and resource capacity to carry out voter education;
- (g) meets such integrity and accountability standards as the National Committee may require and as demonstrated by its record; and
- (h) meets tax compliance requirements as the law may require of organisations of its kind.

22. (1) If the National Committee is satisfied that an applicant meets the requirements for accreditation as set out in regulation 21, the National Committee shall—

Certificate of accreditation.

- (a) enter the name of the applicant in the register of agencies and organizations accredited to provide voter education; 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 Form 3 set out in the Schedule.

23. Any person may inspect the register and copies of the certificates of persons accredited to provide voter education for, or in respect of, any election.

Inspection of register.

24. All accredited persons or organisations shall sign and abide by the code of conduct in Form 4 set out in the Schedule.

Accredited person's and organisations to sign code of conduct.

25. (1) The National Committee may revoke an accreditation certificate issued to a person who or organization which contravenes the code of conduct.

Commission may revoke accreditation, etc.

(2) The National Committee may carry out an assessment of a voter education exercise carried out by an accredited organization and advice on the same.

26. An organization accredited by the National Committee to provide voter education shall—

Impartiality of voter education providers.

- (a) do so in a manner that is 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;

[Subsidiary]

- (d) provide voter education in accordance with the curriculum developed by the Commission; and
- (e) work towards ensuring that its activities promote voter education and conditions conducive to free and fair elections.

Submission of information.

27. The National Committee may, from time to time, require any accredited organization to submit a report concerning its activities carried out under these Regulations.

SCHEDULE

FORM 1

(r.14)

DECLARATION BY COMMITTEE MEMBER

I, of National Identity card No.
solemnly and sincerely declare that—

- 1. I am a Kenya Citizen
- 2. I have been appointed as a member of the National/ constituency voter education committee for.....
- 3. I shall perform only those functions that are mandated by the Elections (Voter Education) Regulations or by the Commission.
- 4. I shall be non partisan, objective and transparent in the discharge of my functions.
- 5. I shall not make any press statement or make any promise for or on behalf of the Commission.
- 6. I shall abide by the provisions of the Elections Act or any other regulations made thereunder.

I make this solemn declaration conscientiously believing the same to be true.

Signed.....

Subscribed and solemnly declared before me this.....
day of20..... (Magistrate/ Commissioner for Oaths

Signed.....

Name in Block Letters_____

Official Date stamp_____

[Subsidiary]

FORM 2

(r. 20 (2))

ACCREDITATION APPLICATION FORM

1. Name of Organisation _____

2. Address: _____

3. Telephone: _____

4. Principal Officers:

a. President/Chairperson: _____

b. Secretary General/ Executive Director/ Country Director: _____

5. Person authorised by the organization to liaise with the National Committee-----

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-----

9. Person submitting this application:

10. Designation: _____

11. Telephone, email, etc.: _____

FORM 3

(r. 22 (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.....

[Subsidiary]

upto.....Issued this dayof
20

Seal of Independent Electoral and Boundaries Commission.

Name Chief Executive Officer/Secretary

Signature Independent Electoral and boundaries Commission

FORM 4

(r. 24)

CODE OF CONDUCT OF VOTER EDUCATORS

1. The principal duty of the a voter educator 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. A voter educator is a friend of every voter. He or she will endeavor to provide appropriate information, insight and advice to every voter on issues relating to the registration, elections and the referendum. He or she 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 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) refuse any gift, favour, hospitality or any inducement that would influence or appear to influence the discharge of his or her duties; (f) carry out voter education without intimidation, coercion, threats, duress or undue influence;
 - (g) be sensitive to the needs of people with disabilities, women, youth and other marginalized groups when providing voter

[Subsidiary]

education;

- (h) give due consideration to special and appropriate circumstances regarding accessibility, language and methodology in the provision of voter education;
- (i) avoid actual or apparent conflicts of interest in the provision of voter education;
- (j) refrain from disclosing any confidential information acquired in the course of their work unless otherwise authorized by the Commission;
- (k) perform his or her duty in accordance with such other rules, regulations, standards as the IEBC may set from time to time;
- (l) endeavor 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 who does not abide by the 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 to 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 voter education provider.

I undertake to relinquish my duty as a voter educator if required to do so, for good cause, by the Commission

Name.....

Constituency.....

Sign.....

Date.....

[Subsidiary]
L.N. 128/2012.

THE ELECTIONS (GENERAL) REGULATIONS, 2012

ARRANGEMENT OF REGULATION

Regulations

PART I—PRELIMINARY

- 1—Citation.
- 2—Interpretation.

PART II—MATTERS PRELIMINARY TO ELECTIONS

- 3—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 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
- 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.
- 25—Nomination fees for candidate for National Assembly.

PART VI—NOMINATION OF CANDIDATES FOR SENATE

- 26—Nomination of political party candidates for Senate
- 27—Nomination of Independent candidate for senate.
- 28—Supporters of nomination of candidate for senate.
- 29—Nomination fees for Candidates for Senate.

PART VII—NOMINATION OF COUNTY GOVERNOR CANDIDATES

- 30—Nomination for political party candidate for county governor.
- 31—Nomination of independent candidates for county governor.
- 32—supporters of nomination of county governor candidate.
- 33—Nomination fees for county governor candidate.

PART VIII —NOMINATION OF CANDIDATES FOR COUNTY
ASSEMBLY MEMBER

- 34—Nomination of political party candidate for county assembly member by political parties.
- 35—Nomination of independent candidate for county assembly
- 36—supporters of nomination of candidate for county assembly.
- 37—Nomination fees for candidate for member of county assembly.

PART IX—GENERAL PROVISIONS ON NOMINATION OF
CANDIDATES AND REFERENDUM

- 38—General requirements, political party candidates.
- 39—General requirements, independent candidates
- 40—Independent candidates to provide physical address.
- 41—Statutory declaration for purposes of nomination.
- 42—Supply of nomination forms.
- 43—Validity of nomination papers.
- 44—Withdrawal of candidature before nomination.
- 45—Multiple subscribers, etc.
- 46—Certification of candidates.
- 47—Ascertainment of educational qualifications.
- 48—Attendance at delivery of nomination papers.
- 49—Death of candidate.
- 50—Disruption of nomination.
- 51—Nomination certification, etc.
- 52—Withdrawal of candidature after nomination.
- 53—Declaration of no contest: Other elective posts.

PART X—NOMINATIONS FOR PARTY LISTS

- 54—Submission of political party list for allocation of special seats.
- 55—Party list to be prepared in accordance with party rules.
- 56—Commission to publish formula for allocation of seats.

[Subsidiary]

PART XI—PROVISION RELATING TO THE CAMPAIGN PERIOD

- 57—Appointment of national and county chief elections agents.
- 58—Offence.

PART XII—PROVISIONS ON VOTING AT ELECTIONS

- 59—Election procedure.
- 60—Electronic voting.
- 61—Election material at polling station.
- 62—Admission to polling station.
- 63—Keeping order at polling station.
- 64—Adjournment, etc, polling by the presiding officer.
- 65—Communication with voters at polling station.
- 66—Polling time.
- 67—Sealing of ballot boxes, etc.
- 68—Ballot papers.
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- 70—Method of voting.
- 71—Spoilt ballot paper.
- 72—Assisted voters.

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OF RESULTS

- 73—Procedure on close of polling.
- 74—Attendance at counting of votes.
- 75—Commencement and sequence of the count.
- 76—Counting of votes.
- 77—Rejection of ballot papers, etc.
- 78—Rejected ballot papers.
- 79—Candidates, etc to sign declaration.
- 80—Recount.
- 81—Sealing of ballot papers by presiding officer
- 82—Provisional results to be transmitted electronically
- 83—Tallying and announcement of election results.
- 84—Venue of final tallying.
- 85—Persons allowed into tallying centres.
- 86—Sealing of ballot papers by returning officer.
- 87—Returns of persons elected.

PART XIV—PRESIDENTIAL FRESH ELECTION

- 88—Notice of fresh election of president.
- 89—Procedure at a fresh election.
- 90—Special voting.

PART XV—REFERENDUM

- 91—Application by referendum committees.
- 92—Referendum chief agents.

[Subsidiary]

PART XVI—MISCELLANEOUS PROVISIONS

- 93—Retention and inspection of documents.
- 94—Accreditation of observers.
- 95— Accreditation of media
- 96—Collaborations
- 97—Non-attendance by candidates, etc not to invalidate proceedings.
- 98—Power of Commission to issue directives.
- 99—Dispute resolution.
- 100—Procedure at a referendum.
- 101—Revocation L.N. 227/1992.

[Subsidiary]

THE ELECTIONS (GENERAL) REGULATIONS, 2012

PART I—PRELIMINARY

- Citation. 1. These Regulations may be cited as the Elections (General) Regulations, 2012.
- Interpretation. 2. In these Regulations, unless the context otherwise requires—
- “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 Principal 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 Principal 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;
- “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;

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“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 diary kept by the presiding officer for the purpose of recording incidents as may be prescribed by the Commission;

“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;

“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.

PART II—MATTERS PRELIMINARY TO ELECTIONS

3. (1) The Commission shall appoint a returning officer for each constituency and may appoint such number of deputy returning officers for each constituency as it may consider necessary. Returning officers and other staff.

(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 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) the tallying of results from each polling station in the constituency;
- (d) announcing results from the constituency for purposes of the election of the President, Senator, Governor, woman representative to the National Assembly, member of National Assembly and county representatives;
- (e) the declaration of the results tallied under paragraph (c); and
- (f) such other functions as may be assigned by the Commission.

[Subsidiary]

(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 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.

Appointment of
county returning
officers.

4. (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 President, 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.

(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.

Presiding at polling
station, oath of
secrecy, etc.

5. (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

(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

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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.

6. (1) The Commission shall appoint such number of polling clerks for each constituency as it may consider necessary. Appointment of polling clerks.

(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 subregulation (1) shall be displayed prominently at the offices of the Commission within the constituency.

