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REPUBLIC OF KENYA

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NATIONAL ASSEMBLY BILLS, 2022

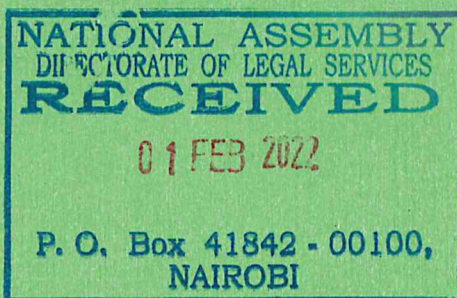
NAIROBI, 28th January, 2022

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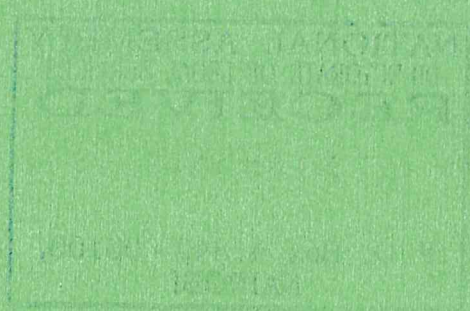
THE UNIVERSITY OF CHICAGO

PHYSICS DEPARTMENT

PHYSICS 350

1999

PROBLEM SET 1



THE ELECTIONS (AMENDMENT) BILL, 2022

A Bill for

AN ACT of Parliament to amend the Elections Act

ENACTED by the Parliament of Kenya as follows—

1. This Act may be cited as the Elections (Amendment) Act, 2022. Short title.

2. Section 2 of the Elections Act, 2011 (hereinafter referred to as “the principal Act”) is amended by— Amendment of section 2 of No. 24 of 2011.
 - (a) deleting the definition of “nomination” and substituting it therefor with the following new definition—
“nomination” means the process through which a political party elects or selects its candidates for elections;
 - (b) deleting the definition of “nomination day”;
 - (c) deleting the definition of political party and substituting it therefor with the following new definition –
“political party” has the meaning assigned to it under section 2 of the Political Parties Act, No. 11 of 2011; and
 - (d) inserting the following new definition in proper alphabetical sequence—
“registration of a candidate” means the process through which a person applies to the Commission to contest in an election.

3. Section 5 of the principal Act is amended in subsection (3) by inserting the word “valid” immediately after the words “identity card or a”. Amendment of section 5 of No. 24 of 2011.

4. Section 6 of the principal Act is amended by deleting subsection (2). Amendment of section 6 of No. 24 of 2011.

5. Section 7 of the principal Act is amended by inserting the following new subsection immediately after subsection (2)— Amendment of section 7 of No. 24 of 2011.
 - (3) A voter may not transfer his or her registration unless, on the date of the application to transfer the registration, the voter has been—

- (a) ordinarily resident;
- (b) carrying on business;
- (c) employed; or
- (d) possessed land or a residential building, in a constituency that he or she intends to transfer his or her registration for at least six months immediately preceding the date of the application for transfer of registration.

6. Section 8A of the principal Act is amended—

Amendment of section 8A of No. 24 of 2011.

- (a) by deleting subsection (3); and
- (b) in subsection (4), by deleting the expression “subsection (3)” and substituting therefor the expression “subsection (1)”.

7. Section 14 of the principal Act is amended in subsection (2)—

Amendment of section 14 of No. 24 of 2011.

- (a) by deleting paragraph (a) and substituting therefor the following new paragraph—
 - (a) the day or days for the registration of candidates for the presidential election;
- (b) by deleting the word “nomination” appearing in paragraph (b) and substituting therefor the words “registration of candidates”.

8. Section 16 of the principal Act is amended in subsection (2)—

Amendment of section 16 of No. 24 of 2011.

- (a) by deleting paragraph (a) and substituting therefor the following new paragraph—
 - (a) the day or days for registration of candidates for the parliamentary election;
- (b) by deleting the word “nomination” appearing in paragraph (c) and substituting therefor the words “registration of candidates”.

9. Section 17 of the principal Act is amended in subsection (2)—

Amendment of section 17 of No. 24 of 2011.

