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REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – FIFTH SESSION – 2026

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

ADDENDUM TO:

THE REPORT OF THE DEPARTMENTAL COMMITTEE
ON JUSTICE AND LEGAL AFFAIRS ON ITS
CONSIDERATION OF THE ELECTIONS (AMENDMENT)
(NO. 2) BILL, 2024

 (SENATE BILL NO. 29 OF 2024)	
THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 13 OCT 2026	
DAY: TUESDAY	
TABLED BY:	HON. CITONGA MURUGARA, CB, MB (CHAIRPERSON)
CLERK-AT THE-TABLE:	INZAFU MWALE, HSC
CLERK'S CHAMBERS	



DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI

OCTOBER 2026

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LIST OF ABBREVIATIONS AND ACRONYMS

IEBC	-	Independent Electoral and Boundaries Commission
MP	-	Member of Parliament
NADCO	-	National Dialogue Committee
ODM	-	Orange Democratic Movement
MCCP	-	Maendeleo Chap Chap Party
UDA	-	United Democratic Alliance
UDM	-	United Democratic Movement
WDM	-	Wiper Democratic Movement

LIST OF ANNEXURES

- Annexure 1: Adoption Schedule
- Annexure 2: Minutes
- Annexure 3: The Elections (Amendment) (No. 2) Bill (Senate Bill No. 29 of 2024)
- Annexure 4: Proposals from IEBC on Election Laws (Amendment) Bill, 2026

CHAIRPERSON'S FOREWORD

This Report contains the proceedings of the Departmental Committee on Justice and Legal Affairs on its consideration of the proposed amendments to the Election Laws, from the Independent Electoral and Boundaries Commission (IEBC), which have been considered together with, and incorporated into the Elections (Amendment) (No. 2) Bill (*Senate Bill No. 29 of 2024*).

The Elections (Amendment) (No. 2) Bill (*Senate Bill No. 29 of 2024*) seeks to give effect to some of the recommendations by NADCO on the issues of electoral justice and related matters, fidelity to political parties or coalitions, and the law on multiparty democracy.

The Bill, having been passed in the Senate on 5th December, 2024 and forwarded to the National Assembly, was read a First Time in the House on 13th February, 2025 and was thereafter committed to the Committee in line with Standing Order 143(2) of the National Assembly Standing Orders.

The Committee, having considered the Elections (Amendment) (No. 2) Bill (*Senate Bill No. 29 of 2024*) and the submissions from members of the public and stakeholders, tabled its report in the House on 14th August 2025. The Committee recommended that the House approves the Bill with amendments.

Subsequently, the Committee received a letter dated 13th July 2026 from the Independent Electoral and Boundaries Commission (IEBC) forwarding further proposals to the electoral laws, through the IEBC's proposed Election Laws (Amendment) Bill, 2026.

The Committee considered the proposed amendments as forwarded by the Commission, side by side with the previously proposed Committee Stage amendments proposed to the Elections (Amendment) (No. 2) Bill (*Senate Bill No. 29 of 2024*), during a sitting held on 29th September 2026.

The Committee, noting the formal gazettelement of the commencement of the election period and the need to facilitate timely consideration of the Legislative Reforms, resolved to incorporate some of the critical amendments proposed by the Commission into the Elections (Amendment) (No. 2) Bill (*Senate Bill No. 29 of 2024*).

Further, the Committee noted the resolution of the Liaison Committee, made during its retreat held from 7th to 11th September 2026, that in preparation for the 2027 General Election and cognisant of the constitutional restriction under Article 82(1) of the Constitution, the National Assembly shall prioritise the expeditious consideration of only those amendments to electoral laws and consequential regulations that are necessary for the conduct of the 2027 General Election.

In addition, the Honourable Speaker vide a Communication made on 29th September 2026, directed the Departmental Committee on Justice and Legal Affairs to review the proposals from the Commission and recommend to the House any appropriate amendments for inclusion in the Elections (Amendment) (No. 2) Bill (*Senate Bill No. 29 of 2024*) that forms part of the priority business.

In light of the above, the Committee noted that there was no need to publish a new Bill as proposed by the Independent Electoral and Boundaries Commission (IEBC).