7. (1) The Commission shall—

Electoral areas and polling stations.

- (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

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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 sub regulation (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.

Use of schools and other public facilities for elections.

Cap. 211,
No.3 of 2005.

8. (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 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, use private facilities where in the opinion of the Commission, the public facilities are unavailable, inadequate or unsuitable for purposes of polling.

(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.

Party symbol.

9. (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.

No. 11 of 2011.

(2) The political party symbol shall be the symbol by which the respective party is registered under the Political Parties Act.

[Subsidiary]

(3) Each political party in a coalition of political parties shall use its own symbol.

10. (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 symbol approved for each independent candidate. Independent candidate symbol.

(2) The symbols published under subregulation (1) shall be gazetted at the same time as the list of persons nominated to contest the election.

11. (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. Vacancy notices and notices for elections.

(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. (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. Publication of notice of election.

(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;

[Subsidiary]

(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 subregulation (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

Parties to observe
qualifications, etc.

13. (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.

(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.

Party to submit list of
candidates.

14. (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 subregulation (1) shall contain the name, address, age, sex, disability and category of disability and information on whether the candidate has a disability, if any.

(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.

Certain requirements
for independent
candidates.

15. 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 prescribed form.

PART IV—NOMINATION OF PRESIDENTIAL CANDIDATES

16. (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.

[Subsidiary]
Manner of nomination of independent presidential candidate.

(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. (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.

Manner of nomination of political party presidential candidate.

(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. (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 and voters' 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.

Supporters of nomination of presidential candidate and statutory declaration.

(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 voters cards of the voters referred to in subregulation (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.

19. An application for nomination for candidature at a presidential election shall be accompanied by a non-refundable nomination fee, in banker's draft of-

Nomination fees of presidential candidates.

- (a) one hundred thousand shillings for a candidate who is a youth, a woman or a person with disability; and

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(b) two hundred thousand shillings for any other candidate.

Certain obligations of independent candidates for the office of president.

20. (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.

Declaration of no contest: Presidential election.

21. 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

Nomination of political party candidates for National Assembly.

22. 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.

Nomination of independent candidates for National Assembly.

23. 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.

Supporters of nomination of candidate for National Assembly.

24. (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 voter's number of at least one thousand voters registered in the constituency or county, as the case may be.

(2) The sheets of paper delivered under subregulation (3) shall—

(a) be serially numbered;

(b) each have at the top, in typescript, the wording at the top of Form 15;

(c) be accompanied by copies of the voters cards of the voters referred to in sub regulation (3).

Nomination fees for candidate for National Assembly.

25. 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

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(b) twenty thousand shillings for any other candidate.

PART VI—NOMINATION OF CANDIDATES FOR SENATE

26. 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 a application for nomination in Form 16 set out in the Schedule.

Nomination of political party candidate for Senate

27. 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.

Nomination of independent candidate for senate

28. (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 electoral numbers of two thousand registered voters in the county.

Supporters of nomination of candidate for Senate.

(2) The sheets of paper delivered under subregulation (4) shall—

(a) be serially numbered;

(b) each have at the top, in typescript, the wording at the top of in Form 16; and

(c) be accompanied by copies of the voters cards of the voters referred to in sub regulation (3).

29 An application for nomination for candidature at a Senate election shall be accompanied by a non-refundable nomination fee, in banker's draft, of—

Nomination fees for candidate for Senate.

(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. 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.

Nomination for political party candidate for country governor.

31. (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.

Nomination of independent candidates for county governor.

[Subsidiary]
Supporters of
nomination of county
governor candidate.

32. (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 electoral numbers of five hundred voters registered in the county.

(2) The sheets of paper delivered under subregulation (1) shall—

- (a) be serially numbered;
- (b) each have at the top, in typescript, the wording at the top of Form 17; and

Nomination fees
for county governor
candidates

33. 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

Nomination of
political party
candidate for county
assembly member by
political parties.

34. 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.

Nomination of
independent
candidate for county
assembly.

35. 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.

Supporters of
nomination of
candidate for county
assembly.

36. (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 electoral numbers of five hundred voters registered in the ward.

(2) The sheets of paper delivered under sub regulation (3) shall—

- (a) be serially numbered;
- (b) each have at the top, in typescript, the wording in Form 18; and

Nomination fees for
candidate for member
of county assembly.

37. 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,

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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. A nomination paper submitted by a political party candidate to the Commission shall—

General requirements: political party candidates

- (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. A nomination paper submitted by an independent candidate to the Commission shall—

General requirements: independent candidates.

- (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. Every independent candidate for elections shall provide a physical address located in the respective electoral area for purposes of physical service of documents.

Independent candidates to supply physical address.

41. 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.

Statutory declaration for purposes of nomination.

42. A returning officer shall supply free of charge to any voter of his

Supply of nomination forms.

[Subsidiary]

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.

Validity of
nomination papers.

43. (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

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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. 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. Withdrawal of candidature before nomination.

45. (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: Multiple subscribers, etc.

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. A candidate shall submit a self declaration form as prescribed in the First Schedule to the Leadership and Integrity Act. Certification of candidates.
No. 19 of 2012.

47. (1) For purposes of ascertaining the educational qualification of persons for an elective post, a person seeking nomination shall submit to the Commission copies of certificates of the educational qualification. Ascertainment of educational qualifications.

(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 Higher Education, in the case of university degrees.

48. (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 — Attendance at delivery of nomination papers.

(a) a candidate;

(b) a person nominated as deputy to the candidate, where applicable;

(c) an agent; or

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(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.

Death of candidate.

49. 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.

Disruption of nomination.

50. (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 subregulation (1) 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.

Nomination certification, etc.

51. (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.

[Subsidiary]

(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—

(a) certify accordingly to the Commission in Form 22 set out in the Schedule; and

(b) publish a statement countermanding 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 sub regulation (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.

52. A candidate who has been nominated may withdraw his or her candidature by delivering to the respective returning officer a notice to that effect.

Withdrawal of candidature after nomination.

[Subsidiary]

Declaration of
no contest: Other
elective posts.

53. 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.

PART X—NOMINATIONS FOR PARTY LISTS

Submission of
political party list for
allocation of special
seats.

54. (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 subregulation (1) shall contain the name, address, age, sex, disability and category of disability, phone number, occupation, elective post sought and such other qualifications as are provided under the Constitution and the Act.

(3) A party list submitted under sub regulation (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 and in electronic form.

(4) Each political party list nominee shall after nomination, submit to the Commission a letter stating his or her intention to serve if nominated.

(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.

Party list to
be prepared in
accordance with
party rules.

55. (1) The party list contemplated under regulation 54 shall be prepared in accordance with the nomination rules of the political party.

(2) The Commission may 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 subregulation (2) shall resubmit the party list or nominee

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within such period as the Commission may specify.

(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.

56. (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. Commission to publish formula for allocation of seats.

(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.

PART XI—PROVISION RELATING TO THE CAMPAIGN PERIOD

57. (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. Appointment of national and county chief elections 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. A person who contravenes or fails to comply with the provisions of this Part commits an offence under the Act. Offence to fail to comply with Part.

PART XII—PROVISIONS ON VOTING AT ELECTIONS

59. (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. Election procedure.

(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. 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. Electronic voting.

61. (1) The returning officer shall provide each presiding office 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. Election material at polling station.

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(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 Principal Register of Voters or such part thereof as contains the names 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 screened from observation; and
- (g) such other materials for the better carrying out of polling.

Admission to polling station.

62. (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;

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- (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. (1) It shall be the duty of the presiding officer to keep order at his or her polling station. Keeping order at 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 subregulation (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.

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(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.

Adjournment, etc,
of polling by the
presiding officer.

64. (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.

(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.

Communication with
voters at polling
station

65. (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

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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.

66. (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. Polling time.

(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. (1) The presiding officer shall, immediately before the commencement of the poll— Sealing of ballot boxes, etc.

(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. (1) Ballot papers for an election—

Ballot papers.

(a) for use at a presidential election shall be in Form 25 set out in the

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Schedule;

- (b) for use at a National Assembly election shall be in Form 26 set out in the Schedule;
- (a) for use at a county woman representative to the National Assembly election shall be in Form 27 set out in the Schedule;
- (b) for use at a Senate election shall be in Form 28 set out in the Schedule;
- (c) for use at an election for governor shall be in Form 29 set out in the Schedule;
- (d) for use at a county assembly member election shall be in Form 30 set out in the Schedule;
- (e) 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 party symbol of the person 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.

Voting procedure.

69. (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;

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- (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) in case of an electronic register, require the voter to place his or her fingers on the fingerprint scanner and cross out the name of the voter once the image has been retrieved;
- (e) mark the name of the voter to indicate that the voter has been issued with a ballot paper and retain the voter number of the voter as proof that a ballot paper has been delivered;
- (f) stamp the counterfoil of the ballot paper on the face with the official mark of the Commission; and
- (g) stamp the ballot paper at the back with the official mark of the Commission.

(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 spoiled 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.

70. (1) A voter shall, upon receiving a ballot paper under regulation 69(2)— Method of voting.

- (a) go immediately into one of the compartments of the polling station

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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.

Spoilt ballot papers.

71. 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.

Assisted voters.

72. (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

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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. (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. Procedure on close of polling.

(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.

(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.

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Attendance at
counting of votes.

74. (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.

Commencement
and sequence of the
count.

75. (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;

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(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.

76. (1) The presiding officer shall, in the presence of the candidates or agents— Counting of votes.

(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. (1) At the counting of votes at an election, any ballot paper—

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Rejection of ballot papers, etc.

- (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 subregulation (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;
- (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.

Rejected ballot papers.

78. (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”.

(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.

(3) After the counting of votes is concluded, the presiding officer shall draw up a statement 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

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agent or observer shall, if he or she so desires, be allowed to copy that statement.

79. (1) The presiding officer, the candidates or agents shall sign the declaration in respect of the elections. Candidates, etc to sign declaration.