- (a) by deleting paragraph (a) and substituting therefor the following new paragraph—

(a) the day or days for registration of candidates for the governor election;

(b) by deleting the word “nomination” appearing in paragraph (b) and substituting therefor the words “registration of candidates”.

10. Section 19 of the Principal Act is amended in subsection (2)—

Amendment of section 19 of No. 24 of 2011.

(a) by deleting paragraph (a) and substituting therefor the following new paragraph—

(a) the day or days for registration of candidates for the county elections;

(b) by deleting the word “nomination” appearing in paragraph (b) and substituting therefor the word “registration”; and

(c) by deleting the word “nomination” appearing in paragraph (c) and substituting therefor the word “registration”.

11. Section 22 of the principal Act is amended—

Amendment of section 22 of No. 24 of 2011.

(a) in the marginal note, by deleting the word “nomination” and substituting therefor the word “registration”;

(b) in subsection (1), by deleting the word “nominated” and substituting therefor the word “registered”;

(c) in subsection (1B), by deleting the words “to nomination” and substituting therefor the words “for registration”; and

(d) in subsection (2), by deleting the word “nominated” and substituting therefor the word “registered”.

12. Section 23 of the Principal Act is amended—

Amendment of section 23 of No. 24 of 2011.

(a) in the marginal note, by deleting the word “nomination” and substituting therefor the word “registration”;

(b) in subsection (1), by deleting the word “nomination” and substituting therefor the word “registration”; and

- (c) in subsection (2), by deleting the word “nomination” and substituting therefor the word “registration”.

13. Section 24 of the principal Act is amended—

Amendment of
section 24 of No.
24 of 2011.

- (a) in the marginal note by deleting the word “nomination” and substituting therefor the word “registration”;

(b) in subsection (1)—

- (i) by deleting the word “nomination” and substituting therefor the word “registration”;

- (ii) by deleting paragraph (a) and substituting therefor the following new paragraph—

(a) is a registered voter at the time of the occurrence of the vacancy.

14. Section 25 of the principal Act is amended—

Amendment of
section 25 of No.
24 of 2011.

- (a) in the marginal note by deleting the word “nomination” and substituting therefor the word “registration”;

(b) in subsection (1)—

- (i) by deleting the word “nomination” and substituting therefor the word “registration”;
and

- (ii) by deleting paragraph (a) and substituting therefor the following new paragraph—

(a) is a registered voter at the time of the occurrence of the vacancy.

15. Section 27 of the principal Act is amended —

Amendment of
section 27 of No.
24 of 2011.

- (a) in subsection (1) by deleting the words “its nomination rules” and substituting therefor the words “a copy of the political party’s nomination rules certified by the Registrar of Political Parties”;

- (b) by inserting the following new subsection immediately after subsection (1) —

“(1A) Notwithstanding the provisions under subsection (1), a coalition political party shall

within fourteen days of registration, submit to the Commission a copy of the coalition political party's nomination rules certified by the Registrar of Political Parties”.

16. Section 28 of the principal Act is amended in subsection (1) by—

Amendment of section 28 of No. 24 of 2011.

- (a) deleting the words “membership list” and substituting therefor the words “a copy of the membership list certified by the Registrar of Political Parties”; and
- (b) deleting the words “one hundred and twenty days” appearing in paragraph(a) and substituting therefor the words “ninety days”.

17. Section 31 of the principal Act is amended—

Amendment of section 31 of No. 24 of 2011.

- (a) by deleting subsection (2);
- (b) by deleting subsection (2B);
- (c) by deleting subsection (2C);
- (d) by deleting subsection (2E); and
- (e) by deleting subsection (2F).

18. Section 32 of the principal Act is amended—

Amendment of section 32 of No. 24 of 2011.

- (a) in subsection (1) by deleting the words “nomination day” and substituting therefor the words “the date for registration of candidates”; and
- (b) in subsection (1A) by deleting the word “nomination” and substituting therefor the words “the date for registration of candidates”.