The Committee is grateful to the Offices of the Speaker and Clerk of the National Assembly for their guidance and for the logistical and technical support accorded to it during its consideration of the proposed amendments. The Committee further wishes to thank the Independent Electoral and Boundaries Commission (IEBC) for submitting the proposed amendments which have now been considered together with the Elections (Amendment) (No. 2) Bill (Senate Bill No. 29 of 2024). Finally, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who made useful contributions towards the preparation and production of this Addendum Report.

On behalf of the Departmental Committee on Justice and Legal Affairs and pursuant to the provisions of Standing Order 199(6) of the National Assembly Standing Orders, it is my pleasant privilege and honour to present to this House the Addendum to the Report of the Departmental Committee on Justice and Legal Affairs on its consideration of the Elections (Amendment) (No. 2) Bill (*Senate Bill No. 29 of 2024*).

It is my pleasure to report that the Committee has reconsidered the Elections (Amendment) (No. 2) Bill (*Senate Bill No. 29 of 2024*) together with the amendments proposed by the IEBC, and has the honour to report back to the National Assembly with the recommendation that the **House approves the Bill with amendments**, as detailed in the revised schedule of amendments as contained in Chapter Six of this Report.



Hon. George Gitonga Murugara, CBS, MP
Chairman, Departmental Committee on Justice and Legal Affairs

CHAPTER ONE

I PREFACE

I.1 Establishment of the Committee

- I. The Departmental Committee on Justice and Legal Affairs is one of the twenty departmental committees of the National Assembly established under **Standing Order 216** whose mandate pursuant to the **Standing Order 216 (5)** is as follows:
 - i. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
 - ii. *To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;*
 - iii. *To, on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
 - iv. **To study and review all legislation referred to it;**
 - v. *To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
 - vi. *To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House;*
 - vii. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);*
 - viii. *To examine treaties, agreements and conventions;*
 - ix. *To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation;*
 - x. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
 - xi. *To examine any questions raised by Members on a matter within its mandate.*
2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider: -
 - (a) The Judiciary;
 - (b) Tribunals;
 - (c) Access to Justice;
 - (d) Public prosecutions;
 - (e) Ethics, Integrity and Anti-corruption;
 - (f) Correctional services;
 - (g) Community service orders and witness protection;
 - (h) Constitutional Affairs;
 - (i) Sovereign immunity;
 - (j) Elections including referenda;
 - (k) Human rights;
 - (l) Political parties; and
 - (m) The State Law Office' including insolvency, law reform, public trusteeship, marriages and legal education.

3. In executing its mandate, the Committee oversights the following Ministries, Departments and Agencies:
- (a) The Judiciary;
 - (b) Judicial Service Commission;
 - (c) State Department of Correctional Services;
 - (d) State Department of Justice, Human Rights and Constitutional Affairs;
 - (e) State Law Office and Department of Justice
 - (f) Office of the Director of Public Prosecutions;
 - (g) Ethics and Anti-Corruption Commission;
 - (h) Independent Electoral and Boundaries Commission;
 - (i) Commission on Administrative Justice;
 - (j) Office of the Registrar of Political Parties;
 - (k) Witness Protection Agency;
 - (l) Kenya National Commission on Human Rights;