(2) For purposes of subregulation (1), the declaration for—

(a) presidential election results shall be in Form 34 set out in the Schedule;

(b) National Assembly, county women representatives, Senator, county governor and county assembly elections shall be in Form 35 set out in the Schedule.

(2) The presiding officer shall—

(a) immediately announce the results of the voting at that polling station before communicating the results to the returning officer;

(b) request each of the candidates or agent then 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 other 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.

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(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.

Recount.

80. (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.

Sealing of
ballot papers by
presiding officer.

81. (1) Upon completion of a count (including a recount), the presiding officer shall seal in separate tamper proof envelopes—

- (a) the counted ballot papers which are not disputed;
- (b) the rejected ballot papers together with the statement relating thereto;
- (c) the disputed ballot papers; and
- (d) the “rejected objected to” ballot papers;

(2) The presiding officer shall, after demonstrating to the candidates or agents as the case may be, that the ballot box to be used to carry the election results is empty, put into that box—

- (a) the packets specified in subregulation (1); and
- (b) the statements made under regulations 78 and 79.

(3) After the procedure in sub regulation (2), the presiding officer shall seal the ballot box with the seal of the Commission and allow the candidates or agents to affix their own seals on the ballot box, if they so wish.

(4) The presiding officer shall, as soon as is practicable deliver to the returning officer for the electoral area the ballot box containing the items listed under subregulation (2).

Provisional results
to be transmitted
electronically.

82. (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 subregulation (1) shall be provisional and subject to confirmation after the procedure described in regulation 73.

83. (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—

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Tallying and
announcement of
election results.

- (a) tally the results from the polling stations in respect of each candidate, without recounting the ballots that were not in dispute and where the returning officer finds the total valid votes in a polling station exceeds the number of registered voters in that polling station, the returning officer shall disregard the results of the count of that polling station in the announcement of the election results and make a statement to that effect;
- (b) in the case of an election, publicly announce to persons present the total number of valid votes cast for each candidate in respect of each election in the order provided in regulation 75(2);
- (c) complete Form 34 and 35 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 for each candidate in each polling station;
 - (v) aggregate number of votes cast in the respective electoral area; and
 - (vi) aggregate number of rejected votes; and
- (d) sign and date the form and—
 - (i) give to any candidate, or agent present a copy of the form; and
 - (ii) deliver to the Commission the original of Form 34 and 35 together with Form 36 and Form 37 as the case may be.

(2) The results of the presidential election in a constituency shown in Form 34 shall be subject to confirmation by the Commission after a tally of all the votes cast in the election.

(3) The decisions of the returning officer on the validity or otherwise of a ballot paper or a vote under this regulation shall be final except in an election petition.

84. (1) A final tallying of results for the respective elective posts shall be at a venue gazetted by the Commission for that purpose.

Venue of final
tallying.

[Subsidiary]

(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.

Persons allowed into tallying centres.

85. (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.

Sealing of ballot papers by returning officer.

86. (1) After the final tallying and announcement of results, the returning officer shall seal up in separate tamper proof envelopes—

- (a) the counted ballot papers which are not disputed;
- (b) the validated disputed ballot papers; and
- (c) the rejected disputed ballot papers,

together with the statements related thereto and shall put the sealed packets in the used ballot box in the presence of candidates or agents as are present and seal the ballot box with a seal of the Commission.

(2) The returning officer shall allow the candidates or agents of the candidates present to affix seals on the ballot box, if they so wish.

[Subsidiary]

87. (1) The returning officer shall, as soon as practicable, forward to the county returning officer, in the case of— Returns of persons elected.

- (a) a presidential election, a certificate in Form 37 showing the total number of votes cast for each candidate;
- (b) a member of National Assembly, county woman representative, Senate, county assembly, county governor or county assembly election, a certificate in Form 38 set out in the Schedule showing the total number of votes cast for each candidate.

(2) The returning officer shall after tallying of votes at the constituency level—

- (a) announce the results cast for all candidates;
- (b) issue certificates to persons elected in the National Assembly and county assembly elections in Form 38 set out in the Schedule; and
- (c) electronically transmit the provisional results to the Commission.

(3) The county returning officer shall upon receipt of the results from the returning officers as contemplated under regulation (1)—

- (a) tally and announce the results for the presidential elections, elections for the county governor, senator and county woman representative to the National assembly; and
- (b) submit all the results received from the returning officers, together with the results tallied under this regulation to the Commission; and
- (c) issue the persons elected pursuant to the results announced under paragraph (a) with certificates indicating their election in Form 38 set out in the Schedule.

(4) Upon receipt of a certificate under subregulation (1), the Chairperson of the Commission shall—

- (a) in the case of a presidential election, hold the certificate until the results of that election in every county have been received and thereafter publish a notice in the *Gazette* within seven days declaring the person who has received the greatest number of votes in the election, and has complied with the provisions of Article 138(4)(a) and (b) of the Constitution, to have been elected President:

Provided that the Chairperson of the Commission may declare a candidate elected as the President before all the counties have delivered their results if in the opinion of the commission the results that have not been received will not make a difference as to the winner on the basis of Article 138(4)(a) and (b) of the

[Subsidiary]

Constitution; and

(b) 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.

(5) 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 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 37 set out in the Schedule to the candidate who has been elected President.

(9) The returning officer shall on completion of the tallying submit provisional, results to the Commission.

(10) The county returning officer shall on completion of the tallying of the results at the county level, electronically submit the tallied provisional results to the Commission.

PART XIV — PRESIDENTIAL FRESH ELECTION

88. (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 39 set out in the Schedule.

89. These Regulations shall, with the necessary modifications and adaptations, apply to a fresh election under this Part.

90. (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

[Subsidiary]

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 — REFERENDUM

91. (1) An application for registration as a referendum committee shall be made to the Commission and shall— Application
by referendum
committees.

(a) be accompanied by information and statements showing that the applicants generally represent those campaigning for or against the referendum question, as the case may be; and

(b) be made within the period specified by the Commission.

(2) An application for registration shall be signed by the leader of the referendum committee and shall be in Form 40.

(3) On receipt of an application for registration of a referendum committee, the Commission—

(a) shall if the commission is satisfied with the application and that the referendum committee satisfies such requirements as the Commission may determine, register the referendum committee and inform the person who signed the application; or

(b) if the Commission determines that the referendum committee should not be registered, inform the person who signed the application that the application has been declined and state the reasons thereof.

(4) A referendum committee shall not be registered if—

(a) the application does not comply with these Regulations;

(b) the name of the committee so resembles the name of a previously registered referendum committee that the referendum committee is likely to be confused with that previously registered referendum committee; or

(c) the Commission is not satisfied that the applicant adequately represents persons campaigning for a particular outcome.

(5) A referendum committee shall not be registered if the name or logo of the referendum committee is the name or logo of a political party or so resembles such a name or logo that the referendum committee is likely to be confused with the political party.

(6) For the purpose of sub regulation (5), the name of a political party means—

[Subsidiary]

(a) the full name of the political party; or

(b) any name, or abbreviation of a name, used to identify the political party in election documents.

(7) Where a referendum committee is registered and any information given by the referendum committee pursuant to sub regulation (2) ceases to be applicable or accurate, the referendum committee shall forthwith send a report in writing, signed by the leader or chief agent of the referendum committee, to the Commission setting out the information necessary to bring the information up to date.

(8) The registration of a referendum committee for the purposes of a referendum is valid only for that referendum.

Referendum chief agents.

92. (1) A referendum committee that intends to apply for registration under regulation 91 shall, before applying, appoint a chief agent.

(2) The Commission shall maintain a register of the chief agents of registered referendum committees in which shall be recorded the name, address and telephone number of the chief agent of each such committee.

(3) The chief agent of a referendum committee appointed under sub regulation (1) shall be responsible for the affairs of the registered referendum committee in Form 41 set out in the Schedule and shall provide a sample signature to the Commission.

PART XVI—MISCELLANEOUS PROVISIONS

Retention and
inspection of
documents.
Cap. 19.

93.(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.

(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. (1) Pursuant to section 42 of the Act, the Commission may, at any election, accredit any person or organisation to observe the elections.

[Subsidiary]
Accreditation of
observers.

(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 sub-regulation (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 sub regulation (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. (1) Pursuant to section 41 of the Act, the Commission may at any election, accredit the media to access and cover the electoral

Accreditation of the
media. 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. (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.

Collaborations.

(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 Collaborations.

97. (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.

Non-attendance
by candidates, etc
not to invalidate
proceedings.

(2) The mere non-attendance of any candidate or agents at the time and place as contemplated under sub-regulation (1) shall not, if any act is otherwise lawfully done, invalidate that act.

[Subsidiary]

Power of
Commission to issue
directives.

98. 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.

Dispute resolution.

99. (1) For the purposes of Article 88(4) of the Constitution, the Commission shall develop, and publish in the Gazette, rules of procedure, including timelines applicable, for the settlement of electoral disputes under the Constitution, the Act or these Regulations.

(2) All disputes emanating from political party nominations shall be resolved by the Commission at least seven days to the day designated for submission to the Commission by political parties of the names of their respective candidates.

(3) Any rule made pursuant to this Regulation shall be published in the Gazette and in at least one newspaper of national circulation at least three months before the election to which the rules are intended to apply.

Procedure at a
referendum.

100. These Regulations shall, with the necessary modification and adaptations, apply to a referendum held under the Act.

Revocation of L.N.
227/1992.

101. The Presidential and Parliamentary Election Regulations, 1992, are revoked.

[Subsidiary]

SCHEDULE

FORM 1

(r. 5(6))

DECLARATION BY ELECTION OFFICIAL

I.....being a presiding Officer/deputy presiding officer/clerk/agent/interpreter of..... polling station in.....constituency/ county during the general elections/by elections to be held on.....day of20..... 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.....

FORM 2

(r. 11(1))

NOTICE OF PRESIDENTIAL ELECTION

An election of a 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 theday of20..... and on theday of20.....