19. Section 33 of the principal Act is amended—

Amendment of section 33 of No. 24 of 2011

- (a) in the marginal note by deleting the word “nomination” and substituting therefor the word “registration”;
- (b) in subsection (1)—
 - (i) by deleting the word “nominated” appearing in the opening paragraph and substituting therefor the word “registered”;

- (ii) by deleting the words “nomination paper” appearing in paragraph (b) and substituting therefor the words “registration of candidates Form”;
- (iii) by deleting the words “nomination day” appearing in paragraph (c) and substituting therefor with the words “date *gazette* for registration of candidates”;
- (iv) by deleting paragraph (d); and
- (c) by deleting subsection (2).

20. Section 39 of the principal Act is amended —

Amendment of
section 39 of No.
24 of 2011.

- (a) by deleting subsection (1C) and substituting it therefor with the following new subsection—
(1C) For the purposes of a presidential election—
 - (a) the Presiding Officer shall electronically transmit the image of the results in the prescribed form to the National Tallying Centre;
 - (b) the Presiding officer shall deliver the results in person from the polling station to the Constituency Tallying Centre;
 - (c) the Constituency Returning Officer shall collate the results in the prescribed form and deliver the results in person from the polling station together with the collation form to the National Tallying Centre;
 - (d) the Constituency Returning Officer shall electronically transmit, in the prescribed form, the tabulated results of an election for the President and deliver in person the tabulated results from the constituency tallying centre to the national tallying centre; and
 - (e) the Commission shall tally, verify and declare the results of the Presidential election from the polling station results.
- (b) in subsection (1D) by inserting the words “and the physically delivered results” immediately after the word “transmitted”;
- (c) by deleting subsection (1E);
- (d) by deleting subsection (1F);

- (e) by deleting subsection (1G);
- (f) by deleting subsection (2); and
- (g) by deleting subsection (3).

21. Section 44A of the principal Act is amended—

Amendment of section 44A of No. 24 of 2011.

- (a) by renumbering the existing provision as subsection (1);
- (b) by inserting the words “and transmission of election results” immediately after the words “identification of voters”; and
- (c) by inserting the following new subsection immediately after subsection (1)—

(2) The Commission shall make Regulations for the better carrying into effect the provisions of this section.

22. Section 74 of the principal Act is amended by inserting the following new subsection immediately after subsection (1)—

Amendment of section 74 of No. 24 of 2011.

(1A) An electoral dispute under subsection (1) shall be lodged with the Commission within forty-eight hours after the last day for registration of candidates specified in the notice.

23. Section 75 of the principal Act is amended by inserting the following subsection immediately after subsection (4)—

Amendment of section 75 of No. 24 of 2011.

(5) The determination of the appeal under section (4) by the High Court shall be final.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to amend the Elections Act, 2011.

Clause 1 provides for the short title of the Bill.

Clause 2 seeks to amend section 2 of the Act in order to provide for a clearer definition of “nomination” and “political party”. The Bill also deletes the definition of “nomination day” in the Act. Lastly, the Bill seeks to define the term “registration of candidates” in relation to selection and election of party candidates to cater for the inclusion of new provisions on conduct of party nominations which are to be introduced into the Act.

Clause 3 seeks to amend section 5 of the Act to provide that a person must present a valid Kenyan passport during registration as a voter.

Clause 4 seeks to repeal section 6(2) of the Act.

Clause 5 seeks to amend section 7 of the Act to provide for qualifications for transfer of registration.

Clause 6 seeks to amend section 8A of the Act which relates to the audit of the Register of voters by deleting subsection (3) as it makes reference to the first general election after the commencement of the Election Laws (Amendment) Act, 2016. The provision required the Commission to engage a professional firm to conduct an audit of the Register of Voters for the purposes of the first general election.

Clauses 7, 8, 9, 10, 11, 12, 13, 14, 18 and 19 seek to amend sections 14, 16, 17, 19, 22, 23, 24, 25, 32 and 33 of the Act respectively by deleting the word “nominations” and substituting it with the words “registration of candidates”. This will ensure that there is a clear delineation of the roles of the Commission vis-à-vis the role of the Registrar of Political Parties during nominations or registration of candidates.