1.3 Committee Membership

4. The Committee comprises the following Members:

Chairperson

Hon. Murugara George Gitonga, CBS, MP
Tharaka Constituency
UDA Party

Vice-Chairperson

Hon. Mutuse Eckomas Mwengi, OGW, MP
Kibwezi West Constituency
MCCP Party

Hon. Gladys Boss, MGH, MP
Uasin Gishu Constituency
UDA Party

Hon. Maalim Farah, EGH, MP
Dadaab Constituency
WDM-Kenya

Hon. Onyiego Silvanus Osoro, CBS, MP
South Mugirango Constituency
UDA Party

Hon. Francis Kajwang' Tom Joseph, CBS, MP
Ruaraka Constituency
ODM Party

Hon. Wetang'ula Timothy Wanyoyi, CBS, MP
Westlands Constituency
ODM Party

Hon. (Dr.) Otiende Amollo, SC, EBS, MP
Rarieda Constituency
ODM Party

Hon. Muchira Michael Mwangi, MP
Ol Jorok Constituency
UDA Party

Hon. Timothy Kipchumba Toroitich, MP
Marakwet West Constituency
Independent

Hon. Makali John Okwisia, MP
Kanduyi Constituency
FORD-Kenya

Hon. Mogaka Stephen M., MP
West Mugirango Constituency
Jubilee Party

Hon. Aden Daud, EBS, MP
Wajir East Constituency
Jubilee Party

Hon. Harold Kimuge Kipchumba, MP
Nominated Member
ODM Party

Hon. CPA Suleka Hulbale Harun, MP
Nominated Member
UDM Party

5. The Committee is facilitated by the following staff:

Mr. Ahmed Salim Abdalla
Senior Clerk Assistant / Head of Secretariat

Mr. Ronald Walala
Principal Legal Counsel I

Mr. Abdikafar Abdi
Clerk Assistant II

Mr. Samuel Wanjiru
Clerk Assistant II

Mr. Omar Abdirahim
Fiscal Analyst I

Mr. Isaac Nabiswa
Legal Counsel I

Ms. Vivienne Ogega
Research Officer II

Mr. John Nduaci
Serjeant-At-Arms

Ms. Rahab Chepkilin
Audio Officer III

Ms. Esther Mbatha
Public Communications Officer III

Mr. Wilson Murimi
Media Relations Officer III

Ms. Rhoda Muchiri
Hansard Officer III

Ms. Fatuma Ruwange
Hansard Officer III

Ms. Mary Stacy Akinyi
JLAC Intern

CHAPTER TWO

2 OVERVIEW OF THE DRAFT ELECTION LAWS (AMENDMENT) BILL, 2026

2.1 Background

6. The Elections (Amendment) (No. 2) Bill (Senate Bill No. 29 of 2024) seeks to give effect to some of the recommendations by NADCO on the issues of electoral justice and related matters, fidelity to political parties and coalition parties and the law on multiparty democracy.
7. The Bill, having been passed in the Senate on 5th December, 2024 and forwarded to the National Assembly, was read a First Time in the House on 13th February, 2025 and was thereafter committed to the Departmental Committee on Justice and Legal Affairs in line with Standing Order 143(2) of the National Assembly Standing Orders.
8. The Committee, having considered the Elections (Amendment) (No. 2) Bill (Senate Bill No. 29 of 2024) and the submissions from members of the public and stakeholders, tabled its report in the House on 14th August 2025. The Committee recommended that the House approves the Bill with amendments.
9. The Second Reading of the Bill was undertaken on 1st October 2026. The Committee Stage on the Bill is pending.
10. Subsequently, the Committee received a letter dated 13th July 2026 from the Independent Electoral and Boundaries Commission (IEBC) detailing the Proposed Election Laws (Amendment) Bill, 2026.
11. The Draft Election Laws (Amendment) Bill, 2026, as proposed by the IEBC, proposes to amend the Elections Act, to —
 - (i) Require the use of a Valid Kenyan ID Card or Valid Passport to register for voting and to vote. This will require that the Kenyan passport used in registering as a voter and in voting has been issued legally; has not expired; or has not been cancelled, revoked or declared invalid.
 - (ii) Define the term “forensic image” to cater for instances where the Court Orders access to the records of the technology used in elections.
 - (iii) Limit the freeze of registration of voters during a by-election to the affected electoral area. This means that the registration of voters will continue in other electoral areas not affected by a by-election.
 - (iv) Freeze registration of voters between the date of publication of a referendum question and the date of a referendum.
 - (v) Provide that verification of biometric data will be done not later than sixty days before the date of a general election. However, the amendment changes a fundamental aspect of the current exercise. The verification will ONLY be done at polling stations for a by-election and not all elections.
 - (vi) Require IEBC to revise the Register of Voters whenever county or ward boundaries are altered.