Dated the 20

If the presidential elections is contested, the poll will take place on the..... day(s) of20

.....

*Chairperson,
Independent Electoral and Boundaries Commission*

[Subsidiary]

FORM 3

(r. 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 of the National Assembly/ Senate/County in respect of the above-mentioned constituency/ county:

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

FORM 4

(r. 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 of the ward 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 you 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

[Subsidiary]

FORM 5

(r. 11(4))

NOTICE OF PARLIAMENTARY ELECTION

An election is to be held of a member to serve in the National Assembly/Senate for the..... Constituency/County.

The day for nomination for the parliamentary election will be the, 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 of20 and on the day of, 20

If the parliamentary election is contested the poll will take place on the20.....

.....
Chairperson,
Independent Electoral and Boundaries Commission

FORM 6

(r. 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 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 theday of, 20

If the County Governor Election is contested the poll will take place on the20.....dated.....

.....
Chairperson,
Independent Electoral and Boundaries Commission

[Subsidiary]

FORM 7

(r. 11(6))

NOTICE OF COUNTY ASSEMBLY ELECTION

An election is to be held of 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 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 theday of, 20

If the County Assembly Ward Election is contested the poll will take place on the, 20

Dated.....

.....
Chairperson,
Independent Electoral and Boundaries Commission

FORM 8

(r. 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 theday of, 20.....

.....
Returning Officer

..... Constituency

[Subsidiary]

FORM 9

(r. 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....., 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, 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, 20

Returning Officer

FORM 10

(r. 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....., 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, 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, 20

Returning Officer

[Subsidiary]
FORM 11

(r. 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....., 20

Each political party wishing to participate in the election must finalize their nomination of candidates before the, 20

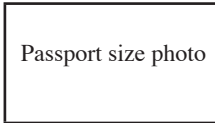
Nomination papers for the election may be delivered to the returning officer at between the hours of eight o'clock in the morning and one o'clock on the, 20 and forms of nomination papers therefore may be obtained at between the hours of nine o'clock in the morning and one o'clock on any week day. The 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, 20

.....
Returning Officer

FORM 12

(r. 16 (1), 17 (1), 18 (2) (b))



NOMINATION PAPER FOR PRESIDENTIAL ELECTION

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

Name in Full	
Occupation	
National Identity card or Passport No.	
Sex	
Date of Birth	
Voters card number	
Passport size photo	
Physical address	

[Subsidiary]

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 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.....

SUPPORTERS OF PRESIDENTIAL ELECTION CANDIDATE

Election of the President of the Republic of Kenya will be held on theday of20.....

We, the undersigned, being registered voters with the voters numbers indicated against our respective names, do hereby support the nomination ofas a candidate for election as President of the Republic of Kenya.

No.	Name	County	Voters Number	Signature/Thumb Print	I.D Card No./ Passport No.

Supporter1:

Full Names

Constituency

Voters Number

Party Office Held

[Subsidiary]

Signature of

Supporter 2:

Full Names.....

Constituency

Voters Number

Party Office Held

Signature of the proposer.....

Dated.....

N/B a total of at least 2000 supporters from at least 24 counties must be submitted to the Returning officer.

FORM 13

(r. 18(3))

STATUTORY DECLARATION FOR PURPOSES OF NOMINATION FOR ELECTION

I,of 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 as a President.
- 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.

Declared atthis.....dayof, 20

Signature of Declarant.....

Before me

.....
Magistrate/Commissioner for Oaths

[Subsidiary]

*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 14

(r. 21)

CERTIFICATE THAT ONLY ONE PERSON 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—

<i>Name</i>	<i>Place of Residence</i>	<i>ID/Passport number</i>	<i>Occupation/Description</i>

and that he or she has therefore been declared elected as President.

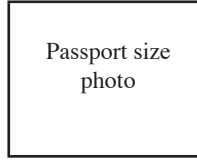
Dated this..... 20.....

.....
Chairperson
Independent Electoral and Boundaries Commission

[Subsidiary]

FORM 15

(r. 22, 23, 24 (2) (b)



NOMINATION PAPER FOR NATIONAL ASSEMBLY/COUNTY
WOMAN REPRESENTATIVE PARTY/INDEPENDENT ELECTION

Election of a member of National Assembly of the
Constituency/County to be held on the day of
..... for....., 20.....

We, the undersigned, being registered voters in the constituency/county* and
nominate the under-mentioned person as a candidate at the National Assembly/
County woman representative election*.

Particulars of the candidate:

Name in Full	
Occupation	
National Identity card or Passport No.	
Sex	
Date of Birth	
Voters card number	
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

[Subsidiary]

consent to my nomination as a candidate for election as Member of National Assembly/Woman representative* of the constituency/county and hereby certify that I am in all respects qualified for nomination as such candidate.

.....
Signature of Candidate

Dated.....

SUPPORTERS OF INDEPENDENT CANDIDATE FOR NATIONAL ASSEMBLY/COUNTY WOMAN REPRESENTATIVE

We, the undersigned, being registered voters with the voters numbers indicated against our respective names, do hereby support the nomination ofas a candidate for election as member of National Assembly/County woman representative* of the constituency.

No.	Name	County Assembly Ward	Voters Number	Signature/Thumb Print	I.D Card No./ Passport No

Supporter1:

Full Names

Constituency

Voters Number

*Party Office Held.....

Signature of Proposer.....

[Subsidiary]

Supporter 2:

Full Names.....

Constituency.....

Voters Number.....

Party Office Held*

Signature.....

Dated.....

N/B a total of at least 1000 supporters from the constituency/county must be submitted to the Returning officers for every independent candidate.

**delete as appropriate*

FORM 16

(r. 26, 27, 28 (2) (b))



NOMINATION PAPER FOR SENATE ELECTION

Election of a Senator 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 said election.

Particular of candidate:

Name in Full	
Occupation	
National Identity card or Passport No.	
Sex	
Date of Birth	

[Subsidiary]

Voters card number	
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 of the County and hereby certify that I am in all respects qualified for nomination as such candidate

.....
Signature of Candidate

Dated.....

SUPPORTERS OF SENATOR

We, the undersigned, being registered voters with the voter numbers indicated against our respective names, do hereby support the nomination of as a candidate for election as Senator of the County.

No.	Name	Constituency	Voters Number	Signature/Thumb Print	I.D Card No./ Passport No

Supporter1:

Full Names

Constituency

Voters Number

[Subsidiary]

Party Office Held

Signature of Proposer.....

Supporter 2:

Full Names.....

Constituency

Voters Number

Party Office Held

Signature.....

Dated.....

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.

FORM 17

(r. 30, 31, 32 (2) (b))



NOMINATION PAPER FOR COUNTY GOVERNOR

Election of a County Governor of the County to be held on the day of, 20.....

We, the undersigned supporters, being registered as voters, in the county Assembly wards of county holding the election do hereby nominate the under mentioned person as a candidate at the said election.

Particulars of the Candidate

Name in Full	
Occupation	
National Identity card or Passport No.	
Sex	
Date of Birth	

[Subsidiary]

Voters card number	
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 Governor of the County and hereby certify that I am in all respects qualified for nomination as such candidate.

.....
Signature of Candidate

Dated

SUPPORTERS OF COUNTY GOVERNOR CANDIDATE

We, the undersigned, being registered voters with the voters numbers indicated against our respective names, do hereby support the nomination ofas a candidate for election as County Governor of the County

No.	Name	County Assembly Ward	Voters Number	Signature/Thumb Print	I.D Card No./ Passport No

[Subsidiary]

Supporter 1:

Full Names

Constituency

Voters Number

Party Office Held

Signature of Proposer

Supporter 2:

Full Names.....

Constituency.....

Voters Number.....

Party Office Held.....

Signature.....

Dated.....

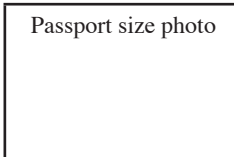
N/B: a total of at least 500 supporters from wards concerned must be submitted to the Returning officers for every independent candidate.

FORM 18

(r. 34, 35, 36 (2) (b))

NOMINATION PAPER FOR COUNTY ASSEMBLY ELECTION

Passport size photo



Election of a County Assembly Ward Member of the County Assembly Ward to be held on the day of, 20.....

We, the undersigned supporters, being registered as voters, in the county Assembly ward ofcounty holding the election do

[Subsidiary]

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	
Voters card number	
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

Dated.....

SUPPORTERS OF COUNTY ASSEMBLY CANDIDATE

We, the undersigned, being registered voters with the voters numbers indicated against our respective names, do hereby support the nomination ofas a candidate for election as County Assembly Ward Member of the County Assembly

[Subsidiary]

ward.

No.	Name	County Assembly Ward	Voters Number	Signature/Thumb Print	I.D Card No./ Passport No

Supporter 1:

Full Names

Constituency.....

Voters Number.....

Party Office Held.....

Signature of Proposer.....

Date.....

Supporter 2:

Full Names.....

Constituency

Voters Number

Party Office Held

Signature.....

Dated.....

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.

[Subsidiary]

STATUTORY DECLARATION FOR PURPOSES OF NOMINATION FOR PARLIAMENTARY AND COUNTY ELECTIONS

I,of 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 election.
3. I am qualified under, and have complied with, the Constitution and rules relating to persons wishing to contest as a candidate forelections.

And I make this declaration conscientiously believing the same to be true and according to the Oaths and Statutory Declarations Act.

Declared atthis.....dayof 20

Signature of Declarant.....

Before me

..... Magistrate/Commissioner for Oaths

Text Box:of 20

Signature of Declarant..... Before me

1*delete inapplicable

*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 20

(r. 51(1))

CERTIFICATE OF NOMINATION FOR PRESIDENT

I, the returning officer for do hereby certify that..... ID/ Passport No..... is validly nominated for the Presidential election in the Republic of Kenya..... Dated this.....day of20.....