Clause 15 amends section 27 of the Act to provide that a party shall submit to the Commission a certified copy of its nomination rules issued by the Registrar of Political Parties. Further, the clause provides that in the case of a coalition political party, the coalition political party shall submit a certified copy of its nomination rules issued by the Registrar of Political Parties within fourteen days of its registration.

Clause 16 amends section 28 of the Act to provide that a party shall submit to the Commission a certified copy of the membership list from the Registrar of Political Parties. The clause further proposes to reduce the timeline for submission of party membership lists from 120 days to 90 days.

Clause 17 amends section 31 of the Act by deleting subsections (2), (2B), (2C), (2E) and (2F).

Clause 20 seeks to amend section 39 of the Act to provide for the flow of election results for a presidential election from the presiding officer to the Commission.

Clause 21 seeks to amend section 44A of the Act to provide for complimentary mechanisms for voter identification and transmission of election results.

Clause 22 seeks to amend section 74 of the Act to provide for a time limit of 48 hours for lodging an electoral dispute with the Commission.

Clause 23 seeks to amend section 75 of the Act to provide that the decision of the High Court on an appeal on the election of a member of a county assembly shall be final.

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

The Bill confers on the Commission the powers to make Regulations. It does not limit any fundamental rights or freedoms.

Statement on how the Bill concerns county governments

The Bill concerns county governments in terms of Article 110 (1) (b) of the Constitution.

Statement of the Bill as a money Bill within the meaning of Article 114 of the Constitution

The Bill is not a Money Bill within Article 114 of the Constitution.

Dated the 25th January, 2022.

AMOS KIMUNYA,
Leader of the Majority Party.

Section 2 of the Elections Act, 2011 which it is proposed to amend-

“**nomination**” means the submission to the Commission of the name of a candidate in accordance with the Constitution and this Act;

“**nomination day**” in respect of an election, means the day gazetted at least sixty days before an election by the Commission as the day for the nomination of candidates for that election;

“**political party**” has the meaning assigned to it in Article 260 of the Constitution;

Section 5 of the Elections Act, 2011 which it is proposed to amend-**Registration of voters**

(1) Registration of voters and revision of the register of voters under this Act shall be carried out at all times except—

(a) in the case of a general election or an election under Article 138(5) of the Constitution, between the date of commencement of the sixty day period immediately before the election and the date of such election;

(b) in the case of a by-election, between the date of the declaration of the vacancy of the seat concerned and the date of such by-election; or

(ba) in the case of a referendum, between the date of the publication and the date of the referendum;

(c) deleted by Act No. 1 of 2017, s. 3(c).

(2) Notwithstanding subsection (1), where an election petition is filed in respect of an electoral area, between the date of the filing of the petition and the date of the by-election, where a court determines that a by-election is to be held, a voter shall not be allowed to transfer his or her vote to the affected electoral area.

(3) Any citizen of Kenya who has attained the age of eighteen years as evidenced by either a national identity card or a Kenyan passport and whose name is not in the register of voters shall be registered as a voter upon application, in the prescribed manner, to the Commission.

(3A) Deleted by Act No. 36 of 2016, s. 3(a).

(3B) Deleted by Act No. 36 of 2016, s. 3(b).

(4) All applicants for registration under this section shall be registered in the appropriate register by the registration officer or any other officer authorised by the Commission.

(5) The registration officer or any other authorised officer referred to in subsection (3) shall, at such times as the Commission may direct, transmit the information relating to the registration of the voter to the Commission for inclusion in the Register of Voters.

Section 6 of the Elections Act, 2011 which it is proposed to amend-

Inspection of register of voters

(1) The Commission shall cause the Register of Voters to be opened for inspection by members of the public at all times for the purpose of rectifying the particulars therein, except for such period of time as the Commission may consider appropriate.

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

(3) Deleted by Act No. 36 of 2016, s. 4.

(4) The Register of Voters shall be kept at the headquarters of the Commission and copies of the part of the Register of Voters relating to the constituency for which the registration officer is responsible shall be kept at all the constituency offices of the Commission.