- (vii) Require the Commission to recommend the deletion of names of deceased voters after publishing and publicizing the names and inviting and resolving any challenges to the audit of the Voters register. Currently, the Act mandates the Commission to delete the names of deceased persons without reference to any “recommendation” or public participation.
- (viii) Increase the time by which the Commission must procure a firm to audit the Register of Voters from at least six (6) months to at least nine (9) months before the general election. Whereas the current provision allows IEBC to procure the Audit Firm as late as February 2027, the amendment sets a deadline for the procurement of the Audit Firm to November, 2026. The amendment reduces the time afforded to procure the firm.
- (ix) Require the Commission to conduct fresh voter registration after review of constituency boundaries or alteration of county boundaries; to review the names, number and boundaries of wards where a review of names and boundaries of counties requires such a review; and to audit the voter register at any time.
- (x) Delete the provision requiring the Commission to transmit the notice of the holding of an election to the relevant returning officer within twenty-one days of receipt of the notice.
- (xi) Disentitle a person who registers as a voter in a different constituency solely for the purposes of becoming eligible to contest an impending by-election in a constituency where registration is suspended from being registered as a candidate.
- (xii) Obligate a coalition political party to provide IEBC with their nomination rules within 14 days of registration. The Act currently requires political parties to submit their nomination rules six months before the general election.
- (xiii) Delete the provisions allowing the Commission to supervise the party primaries at the request of the parties.
- (xiv) Require each political party to ensure that not more than two-thirds of its candidates submitted to the Commission in a general election for parliamentary elections are of the same gender.
- (xv) To empower the Commission to refuse to approve the symbol of an independent candidate if the symbol is obscene or offensive; is the symbol of a political party or another independent candidate in the same county; or so nearly resembles the symbol of a political party, another independent candidate in the same county or any other legal entity registered under another law.
- (xvi) Delete the requirement for the Commission to Gazette the names of persons intending to contest in the election as independent candidates at least fourteen days before the date for registration of candidates with the Commission.

- (xvii) Provide that a person shall not be nominated on the MCA party list unless the person is, on the date of submission of the list by the political party, a registered voter in any of the wards in the county in which the person is nominated.
- (xviii) Provide that party lists shall commence with the name of a female candidate and alternate between male and female candidates, except for the list for the sixteen seats already reserved for women in the Senate.
- (xix) Require the Commission to verify that the results transmitted are an accurate reflection of the results tallied, verified and declared at the respective polling stations. This is addition to the deletion of the current sections 39(1E), (1F), (1G) and 36(2) and (3) which, among others, provide that the 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; require the Commission to establish a mechanism for the livestreaming of results as announced at polling stations; and allow the Chairperson to declare a candidate elected as the President before all the constituencies have transmitted their results if is satisfied the results that have not been received will not affect the result of the election.
- (xx) Allow the Commission to procure and put in place the technology necessary for the conduct of a general election at least one hundred and twenty days before such elections OR to test, verify and deploy such technology at least sixty days before a general election. The current provision under section 44(4) requires the Commission to both procure AND test, verify and deploy the technology.
- (xxi) Amend the provisions of the Act relating on the Right of recalling elected representatives. Under the proposal, an MP or MCA may be recalled for gross violation of the Constitution; incompetence; gross misconduct; or conviction of an offence punishable by imprisonment for at least six months. The recall can only be initiated within a period of twenty-four months after the election of the member of Parliament and not later than twelve months immediately preceding the next general election. Additionally, a recall petition shall not be filed against a member of Parliament more than once during their term.
- (xxii) Delete various provisions declared unconstitutional by the courts including section 48 which provides that a recall election is only 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.
- (xxiii) Provide that party primary disputes must be lodged within seventy-two hours and be determined within fourteen days of the lodging of the dispute with the Commission.
- (xxiv) Provide that party list disputes within seventy-two hours and determined within seven days after the close of lodging of disputes with the Commission.

- (xxv) Provide that disputes and subsequent appeals arising from registration of candidates for election shall be heard and determined thirty days before a general election and that a decision of the High Court on an Appeal from a decision of the Commission shall be final.
- (xxvi) Provide that filing a notice/record of appeal to the High Court against a decision of a Magistrate's Court in MCA petitions shall act as an automatic stay of execution of the decision and that the decision of the High Court shall be final.
- (xxvii) Insert a new section 82A which outlines procedural guidelines for election courts when ordering for and examining electronic evidence (servers, memory cards and logs). The provision requires the Commission to submit digital evidence under confidential cover for court scrutiny and the evidence that be returned to the IEBC within seven (7) days of delivery of judgment for safe custody.
- (xxviii) Provide that a Court shall not declare an election void for 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 the non-compliance did not substantially affect the result of the election.
- (xxix) Bar second appeals to the Court of Appeal in disputes concerning the election of MCAs.
- (xxx) Delete spent provisions that applied to the 2013 elections, with respect to regulations.
- (xxxi) Empower the IEBC to enforce the Electoral Code of Conduct throughout term of a person elected to office. Currently, the Code can only be enforced during the campaign period.
- (xxxii) Delete criminal penalties in the Act for violation of the Code of Conduct. The paragraphs providing for these were declared unconstitutional by the Court.