..... Chairperson Independent Electoral and Boundaries Commission

FORM 21

(r. 51(2))

CERTIFICATE OF NOMINATION OF CANDIDATE FOR NATIONAL ASSEMBLY/COUNTY GOVERNOR/COUNTY ASSEMBLY ELECTIONS

I the returning officer for do hereby certify that..... ID/ Passport No..... is validly nominated for the National Assembly/County Governor/County Assembly election in county. Dated this.....day of20.....

..... RETURNING OFFICER

FORM 22

(r. 51(3)(a))

CERTIFICATE THAT NO PERSON NOMINATED

I the returning officer of..... constituency/ county do hereby certify that no person is validly nominated for the.....

[Subsidiary]

.....election in.....constituency/
county

Dated the.....day of20.....

.....
RETURNING OFFICER

FORM 23

(r. 51(4)(b))

CERTIFICATE THAT ONLY ONE PERSON NOMINATED FOR
ELECTION

I, the returning officer of constituency/
county do hereby certify that the only one person who is validly nominated for
the election, inconstituency/county*.

<i>Name</i>	<i>Place of Residence</i>	<i>ID/Passport number</i>	<i>Occupation/ Description</i>

Dated this..... 20.....

.....
Returning officer

* delete as appropriate

[Subsidiary]

FORM 24

(r. 51(6))

STATEMENT OF PERSONS NOMINATED

The following persons have been and now stand nominated for the.....
 election for the Republic of Kenya /County /Constituency/County
 Assembly Ward *.

<i>Type of candidature (party / independent candidate)</i>	<i>Candidate symbol</i>	<i>Full names of candidate</i>	<i>Occupation or description</i>	<i>Names of subscribers to nomination paper</i>	<i>National identification /Passport number</i>	<i>Physical address</i>	<i>Postal Address</i>

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:

<i>County</i>	<i>County code</i>	<i>Constituency</i>	<i>Const. code</i>	<i>Ward code</i>	<i>Polling Stations</i>	<i>Polling stn.code</i>	<i>Day and Hours of Polling</i>

Dated this day of....., 20.....

.....
Returning Officer

*delete as appropriate

FORM 25

(r. 68(1)(a))

BALLOT PAPER

Counterfoil

S/No.

PRESIDENTIAL ELECTION, 20

IN THE CONSTITUENCY
Polling Station

S/No.....
Constituency.
Polling Station

INSTRUCTIONS TO VOTER:	MAAGIZO KWAMPIGAKURA:
<ol style="list-style-type: none"> 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. 	<ol style="list-style-type: none"> 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 yeyote nyingine kwenye karatasi ya kura 4. Kunja karatasi katikati kutoka kushoto kwenda kulia ili kuficha kura yako halafu tumbukiza kwenye sanduku.

[Subsidiary]

Voter's Mark/Alama ya kura Tick (√) cross (×) Thumb print ()

Party /Candidates Symbol	Presidential Candidate Photo and Name	Deputy Presidential Name	Voter's Mark/Alama ya kura

FORM 26

(r. 68(1)(b))

BALLOT PAPER

Counter foil

S/No.

NATIONAL ASSEMBLY 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 yeyote nyingine kwenye karatasi ya kura
4. Fold the paper through the centre, from left to right, so as to conceal your vote.	4. Kunja karatasi katikati kutoka kushoto kwenda kulia ili kuficha kura yako

Voter's Mark/Alama ya kura Tick (√) cross (×) Thumb print ()

[Subsidiary]

Party /Candidates Symbol	Candidate Name	Voter's Mark/Alama ya kura

FORM 27

(r. 68(1)(c))

BALLOT PAPER

Counterfoil

S/No.

WOMAN COUNTY REPRESENTATIVE IN THE NATIONAL
ASSEMBLY ELECTION IN THE.....CONSTITUENCY, 20.....

.....Polling Station

S/No.....

.....Constituency

.....Polling Station

INSTRUCTIONS TO VOTER:	MAAGIZO KWA MPIGA KURA:
<ol style="list-style-type: none"> 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. 	<ol style="list-style-type: none"> 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 yeyote nyingine kwenye karatasi ya kura 4. Kunja karatasi katikati kutoka kushoto kwenda kulia ili kuficha kura yako

Voter's Mark/Alama ya kura Tick (√) cross (×) Thumb print ()

[Subsidiary]

<i>Party /Candidates Symbol</i>	<i>Candidate Name</i>	<i>Voter's Mark/Alama ya kura</i>

FORM 28

(r. 68(1)(d))

BALLOT PAPER

Counterfoil

S/No.

SENATE 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 yeyote nyingine kwenye karatasi ya kura
4. Fold the paper through the centre, from left to right, so as to conceal your vote.	4. Kunja karatasi katikati kutoka kushoto kwenda kulia ili kuficha kura yako

Voter's Mark/Alama ya kura Tick (√) cross (×) Thumb print ()

[Subsidiary]

Party /Candidates Symbol	Candidate Name	Voter's Mark/Alama ya kura

FORM 29

(r. 68(1)(e))

BALLOT PAPER

Counterfoil

S/No.

COUNTY GOVERNOR ELECTION, 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.	4. Kunja karatasi katikati kutoka kushoto kwenda kulia ili kuficha kura yako

Voter's Mark/Alama ya kura Tick (√) cross (×) Thumb print ()

[Subsidiary]

<i>Party/Candidates Symbol</i>	<i>Governor Candidate Photo and Name</i>	<i>Deputy Governor Name</i>	<i>Voter's Mark/Alama ya kura</i>
------------------------------------	--	---------------------------------	---------------------------------------

FORM 30

(r. 68(1)(f))

BALLOT PAPER

Counterfoil

S/No.

COUNTY ASSEMBLY WARD ELECTION IN THE.....WARD,
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 yeyote nyingine kwenye karatasi ya kura
4. Fold the paper through the centre, from left to right, so as to conceal your vote.	4. Kunja karatasi katikati kutoka kushoto kwenda kulia ili kuficha kura yako

[Subsidiary]

Voter's Mark/Alama ya kura Tick (√) cross (×) Thumb print ()

Party /Candidates Symbol	Candidate Name	Voter's Mark/Alama ya kura

FORM 31

(r. 68(1)(g))

BALLOT PAPER

Counterfoil

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 yeyote nyingine kwenye karatasi ya kura
4. Fold the paper through the centre, from left to right, so as to conceal your vote.	4. Kunja karatasi katikati kutoka kushoto kwenda kulia ili kuficha kura yako

[Subsidiary]

Voter’s Mark/Alama ya kura Tick (√) cross (×) Thumb print ()

Answer/Jibu	Symbol/Alama	Voter’s Mark/Alama ya kura
Yes/Ndio		
No /La		

FORM 32

(r. 72(5)(a))

DECLARATION OF SECRECY MADE BY A PERSON ASSISTING A VOTER

I.....of 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’ 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 ----- polling station----- constituency.

This..... Day of20.....

Rubber stamp

Signature.....

[Subsidiary]

FORM 34

(r. 79(2)(a), 83)

DECLARATION OF PRESIDENTIAL ELECTION RESULTS AT A POLLING STATION

S/NUMBER.....

POLLING STATION.....CODE.....

STREAM.....

CONSTITUENCY.....CODE.....

1	Total number of registered voters for the polling station;	
2	Number of spoilt ballot papers.	
3	Total number of votes cast;	
4	Number of rejected votes;	
5	The number of disputed votes	
6	Number of rejection objected to votes;	
7	Total number of valid votes cast;	

Number of valid votes cast in favor of each candidate:

<i>Name of Candidate</i>	<i>No. of valid votes cast</i>
1	
2	

6. 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 inpolling station, constituency.

Presiding officer: Name: SignatureDate.....

Deputy Presiding officer: Name Signature Date.....

Candidates or Candidates' Agents

1.

2.

[Subsidiary]

3.

Reasons for refusal to Sign

.....
.....

7. Presiding Officer’s statutory comments:

.....
.....

FORM 35

(r. 79(2)(b), 83 (1) (d))

DECLARATION OF NATIONAL ASSEMBLY/COUNTY WOMAN

REPRESENTATIVE/SENATE/COUNTY GOVERNOR/COUNTY
ASSEMBLY ELECTION RESULTS AT A POLLING STATION

S/NUMBER.....

POLLING STATION.....CODE.....

STREAM.....

CONSTITUENCY.....CODE.....

1	Total number of registered voters for the polling station;	
2	Number of spoilt ballot papers.	
3	Total number of votes cast;	
4	Number of rejected votes;	
5	The number of disputed votes	
6	Number of rejection objected to votes;	
7	Total number of valid votes cast;	

Number of valid votes cast in favor of each candidate:

Name of Candidate	Number of valid votes cast
1	

[Subsidiary]

AGGREGATE RESULTS

No	Name of the Candidate	Valid Votes in Figures	Valid Votes in Words

SIGNATURES

No	Party Name	Candidate Agent	ID No	Signature	Date

Number of registered voters..... *Returning officer*

Voter turn out percentage..... *Constituency*

FORM 37

(r. 87(1)(a))

CERTIFICATE OF RESULTS OF PRESIDENTIAL ELECTION, 20.....

The Independent Electoral and Boundaries Commission certifies that the candidate who has been duly elected the President of the Republic of Kenya under the provisions of Article 138 of the Constitution in the presidential election held on20is.....

.....

[Subsidiary]

Chairperson,
Independent Electoral and Boundaries Commission

Signature.....

Dated the20.....

FORM 38

(r. 87(1)(b))

CERTIFICATE OF RESULTS OF NATIONAL ASSEMBLY/WOMAN
REPRESENTATIVE /SENATE/COUNTY GOVERNOR/COUNTY ASSEMBLY*
ELECTION, 20.....