Section 7 of the Elections Act, 2011 which it is proposed to amend-

Transfer of registration

(1) Where a voter wishes to transfer the voter's registration to an electoral area other than the one the voter is registered in, the voter shall notify the Commission, in the prescribed manner, of the intention to transfer the registration to the preferred electoral area not less than ninety days preceding an election.

(2) Upon receipt of the notification referred to in subsection (1), the Commission shall transfer the voter's registration particulars to the register of the preferred constituency not later than sixty days preceding the election.

Section 8A of the Elections Act, 2011 which it is proposed to amend-

Audit of the register of votes

(1) The Commission may, at least six months before a general election, engage a professional reputable firm to conduct an audit of the Register of Voters for the purpose of—

(a) verifying the accuracy of the Register;

- (b) recommending mechanisms of enhancing the accuracy of the Register; and
- (c) updating the register.

(2) The Kenya Citizens and Foreign Nationals Management Service established under section 3 of the Kenya Citizens and Foreign Nationals Management Service Act (No. 3 of 2011) shall make available to the Commission the information held by it in the national population register for the purpose of the conduct of an audit under subsection (1).

(3) For purposes of the first general election after the commencement of this section, the Commission shall, within thirty days of the commencement of this section, engage a professional reputable firm to conduct an audit of the Register of Voters for the purpose of —

- (a) verifying the accuracy of the Register;
- (b) recommending mechanisms of enhancing the accuracy of the Register; and
- (c) updating the register.

(4) The firm engaged under subsection (3) shall conduct the audit and report to the Commission within a period of thirty days from the date of engagement.

(5) The Commission shall, within fourteen days of receipt of the report under subsection (4), submit the report to the National Assembly and the Senate.

(6) The Commission shall implement the recommendations of the audit report within a period of thirty days of receipt of the report and submit its report to the National Assembly and the Senate.

Section 14 of the Elections Act, 2011 which it is proposed to amend-

Initiation of presidential election

(1) Whenever a presidential election is to be held, the Commission shall publish a notice of the holding of the election in the Gazette and in electronic and print media of national circulation—

- (a) in the case of a general election, at least sixty days before the date of the election; or
- (b) in the case of an election under Article 138(5) of the Constitution, at least twenty-one days before the date of the election;
- (c) in any other case, upon the office of the President becoming vacant.

(2) The notice referred to in subsection (1) shall be in the prescribed form and shall specify—

- (a) the nomination day for the presidential election; and
- (b) the day or days on which the poll shall be taken for the presidential election, which shall not be less than twenty-one days after the day specified for nomination.

Section 16 of the Elections Act, 2011 which it is proposed to amend-

Initiation of election of member of Parliament

(1) Whenever a parliamentary election is to be held, the Commission shall publish a notice of the holding of the election in the Gazette and in the electronic and print media of national circulation—

- (a) in the case of a general election, at least sixty days before the date of the general election; or
- (b) in any other case, upon the office of a member of Parliament becoming vacant and on receipt of a notice issued by the respective Speaker under subsection (2).

(2) The notice referred to under subsection (1) shall be in the prescribed form and shall specify—

- (a) the day upon which political parties shall submit a party list in accordance with Article 90 of the Constitution;
- (b) the day for the nomination of candidates for the parliamentary election; and
- (c) the day or days on which the poll shall be taken for the election, which shall not be less than twenty-one days after the day specified for nomination under paragraph (b).

(3) Whenever a vacancy occurs in the National Assembly or the Senate, the respective Speaker shall issue a notice in accordance with Article 101 of the Constitution.

(3A) For purposes of subsection (3), a vacancy in the office of a Member of Parliament shall be deemed to occur on the date of issuance of a notice to the Commission which shall not be later than twenty-one days from the date of the actual occurrence of the vacancy.

(4) The Commission shall within twenty one days of receipt of the notice issued under subsection (2), transmit the notice to the relevant returning officer.

Section 17 of the Elections Act, 2011 which it is proposed to amend-**Initiation of county governor election**

(1) Whenever an election for a county governor is to be held, the Commission shall publish a notice of the holding of the election in the Gazette and in the electronic and print media of national circulation—

- (a) in the case of a general election, at least sixty days before the date of the general election; or
- (b) in any other case, upon the office of the county governor becoming vacant.