CHAPTER THREE

3 CONSIDERATION OF THE PROPOSED AMENDMENTS BY THE INDEPENDENT ELECTORAL COMMISSION (IEBC)

12. The Committee considered the proposed amendments by the Commission and the initially-proposed Committee Stage amendments to the Elections (Amendment) (No. 2) Bill (Senate Bill No. 29 of 2024), during a sitting held on 29th September 2026, before adopting this Addendum on Tuesday, 13th October 2026.
13. The Committee, noting the impending commencement of the election period and the need to facilitate timely consideration of the Legislative Reforms, resolved to incorporate some of the critical amendments proposed by the Commission under the Elections (Amendment) (No. 2) Bill (Senate Bill No. 29 of 2024). This is the only way to guarantee the inclusion and passage of the necessary reforms; considering that time is of the essence.

3.1 Summary of the proposals by the Independent Electoral and Boundaries Commissions (IEBC) considered by the Committee

14. The Committee deliberated on the Committee Stage amendments proposed to the Elections (Amendment) (No. 2) Bill (Senate Bill No. 29 of 2024) by the Committee, and the proposals on electoral reforms as submitted by the Independent Electoral and Boundaries Commission (IEBC), vide their letters dated 13th July 2026 and 26th May 2026 (Ref: IEBC/CP/7/3), including:
 - i. Amendment to Clause 2 of the Bill in paragraph (e), to insert a new definition of the term “forensic image” to mean an exact duplicate of a digital storage device including a server, computer, laptop, tablet or memory card collected in a manner that preserves the contents of the storage device for purposes of presentation and analysis of the contents. The Committee agreed with the proposed definition.
 - ii. Amendment to clause 2 which provided for the insertion of the word “valid” in the definition of “identification document”. The Committee did not agree with the proposal noting that that the requirement of having a valid identification document for purposes of registration as a voter and voting may lead to disfranchisement.
 - iii. Amendment to Clause 3 of the Bill to of paragraph (c). The proposed new section 5(3A) seeks to disqualify a person who registers as a voter during the period of suspension from eligibility to contesting in a by-election. The provision may be transferred to section 29 which outlines additional disqualifications for contesting in an election.
 - iv. Amendment to clause 16 to correct an error in the cross-reference and to limit the resemblance of symbols to candidates within the same county. The Committee agreed with the amendment.
 - v. Amendment to clause 21 of the Bill, as submitted by IEBC, to expand the maximum number of number of voters per polling station with the intention of reducing the cost of elections. The Committee resolved to retain the provisions as stipulated in the Act.

- vi. Amendment to clause 25 and 26 by on the Right of recall and Petition for recall. The Committee noted that that provisions for recall may be provided for in a stand-alone legislation. The Committee resolved to propose deletion of the provisions declared unconstitutional by the Courts.
- vii. Amendment to Section 82 of the Act, as proposed by the IEBC, to introduce provisions for scrutiny of technology. The provision provides for scrutiny of the related material including forensic image of the server under confidential cover. The Committee agreed with the proposal but proposed the deletion of the phrase "under confidential cover" noting that Election petitions are generally open and accessible to the public to safeguard transparency.
- viii. On the introduction of provisions to require the Commission, and Parties to an election petition to comply with the Data Protection Act, the Committee observed that the same is provided for in the relevant Act.
- ix. Amendment to Section 85A of the principal Act, as proposed by the IEBC, to provide that no second appeal shall lie to the Court of Appeal under the section or any other law from a judgment or decision of the High Court in an election petition concerning the election of a member of a county assembly. The Committee agreed with the proposed amendment.
- x. Proposed amendment by the Commission to Section 109 of the principal Act by deleting subsection (3) and substituting therefor with a new subsection to provide that the Commission shall make or amend its regulations and publish them in the Gazette not later than four months before the date of a general election. Reiterating the need for Parliament to oversight delegated legislation, the Committee rejected the proposal and resolved to retain the provision as stipulated in the Act.

In addition, the Committee resolved to recommend the deletion of the Proviso under Section 109(3) of the Act.

- xi. On the proposed insertion of a new subsection after subsection (3) to provide that the Commission shall subject the regulations made or amended to public participation in accordance with the Statutory Instruments Act, the Committee noted the same is already provided for and therefore no need for legislation. Arising from the above recommendations, the Committee resolved to retain Section 109(4) as provided for in the Act.