I, the returning officer of the Constituency/County*
certify that the candidate

Elected as a member of the National Assembly/woman representative/Senate/county governor/
county assembly for the constituency/county* is-

Candidate's Name	Type of candidature	Occupation	Place of Residence

Dated the, 20

Returning Officer

* delete as appropriate

FORM 39

(r. 88(2))

NOTICE OF FRESH PRESIDENTIAL ELECTION

A fresh election of a President of the Republic of Kenya shall be held onand
will be contested between the following candidates:

Name	Candidate/Party Symbol
1	
2	

the presidential poll will take place on theday(s) of
.....20.....

.....
Chairperson,

FORM 40

(r. 91(2))

APPLICATION FOR REGISTRATION OF REFERENDUM COMMITTEE

We, the undersigned, being registered as voters intending to support / oppose the referendum question hereby apply to be registered as a referendum committee in accordance to the Constitution and the Elections Act

	Voters area		
1	Voters area code		
2	Full name of referendum committee		
3	Contact of referendum committee leader		
		Full name	
		Postal address:	Code :
		City/town	
		Telephone number 1.	
		Telephone number 2.	
		Email:	
1	REFERENDUM COMMITTEE CHIEF AGENT		
		Full name	
		ID/Passport number	
		Postal address:	Code;
		City/town	
		Telephone number 1	
		Telephone number 2	
		Email:	

THE ELECTIONS (GENERAL) REGULATIONS

[Subsidiary]
L.N. 139/2012.

RULES OF PROCEDURE ON SETTLEMENT DISPUTES

1. These rules may be cited as the Rules of Procedure on Settlement of Disputes. Citation.

2. In these rules, unless the context otherwise requires- Interpretation
 - “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. 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. Object.

4. (1) These rules shall apply to disputes or complaints arising from- Application of rules.
 - (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. (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. Right to lodge complaint.

(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;

[Subsidiary]

- (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.

Returning officer to be guided by constitution and nomination rules. etc.

6. 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.

Disputes arising from registration of persons

7. (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.

Initiation of a complaint.

8. (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 I 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 be nominated;
- (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—

[Subsidiary]

- (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
 - (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. (1) Any person objecting to the nomination of a candidate may file a complaint with the Commission on any of the following grounds— Disputes arising from nomination of candidates.

- (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

[Subsidiary]

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. 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.

Powers of the
Returning Officer

11. 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.

Decision of the
Commission

12. 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.

Appeals for review to
the Commission.

13. A person aggrieved by the decision of a returning officer may appeal such decision to the Commission.

Power of the
Commission to
delegate.

14.(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.

Complaint arising
from violation of
the electoral code of
conduct.

15. (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.

[Subsidiary]

(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.(1) Subject to the Act and these rules, the Committee shall regulate its own procedure.

Committee to 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.(1) Every party to a complaint or objection under these rules may appear in person or be represented by an advocate.

Legal representation.

(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.

[Subsidiary]

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 X,Y 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).

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.

THE ELECTIONS (PARLIAMENTARY AND COUNTY ELECTIONS)
PETITION RULES, 2013

[Subsidiary]
L.N. 44/ 2013.
L.N. 54/2013.

ARRANGEMENT OF RULES

Rule

PART I—PRELIMINARY

- 1—Citation.
- 2—Interpretation.

PART II—APPLICATION, OBJECTIVES OF RULES, ETC

- 3—Application of the rules.
- 4—Objective of Rules.
- 5—Duty of court and parties.

PART III—CONSTITUTION OF AN ELECTION COURT AND
APPOINTMENT OF ADVOCATES

- 6—Constitution of an election court.
- 7—Appointment of advocate by Respondent.

PART IV—PRESENTATION AND COMMENCEMENT OF ELECTION
PETITIONS

- 8—Manner of filing of petition.
- 9—Commission to be Respondent in every petition.
- 10—Contents and form of an election petition.
- 11—Security by deposit of money.
- 12—Affidavits by witnesses.
- 13—Service on the Respondent.
- 14—Response to petition.
- 15—Affidavits by Respondent.

PART V—CASE MANAGEMENT

- 16—List of petitions.
- 17—Pre-trial conferencing and prohibition of delayed interlocutory applications.
- 18—Consolidation of election petitions.
- 19—Time and place of trial and postponement of commencement of trial.
- 20—Extension of time.
- 21—Returning officer to deliver ballot boxes.
- 22—Adjournment and continuation of trial.
- 23—Withdrawal of petition.
- 24—Copies of and notice of the application for withdrawal of petition.
- 25—Notice of time and place of hearing of application.
- 26—Substitution of a Petitioner.
- 27—Death of Petitioner.
- 28—Application to be substituted as Petitioner.
- 29—Death, resignation of, or notice not to oppose by elected person.
- 30—Abatement of petition.
- 31—Countermanding notice of trial, etc.

[Subsidiary]

PART VI—SCRUTINY, RECOUNT, ETC

- 32—Petitioner may request for recount or examination of tallying.
- 33—Scrutiny of votes.

PART VII—APPEALS

- 34—Appeals from Magistrates' court.
- 35—Appeals from the High Court.

PART VIII—COSTS AND DEPOSITS

- 36—Costs.
- 37—Taxation and recovery of costs.
- 38—Return of money deposited.

PART IX—MISCELLANEOUS

- 39—Attorney General and Director of Public Prosecutions may attend trial.
- 40—Power of court to issue administrative orders.
- 41—Practice directions by the Chief Justice.
- 42—Revocation of L.No. 44 of 2013

FIRST SCHEDULE —FORMS

SECOND SCHEDULE—FILING FEES

[Subsidiary]

THE ELECTIONS (PARLIAMENTARY AND COUNTY ELECTIONS)
PETITION RULES, 2013.

PART I—PRELIMINARY

1. These Rules may be cited as the Elections (Parliamentary and County Elections) Petition Rules, 2013. Citation.

2. In these Rules, unless the context otherwise requires— Interpretation.

“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;

“direct service” includes personal service on the Respondent or on a duly authorized agent appointed by the Respondent;

“Petitioner” means a person who files an election 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, and includes a deputy registrar; and
- (b) an executive officer, where the petition is filed in a magistrate’s court;

“Respondent” in relation to an election 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, OBJECTIVES OF RULES, ETC

3. These Rules apply to election petitions in respect of— Application of the

- (a) parliamentary elections; and
- (b) county elections. rules.

[Subsidiary]
Objective of Rules.

4. (1) The overriding objective of these Rules is to facilitate the just, expeditious, proportionate and affordable resolution of election petitions under the Constitution and the Act.

(2) The 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 overriding objective specified in sub-rule (1).

(3) A party to an election petition or an advocate for the party shall have an obligation 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 the directions and orders of the court.

Duty of court and parties.

5. (1) For the purpose of furthering the overriding objective provided in rule 4, the court and all the parties before it shall conduct the proceedings for the purpose of attaining the following aims—

- (a) the just determination of the election petition; and
- (b) the efficient and expeditious disposal of an election petition within the timelines provided in the Constitution and the Act.

(2) The court may, where a party has breached any requirement of these Rules, issue orders, or impose penalties, as the court may consider just and fit including an order for payment of costs.

PART III—CONSTITUTION OF AN ELECTION COURT AND APPOINTMENT OF ADVOCATES

Constitution of an election court.

6. (1) A court shall be properly constituted, for purposes of hearing—

- (a) an election petition in respect of an election to Parliament or to the office of governor, if it is composed of one High Court Judge; or
- (b) an election petition in respect of an election to 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 such judges; and
- (b) designate such magistrates,

as are necessary for expeditious disposal of election petitions.

(3) The Chief Justice shall publish the name of the Judge or Magistrate designated under sub-rule (2), in the Gazette and in at least one newspaper of national circulation.

[Subsidiary]

(4) A Judge or a Magistrate designated under sub-rule (2) may not, for the duration of the election petition, be engaged in any other court matter except a matter for which a ruling or judgment was pending and the date of which ruling or judgment is within the period before the Judge or Magistrate concludes the election petition.

7. (1) A person elected may, at any time after the election, file at the office of the Registrar a notice, in writing, signed by the person or on the person's behalf— Appointment of advocate by Respondent.

(a) appointing an advocate to act, in case there should be a petition against the person; or

(b) stating the intention to act in person.

(2) The person giving notice under sub-rule (1) shall give an address in Kenya at which notices addressed to the person may be served.

(3) Where no notice is given by the person elected in accordance with sub-rule (1), all notices and proceedings may be served by leaving them at the office of the Registrar.

(4) The Registrar shall cause to be kept a record of all addresses and the names of advocates given under sub-rule (1) and (2), which record shall be open for inspection by any person during official working hours. Appointment of advocate by Respondent.

PART IV—PRESENTATION AND COMMENCEMENT OF ELECTION PETITIONS

8. (1) An election petition shall —

Manner of filing of petition.

(a) be filed by presenting the petition to the office of the Registrar or to a designated officer of the court upon payment of the filing fees specified in the Second Schedule; and

(b) be in Form EP 1 set out in the First Schedule.

(2) The Registrar or a designated officer of the court to whom the petition is delivered shall acknowledge receipt of the petition in Form EP 2 set out in the First Schedule.

9. The Commission shall—

Commission to be Respondent in every petition.

(a) be a Respondent in an election petition filed under the Act; and

(b) be served with an election petition filed pursuant to these Rules in the manner provided under rule 13 (2).

10. (1) An election petition filed under rule 8, shall state —

Contents and form of

[Subsidiary]
an election petition.

- (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 the manner in which it has been 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) An election petition shall—

- (a) be signed by the Petitioner or by a person duly authorized by the Petitioner;
- (b) be supported by an affidavit made by the Petitioner containing the grounds on which relief is sought and setting out the facts relied on by the Petitioner; and
- (c) be in number of copies as are sufficient for the court and all Respondents named in the petition.

(4) The petition shall conclude with a prayer, requesting the court to make the appropriate relief 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; or
- (c) an order as to whether a fresh election should be held or not.

Security by deposit
of money.