(2) The notice referred to in subsection (1) shall be in the prescribed form and shall specify—

- (a) the day for the nomination of candidates for the county governor election; and
- (b) the day or days on which the poll shall be taken for the county governor election, which shall not be less than twenty one days after the day specified for nomination.

Section 19 of the Elections Act, 2011 which it is proposed to amend-**Initiation of county assembly elections**

(1) Whenever a county assembly election is to be held, the Commission shall publish a notice of the holding of the election in the Gazette and in the electronic and print media of national circulation—

- (a) in the case of a general election, at least sixty days before the date of general election; or
- (b) in any other case, upon the office of a member of a county assembly becoming vacant.

(2) The notice referred to under subsection (1) shall be in the prescribed form and shall specify—

- (a) the day upon which political parties shall submit a party list in accordance with Article 90 of the Constitution;
- (b) the day for the nomination of candidates for county elections; and
- (c) the day or days on which the poll shall be taken for the county election, which shall not be less than twenty one days after the day specified for the nomination under paragraph (b).

(3) Whenever a vacancy occurs in a county assembly, the speaker of the county assembly shall within twenty one days after the occurrence of the vacancy issue a notice to the Commission in the prescribed form.

(4) The Commission shall within twenty one days of receipt of the notice issued under subsection (3), transmit the notice to the relevant returning officer.

Section 22 of the Elections Act, 2011 which it is proposed to amend-

Qualifications for nomination of candidates

(1) A person may be nominated as a candidate for an election under this Act only if that person—

(a) is qualified to be elected to that office under the Constitution and this Act; and

(b) holds—

(i) in the case of a Member of Parliament, a degree from a university recognized in Kenya; or

(ii) in the case of member of a county assembly, a degree from a university recognized in Kenya.

(1A) Notwithstanding subsection (1), this section shall come into force and shall apply to qualifications for candidates in the general elections to be held after the 2017 general elections.

(1B) The provisions of this section apply to qualifications to nomination for a party list member under section 34.

(2) Notwithstanding subsection (1)(b), a person may be nominated as a candidate for election as President, Deputy President, county Governor or deputy county Governor only if the person is a holder of a degree from a university recognised in Kenya.

(2A) For the purposes of the first elections under the Constitution, section 22(1) (b) and section 24(1)(b), save for the position of the President, the Deputy President, the Governor and the Deputy Governor, shall not apply for the elections of the offices of Parliament and county assembly representatives.

Section 23 of the Elections Act, 2011 which it is proposed to amend-

Qualifications and disqualifications for nomination as President

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

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

Section 24 of the Elections Act, 2011 which it is proposed to amend-

Qualifications and disqualifications for nomination as member of Parliament

- (1) Unless disqualified under subsection (2), a person qualifies for nomination as a member of Parliament if the person—
- (a) is registered as a voter;
 - (b) satisfies any educational, moral and ethical requirements prescribed by the Constitution and this Act; and
 - (c) is nominated by a political party, or is an independent candidate who is supported—
 - (i) in the case of election to the National Assembly, by at least one thousand registered voters in the constituency; or
 - (ii) in the case of election to the Senate, by at least two thousand registered voters in the county.
- (2) A person is disqualified from being elected a member of Parliament if the person—
- (a) is a State officer or other public officer, other than a member of Parliament;

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

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

Section 25 of the Elections Act, 2011 which it is proposed to amend-

Qualifications for nomination as member of county assembly

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

- (a) is registered as a voter;
- (b) satisfies any educational, moral and ethical requirements prescribed 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.

Section 27 of the Elections Act, 2011 which it is proposed to amend-

Submission of party nomination rules

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

(2) An amendment to the nomination rules shall only be effective ninety days after submission of the amendments to the Commission.

(2A) Upon receipt of the nomination rules from a political party under subsection (1), the Commission shall, within fourteen days, review the rules to ensure compliance with the prescribed regulations and—

- (a) issue the political party with a certificate of compliance; or
- (b) require the political party to amend the rules to ensure such compliance within fourteen days.

(2B) For purposes of subsection (2A), the Commission shall, by notice in the Gazette, issue Regulations prescribing guidelines to be complied with and the process by which political parties nominate candidates for nomination in accordance with Article 88 (4) (d) of the Constitution failing which the rules shall become void.

Section 28 of the Elections Act, 2011 which it is proposed to amend-

Submission of party membership lists

(1) A political party that nominates a person for an election under this Act shall submit to the Commission a membership list of the party—

- (a) in the case of a general election, at least one hundred and twenty days before the date of the election; and
- (b) in the case of a by-election, forty-five days before the date of the by-election.

(2) The Commission shall publicize the membership lists as received from political parties.

Section 31 of the Elections Act, 2011 which it is proposed to amend-

Nomination of political party candidates

(1) A person qualifies to be nominated by a political party for presidential, parliamentary and county elections for the purposes of Articles 97, 98, 137, 177 and 180 of the Constitution if that person—

- (a) is selected in the manner provided for in the constitution or rules of the political party concerned relating to members of that party who wish to contest presidential, parliamentary and county elections; and
- (b) subject to subsection (4), the party certifies the nomination to the Commission.

(2) The Commission shall, upon the request of a political party, conduct and supervise the nomination of candidates by the political party for presidential, parliamentary or county elections in accordance with Article 88 of the Constitution.

(2A) Every political party shall submit the names of the party candidates who have been selected to participate in the general elections under this Act at least sixty days before the elections.

(2B) A political party shall, at least twenty-one days before the nomination day, submit to the Commission the names of the persons contesting in its party primary and the date of its party primary.

(2C) The Commission shall publish, in the Gazette the names of the persons contesting in a party primary under subsection (1) and the date of the party primary within seven days of receipt of the names of party candidates.

(2D) A candidate for a presidential, parliamentary or county election shall be selected by persons who are members of the respective political parties and whose names appear on the party membership list as submitted to the Commission under section 28.

(2E) Where the Commission receives multiple requests under subsection (2), the Commission shall conduct and supervise the nomination of candidates for presidential, parliamentary or county elections for all the requesting political parties—

- (a) on the same day;
- (b) in the same polling centres; and
- (c) in different polling streams for each participating political party.

(2F) Parliament shall appropriate monies for the effective implementation of this section.

(3) Every political party shall notify the Commission of the name of the person authorised by the party to certify to the Commission that a person has or persons have been selected by the party under subsection (1) and the person or persons so named shall deposit his or their specimen signature with the Commission in such manner as the Commission may require.

(4) The authorised person or persons referred to in subsection (4) shall, in writing, certify that a candidate has been nominated by the party.

Section 32 of the Elections Act, 2011 which it is proposed to amend-

Approval of symbol for independent candidate

(1) An independent candidate shall submit the symbol the candidate intends to use during an election to the Commission at least twenty-one days before nomination day.

(1A) Where there is a vacancy in the office of the Governor, an independent candidate shall submit to the Commission, the symbol that the person intends to use during an election at least seven days before nomination.

(2) The Commission shall, upon receipt of the symbol submitted to it under this section approve or reject the symbol.

(3) The Commission may refuse to approve the symbol of an independent candidate if the symbol—

- (a) is obscene or offensive;
- (b) is the symbol of another candidate or of a political party; or
- (c) so nearly resembles the symbol of another candidate or political party or any other legal entity registered under any other written law.

Section 33 of the Elections Act, 2011 which it is proposed to amend-

Nomination of independent candidates

(1) A person qualifies to be nominated as an independent candidate for presidential, parliamentary and county elections for the purposes of Articles 97, 98, 137, 177 and 180 of the Constitution if that person—

- (a) has not been a member of any political party for at least three months preceding the date of the election;
- (b) has submitted to the Commission, at least sixty days before a general election, a duly filled nomination paper in such form as may be prescribed by the Commission;
- (c) has, at least ninety days before the date of a general election or at least twenty one days before the date appointed by the Commission as the nomination day for a by-election, submitted to the Commission the name and symbol that the person intends to use during the election.
- (d) is selected in the manner provided for in the Constitution and by this Act.