11. (1) Within ten days of the filing of an election petition under these Rules, a Petitioner shall deposit security for the payment of costs that may become payable by the Petitioner as provided under sections 78 (2) (b) and 78 (2) (c) of the Act.

(2) The security of costs under sub-rule (1) shall—

- (a) be paid to the Registrar;
- (b) be for payment of costs, charges or expenses payable by the Petitioner; and

[Subsidiary]

(c) be vested in, and drawn upon from time to time by, the Registrar for the purposes for which security is required by these Rules.

(3) The Registrar shall—

- (a) issue a receipt for any such deposit;
- (b) shall file the duplicate of the receipt in a record kept by him; and
- (c) keep the record, open for inspection by any party concerned, in which shall be entered from time to time the amount and the petition to which it relates.

12. (1) A Petitioner shall, at the time of filing the petition, file an affidavit sworn by each witness whom the Petitioner intends to call at the trial.

Affidavits by witnesses.

(2) The affidavit under sub-rule (1) shall—

- (a) state the substance of the evidence;
- (b) be served on all parties to the election petition with sufficient copies filed in court; and
- (c) form part of the record of the trial and a deponent may be cross-examined by the Respondents and re-examined by the Petitioner on any contested issue.

(3) Subject to sub-rule (4), a witness shall not give evidence on behalf of the Petitioner unless an affidavit is filed in accordance with this rule.

(4) A witness for the Petitioner who fails to file an affidavit as required by this rule shall not be allowed to give evidence without the leave of the court.

(5) The court shall not grant leave under subrule (4), unless sufficient reason is given for the failure to file an affidavit.

(6) The provision of Order 19 of the Civil Procedure Rules, 2010 and the Oaths and Statutory Declarations Act shall apply to affidavits under this rule.

L.N. 151 of 2010.
Cap.15.

13. (1) The Petitioner shall serve the Respondent with an election petition filed under these Rules, within fourteen days of filing of the petition.

Service on the Respondent.

(2) Service of the petition under sub-rule (1), shall be by—

- (a) direct service; or
- (b) publication in a newspaper of national circulation.

(3) Service on the Commission shall be by—

[Subsidiary]

- (a) delivery at the 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.

(4) Where a petition is served by publication in a newspaper as provided under sub- rules (2)(b) and (3) (c), the advertisement shall be sufficient if it —

- (a) is in Form EP 3 set out in the First Schedule and contains, as a minimum, the details required in that Form;
- (b) is of, at least, font size twelve; and
- (c) is captured in dimensions of not less than ten by ten centimetres.

Response to petition.

14. (1) Upon being served with an election petition under rule 13, the Respondent may oppose the petition by filing and serving a response within a period of not more than fourteen days upon service of the petition.

(2) The response to an election petition shall be in form of an answer to the petition and shall be in Form EP 4 set out in the First Schedule.

(3) A Respondent who has not filed a response as provided under this rule shall not be allowed to appear or act as a party against the petition in any proceedings.

Affidavits by Respondent.

15. (1) A Respondent shall, at the time of filing a response to the petition, file an affidavit sworn by a witness whom the Respondent intends to call at the trial, which affidavit shall set out the substance of the evidence.

(2) Each affidavit shall be served on all parties to the petition including all Petitioners in the same petition and the Respondents.

(3) The affidavit shall form part of the record of the trial and a deponent may be cross-examined by the Petitioners and re-examined by the Respondent.

(4) Subject to sub-rule (5), a witness shall not give evidence for the Respondent unless an affidavit sworn by the witness, setting out the substance of the evidence, in sufficient copies for the use of the court and the Petitioner, is filed with the response as required by this rule.

(5) A witness for the Respondent who fails to file an affidavit under sub-rule (2) or (4) shall not be permitted to give evidence without the leave of the court.

(6) The court shall not grant leave under subrule (5), unless sufficient reason is given for the failure to file an affidavit.

(7) The provision of Order 19 of the Civil Procedure Rules, 2010 and the Oaths and Statutory Declarations Act shall apply to affidavits under this rule.

[Subsidiary]
Cap. 15.

PART V—CASE MANAGEMENT

List of petitions.

16. (1) The Registrar shall, upon receipt of a petition, enter the name of the Petitioner, Respondents and the advocates of the Petitioners and Respondents and the addresses to which notices may be sent, if any, in a register kept by the Registrar for that purpose.

(2) The list may be inspected at the office of the Registrar at any time during official working hours, and shall be affixed for that purpose on a notice board designated “The Elections Act-Elections Petitions” and affixed at the office of the Registrar.

17. (1) Within seven days after the receipt of the last response to a petition, the court shall schedule a pre-trial conference with the parties in which it shall—

Pre-trial conferencing
and prohibition of
delayed interlocutory
applications.

- (a) frame contested and uncontested issues in the petition;
- (b) analyse methods of resolving contested issues;
- (c) consider consolidation of petitions in cases where more than one petition is filed with respect to the same election;
- (d) deal with all interlocutory applications and decide on their expeditious disposal;
- (e) confirm the number of witnesses the parties intend to call;
- (f) give an order for furnishing further particulars;
- (g) give directions for the expeditious disposal of the suit or any outstanding issues;
- (h) give directions as to the place and time of hearing the petition;
- (i) give directions as to the filing and serving of any further affidavits or the giving of additional evidence;
- (j) limit the volume or number of pages of any copies of documents that may be required to be filed; or
- (k) make such other orders as may be necessary to prevent unnecessary expenses and to ensure a fair and effectual trial.

(2) The court shall not allow any interlocutory application made 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

[Subsidiary]

the petition.

Consolidation of election petitions.

18. Where more than one petition is presented relating to the same election all such petitions shall be heard and determined as one petition, in as far as inquiry into the election is concerned.

Time and place of trial and postponement of commencement of trial.

19. (1) The court shall, by notice issued by the Registrar, specify the time and place of the trial of an election petition.

(2) The notice issued under sub-rule (1) shall be issued, not less than seven days before the date fixed for trial, by delivery at the address left by the Petitioner or Respondent with the Registrar, or if no such address has been left, by notice in the Gazette or by advertisement in a newspaper of national circulation.

(3) The court may, on the application of a party or on its own motion, for sufficient reasons, postpone the commencement of the trial of an election petition to a date specified by the court.

Extension of time.

20. Where any matter is to be done within one time provided for in these Rules or granted by the court, the court may, for purposes of ensuring that no injustice is done to any party, extend the time within which the thing shall be done on such terms or conditions as it may consider fit even though the period initially provided or granted may have expired.

Returning officer to deliver ballot boxes.

21. The Commission shall deliver to the Registrar—

- (a) the ballot boxes in respect of that election not less than forty-eight hours before the date fixed by the court for the trial; and
- (b) the results of the relevant election within fourteen days of being served with the petition.

Adjournment and continuation of trial.

22. (1) The court shall conduct trial proceedings, as far as reasonably practicable, on a day to day basis until trial is concluded.

(2) Despite sub-rule (1), the court in which the trial proceedings has commenced shall not be adjourned for more than five consecutive days.

(3) If a judge or magistrate hearing a petition is incapacitated by illness or other reasons during a trial under these Rules, the Chief Justice shall appoint another judge or magistrate, as the case may be, to continue and conclude the trial.

(4) Where another judge or magistrate takes over a petition, previously heard by another judge or magistrate, as the case may be, he shall continue with the proceedings from where the previous judge or magistrate had left.

Withdrawal of petition.

23. (1) An election petition shall not be withdrawn without leave of the court.

[Subsidiary]

(2) The court shall grant leave on such terms as to the payment of costs or as the court may consider fit and just.

(3) An application for leave to withdraw an election petition shall—

- (a) be in the Form EP 5 set out in the First Schedule;
- (b) be signed by the Petitioner and his advocate;
- (c) state the grounds on which the application is supported; and
- (d) be filed at the office of the Registrar.

(4) The parties to the election petition and their advocates shall, before leave for withdrawal of an election petition is granted, produce affidavits stating the ground on which the petition is intended to be withdrawn.

(5) Despite sub-rule (4), a court may, on cause being shown, dispense with the affidavit of a person if it seems to the court on special grounds to be fit and just.

(6) Each affidavit shall state 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 election petition."

(7) Despite sub-rule (6), where a lawful agreement has been made with respect to the withdrawal of an election petition, the affidavit shall set out the terms of the agreement.

24. (1) The Petitioner shall serve the Respondent with a copy of the application to withdraw an election petition.

Copies of and notice of the application for withdrawal of petition.

(2) The Petitioner shall, publish in the Gazette, a notice of withdrawal of the election petition in Form EP 6 set out in the First Schedule at the Petitioner's own expense.

25. (1) The Registrar shall issue a notice in Form EP 6 set out in the First Schedule, to a person who has given notice to the Registrar of their intention to apply to be a substituted Petitioner.

Notice of time and place of hearing of application.

(2) The notice issued under sub-rule (1) shall specifying the time and place for hearing of the application for withdrawal of an election petition as directed by the court.

26. (1) At the hearing of the application for withdrawal of an election petition, a person who is qualified to be a Petitioner in respect of the election to which the petition relates may apply to the court to be substituted, as Petitioner, in place of the Petitioner desirous of withdrawing the petition.

Substitution of a Petitioner.

[Subsidiary]

(2) The court may substitute an applicant under sub-rule (1) as Petitioner; and may further, if the proposed withdrawal is in the opinion of the court, induced by any corrupt bargain or consideration, by order 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 Petitioner, and that to the extent of the sum deposited as security the original Petitioner shall be liable to pay the costs of the substituted Petitioner.

(3) If no order is made under sub-rule (2) in respect of security by the original Petitioner, security of the same amount as would be required in the case of a new Petitioner, subject to the same conditions shall be payable by the substituted Petitioner before he proceeds with the petition and shall be paid by the substituted Petitioner within three days after the order of substitution.

(4) Subject to sub-rules (2) and (3), 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.

(5) Where there is more than one Petitioner, an application to withdraw an election petition shall be made with consent of all the Petitioners.

Death of Petitioner.

27. (1) An election petition shall not abate merely by reason of the death of a sole Petitioner or of the survivor of several Petitioners.

(2) In case of the death of the sole Petitioner or of the survivor of several Petitioners, substitution of a new Petitioner shall be notified to the court within seven days of the notification of the death under sub-rule (1).

Application to be substituted as Petitioner.

28. (1) A party or person interested to be substituted as a Petitioner shall give a notice of death of the Petitioner or of the survivor of several Petitioners in the manner provided under rule 24.

(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) or such other time as the court may allow.

(3) A person who may have been a Petitioner in respect of the election to which the petition relates may apply to the court to be substituted as a Petitioner.

(4) The court may substitute as a Petitioner any such applicant who is desirous of being substituted and on whose behalf security, of the same amount is given as is required in the case of a new petition.

Death, resignation of, or notice not to oppose by elected person.

29. (1) If before the trial of an election 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 does not intend to oppose the petition,

[Subsidiary]

the petition shall not abate but shall continue, whether or not any person applies to be admitted as a Respondent in the manner provided in this rule.

(2) The Registrar shall publish, in the Gazette, a notice stating that the person whose election is being contested has —

- (a) died or vacated his seat; or
- (b) given notice in writing that he 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 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 on such other time as the court may allow.

(4) The 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 trial and shall exclude the day of leaving the notice.

30. An election petition shall abate if after seven days of the notice of withdrawal or of the death of a sole surviving Petitioner, no person has made an application to be substituted as new Petitioner.

Abatement of petition.

31. (1) The Registrar shall countermand a notice of trial where he receives a notice under rule 29 (1) before the trial commences.

Countermanding notice of trial, etc.

(2) The countermand shall be given in the same manner, with necessary modifications, as the notice of trial.

PART VI—SCRUTINY, RECOUNT, ETC.

32. (1) Where the only issue in the election petition is the count or the tallying of the votes received by the candidates, the Petitioner may apply to the court for an order to recount the votes or examine the tallying.

Petitioner may request for recount or examination of tallying.

(2) The Petitioner shall specify in the election petition that he does not require any other determination except a recount of the votes or the examination of the tallies.

Scrutiny of votes.

33. (1) The parties to the proceedings may, at any stage, apply for scrutiny of the votes for purposes of establishing the validity of the votes cast.

(2) Upon an application under sub-rule (1), the court may, if it is satisfied that there is sufficient reason, order for a scrutiny or recount of the votes.

[Subsidiary]

(3) The scrutiny or recount of ballots shall be carried out under the direct supervision of the Registrar and shall be subject to directions as the court may give.

(4) Scrutiny shall be confined to the polling stations in which the results are disputed and shall be limited to the examination of—

- (a) the written statements made by the presiding officers under the provisions of the Act;
- (b) the copy of the register used during the elections;
- (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 papers;
- (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; and
- (j) the statements showing the number of rejected ballot papers.

PART VII—APPEALS

Appeals from a
magistrates's Court.

34. (1) An appeal from a Magistrate's Court under section 75 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 shall concisely set out under distinct head, 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 shall be filed at the nearest High Court registry within fourteen days from the date of the judgment.

(4) The appellant shall, upon filing the memorandum of appeal, pay the fee specified in the Second Schedule.

(5) The appellant shall, within seven days of filing the memorandum of appeal, serve the memorandum of appeal on all parties directly affected by the appeal.

[Subsidiary]

(6) The appellant shall, within twenty one days, upon filing of memorandum of appeal file a record of appeal which shall contain the following documents—

- (a) memorandum of appeal;
- (b) pleadings;
- (c) typed and certified copies of the proceedings;
- (d) all affidavits, evidence and documents put in evidence before the magistrate; and
- (e) signed and certified copy of the judgment appealed from and a certified copy of the decree.

(7) Upon the filing of the memorandum of appeal, the registrar of the court to which the appeal is preferred shall, within seven days, send a notice of appeal to the court from whose decree the appeal is preferred.

(8) The court shall, on 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 shall, within thirty days of lodging the memorandum of appeal, fix a date for —

- (a) directions including directions as to the manner in which evidence and exhibits may be presented; and
- (b) hearing of the appeal.

(10) The High Court may confirm, vary or reverse 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.

35. An appeal from the judgment and decree of the High Court shall be governed by the Court of Appeal Rules.

Appeals from the High Court.

PART VIII—COSTS AND DEPOSITS

Costs.

36. (1) The court shall, at the conclusion of an election petition, make an order specifying—

- (a) the total amount of costs payable; and
- (b) the persons by and to whom the costs shall be paid.

(2) When making an order under subrule (1), the court may —

[Subsidiary]

- (a) disallow any costs which may, in the opinion of the court, have been caused by vexatious conduct, unfounded allegations or unfounded objections, on the part of either the Petitioner or the Respondent; and
- (b) impose the burden of payment on the party who has caused an unnecessary expense, whether such party is successful or not, in order to discourage any such expense.

(3) The abatement of an election petition shall not affect the liability of the Petitioner or of any other person to the payment of costs previously incurred.

Taxation and
recovery of costs
Cap. 21

37. (1) The Registrar shall tax costs of an election petition upon an order of the court in the same manner as costs are taxed in civil proceedings and in accordance with the Civil Procedure Act.

(2) An order of the Registrar under sub-rule (1) shall be confirmed in the relevant court.

(3) The court may direct that the whole or any part of any moneys' deposited by way of security may be applied in the payment of taxed costs.

(4) 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 or magistrate's court, as the case may be, in so far as the same are applicable.

Return of money
deposited.

38. (1) Money deposited under rule 11 shall, if and when it is no longer requested for security, payment of costs, charges or expenses be returned or disposed of as justice may require, by order of the court.

(2) The order may be made upon an application and proof that all just claims have been satisfied or sufficiently provided for as the court may require.

(3) The order may direct payment either to the party in whose name it is deposited or to any person entitled to receive it.

PART IX—MISCELLANEOUS

Attorney General and
Director of Public
Prosecutions may
attend trial.

39. The Attorney-General or the Director of Public Prosecutions or a person appointed by the Attorney-General or Director of Public Prosecutions, as the case may be, may attend the trial of an election petition.

Power of court to
issue administrative
orders.

40. Despite any provision in these Rules, the court may at any time before or during the trial issue any orders of an administrative nature, including—

- (a) an order to require written submissions; or
- (b) prescribing timelines for certain actions.

Practice directions by

41. The Chief Justice may issue practice directions for the better carrying out of the provisions of these rules. [Subsidiary] the Chief Justice.

42. The Elections (Parliamentary and County Elections) Petition Rules, 2013 are revoked. Revocation of L.No. 44 of 2013.

[Subsidiary]

SCHEDULE

FORM EP 1

(r.8)

IN THE HIGH COURT OF KENYA/IN THE MAGISTRATES COURT AT

.....

THE ELECTIONS ACT, 2011

PETITION

Election for the (state whether Governor/Senator/Member of National Assembly/ member of county assembly) of (state the respective county/constituency/ward)

The Petition of (state name of Petitioner(s))

Your Petitioners state that the election was held on the day of

20....., when X,Y and Z were candidates, and the returning officer has returned X as being duly elected.

And your Petitioners say that (state the facts and grounds on which the Petitioners rely).

Wherefore your Petitioners pray that it be determined that the said X was not duly elected and the election was void (or as the case may be).

Dated, 20..... (Signed) A.

Dated, 20..... (Signed) B

FORM EP 2

(r.8(2))

ACKNOWLEDGEMENT OF RECEIPT OF AN ELECTION PETITION

Received on the day of, 20..... at the Registry of the High/Magistrates Court, a petition concerning the election of for purporting to be signed by..... (insert the names of Petitioners)

Registrar (or other officer to whom the petition is delivered)

[Subsidiary]

FORM EP 3

(r.13(2)(a))

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 EP No.of 20in 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 the, 20..... (signed)

FORM EP 4

(r.14(2))

IN THE HIGH COURT OF KENYA/IN THE MAGISTRATES COURT AT-----

THE ELECTIONS ACT, 2011

RESPONSE TO AN ELECTION PETITION

Election for the (*state
whether Governor/Senator/Member of National Assembly/ member of county
assembly*) of (*state the respective
county/constituency/ward*)

The Response of(*state name of
Respondent(s)*)

In response to the petition, the Respondent states that (state the facts or grounds
on which the Respondent(s) rely).

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..... (Signed) A.

Dated, 20..... (Signed) B

[Subsidiary]
FORM EP 5

(r.23 (2))

IN THE HIGH COURT OF KENYA/IN THE MAGISTRATES COURT AT-----

THE ELECTIONS ACT, 2011

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*).
And the Petitioner prays that a day may be appointed for hearing the application.

Dated the 20..... (*signed*)

FORM EP 6

(r.24)

IN THE HIGH COURT OF KENYA/IN THE MAGISTRATES COURT

AT.....

THE ELECTIONS ACT, 2011

NOTICE OF WITHDRAWAL OF AN ELECTION PETITION

In the election petition for the
Constituency/Ward/ in which is Petitioner and
..... Respondent.

Notice is hereby given that the above Petitioner did on theday of
....., 20 lodge at the office of the Registrar an application for
leave to withdraw the election petition, of which application the following is a copy- (*attach copy*).

And take notice that under the Elections (Parliamentary and County Elections) Petition Rules any
person who might have been a Petitioner in respect of the said election may, within seven days
after the date of publication of this notice, give notice in writing to the Registrar of the High Court
of the intention on the hearing of the application to be substituted as a Petitioner.

SECOND SCHEDULE[Subsidiary]
(r.8 (1) &34)

<i>Item</i>	<i>Fees</i>
Filing of a Petition in the High Court (rule 8 (1)).	30,000
Filing of a Petition in the Magistrate's Court (rule 8 (1)).	15,000
Lodging a Memorandum of Appeal (rule 33A).	15,000