(2) The Commission shall publish in the Gazette, the names of persons intending to contest in the election as independent candidates at least fourteen days before the nomination day.

Section 39 of the Elections Act, 2011 which it is proposed to amend-

Determination and declaration of results

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

(1A) The Commission shall appoint constituency returning officers to be responsible for—

- (i) tallying, announcement and declaration, in the prescribed form, of the final results from each polling station in a constituency for the election of a member of the National Assembly and members of the county assembly;
- (ii) collating and announcing the results from each polling station in the constituency for the election of the President, county Governor, Senator and county women representative to the National Assembly; and

- (iii) submitting, in the prescribed form, the collated results for the election of the President to the national tallying centre and the collated results for the election of the county Governor, Senator and county women representative to the National Assembly to the respective county returning officer.

(1B) The Commission shall appoint county returning officers to be responsible for tallying, announcement and declaration, in the prescribed form, of final results from constituencies in the county for purposes of the election of the county Governor, Senator and county women representative to the National Assembly.

(1C) For purposes of a presidential election, the Commission shall —

- (a) electronically transmit and physically deliver the tabulated results of an election for the President from a polling station to the constituency tallying centre and to the national tallying centre;
- (b) tally and verify the results received at the constituency tallying centre and the national tallying centre; and
- (c) publish the polling result forms on an online public portal maintained by the Commission.

(1D) The Commission shall verify that the results transmitted under this section are an accurate record of the results tallied, verified and declared at the respective polling stations.

(1E) Where there is a discrepancy between the electronically transmitted and the physically delivered results, the Commission shall verify the results and the result which is an accurate record of the results tallied, verified and declared at the respective polling station shall prevail.

(1F) Any failure to transmit or publish the election results in an electronic format shall not invalidate the result as announced and declared by the respective presiding and returning officers at the polling station and constituency tallying centre, respectively.

(1G) The Commission shall, to facilitate public information, establish a mechanism for the livestreaming of results as announced at polling stations, and the results so streamed shall be

for purposes of public information only and shall not be the basis for a declaration by the Commission.

(1H) The chairperson of the Commission shall declare the results of the election of the President in accordance with Article 138(10) of the Constitution.

(2) The Chairperson may declare a candidate elected as the President before all the constituencies have transmitted their results if the Commission is satisfied the results that have not been received will not affect the result of the election.

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

Section 44A of the Elections Act, 2011 which it is proposed to amend-

Complementary mechanism for identification of voters

Notwithstanding the provisions of section 44, the Commission shall put in place a complementary mechanism for identification of voters that is simple, accurate, verifiable, secure, accountable and transparent to ensure that the Commission complies with the provisions of Article 38 of the Constitution.

Section 74 of the Elections Act, 2011 which it is proposed to amend-

Settlement of certain disputes

(1) Pursuant to Article 88(4)(e) of the Constitution, the Commission shall be responsible for the settlement of electoral disputes, including disputes relating to or arising from nominations but excluding election petitions and disputes subsequent to the declaration of election results.

(2) An electoral dispute under subsection (1) shall be determined within ten days of the lodging of the dispute with the Commission.

(3) Notwithstanding subsection (2), where a dispute under subsection (1) relates to a prospective nomination or election, the dispute shall be determined before the date of the nomination or election, whichever is applicable.

Section 75 of the Elections Act, 2011 which it is proposed to amend-

County election petitions

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

(1A) A question as to the validity of the election of a member of a county assembly shall be heard and determined by the Resident Magistrate's Court designated by the Chief Justice.

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

(3) In any proceeding brought under this section, a court may grant appropriate relief, including—

- (a) a declaration of whether or not the candidate whose election is questioned was validly elected;
- (b) a declaration of which candidate was validly elected; or
- (c) an order as to whether a fresh election will be held or not.

(4) An appeal under subsection (1A) shall lie to the High Court on matters of law only and shall be—

- (a) filed within thirty days of the decision of the Magistrate's Court; and
- (b) heard and determined within six months from the date of filing of the appeal.