CHAPTER FOUR

4 COMMITTEE OBSERVATIONS

15. Upon reviewing the submissions received from the Independent Electoral and Boundaries Commission, the Committee made the following observations:
- (i) Noting the formal gazettelement of the commencement of the election period and the need to facilitate timely consideration of the Legislative Reforms, there is need to incorporate some of the critical amendments proposed by the IEBC into the Elections (Amendment) (No. 2) Bill (Senate Bill No. 29 of 2024). Publication of a new Bill at this stage and the attendant processes will take a lot of time, and it is uncertain whether the Bill will be considered and passed by the thirteenth parliament.
 - (ii) Noting the resolution of the Liaison Committee made during its retreat held from 7th to 11th September 2026, that in preparation for the 2027 General Election and cognisant of the constitutional restriction under Article 82(1) of the Constitution, the National Assembly shall prioritise the expeditious consideration of only those amendments to electoral laws and consequential regulations that are necessary for the conduct of the 2027 General Election. The Committee is therefore constrained to incorporate those amendments that it deems extremely necessary to the efficient conduct of the 2027 General Election.
 - (iii) The Committee's recommendation not to publish a new Bill as proposed by the IEBC is in tandem with the Honourable Speaker's Communication made on 29th September 2026, which directed the Departmental Committee on Justice and Legal Affairs to review the proposals from the Commission and recommend to the House any appropriate amendments for inclusion into the Elections (Amendment) (No. 2) Bill (Senate Bill No. 29 of 2024) with extreme urgency.

CHAPTER FIVE

5 COMMITTEE RECOMMENDATIONS

16. The Committee, having considered the Elections (Amendment) (No. 2) Bill (*Senate Bill No. 29 of 2024*) and the submissions from the Independent Electoral and Boundaries Commission, recommends that the House **approves the Bill with the amendments** contained in the Revised Schedule of Amendments forming Chapter Six of this Report.

SIGNED *for*  DATE *13/10/24*

HON. GEORGE GITONGA MURUGARA, CBS, MP
CHAIRMAN
DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 13 OCT 2026	DAY: TUESDAY
TABLED BY:	HON. GITONGA MURUGARA, CBS, MP (CHAIRPERSON)
CLERK-AT THE TABLE:	INZOFU MWALE, HSC

CHAPTER SIX

6 REVISED SCHEDULE OF AMENDMENTS

17. In view of the observations made, the Committee proposed the following amendments to the Bill:

CLAUSE 2

THAT Clause 2 of the Bill be amended by—

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

“(c) deleting the definition of “political party” and substituting therefor the following new definition—

“political party” has the meaning assigned to it under section 2 of the Political Parties Act;”

(b) deleting paragraph (e) and substituting therefor the following new paragraph—

“(e) inserting the following new definitions in proper alphabetical sequence—

“forensic image” means an exact duplicate of a digital storage device including a server, computer, laptop, tablet or memory card collected in a manner that preserves the contents of the storage device for purposes of presentation and analysis of the contents;

“registration of a candidate” means the process through which a person applies to and is cleared by the Commission to contest in an election”

(c) by deleting paragraph (d);

Justification:

- (1) The definition provided under the Political Parties Act is comprehensive as it provides for the nature and functions of a political party and includes a coalition political party. The definition of “political parties” under Article 260 of the Constitution prescribes the requirements of a political party.
- (2) To define the term “forensic image”.
- (3) The requirement of having a valid identification document for purposes of registration as a voter and voting may lead to disfranchisement.

CLAUSE 3

THAT Clause 3 of the Bill be amended by deleting paragraph (c).

Justification: The proposed new section 5(3A) seeks to disqualify a person who registers as a voter during the period of suspension from eligibility to contesting in a by-election. The provision may be transferred to section 29 which outlines additional disqualifications for contesting in an election.

CLAUSE 9

THAT Clause 9 of the Bill be amended in paragraph (a) by inserting the word “assembly” immediately after the word “county” in the proposed new paragraph (b).

Justification: This is to clarify that the registration done by IEBC relate to the county assembly elections.

CLAUSE 10

THAT Clause 10 of the Bill be amended by deleting paragraph (b) and substituting therefor the following new paragraph—

(b) in subsection (1) by deleting the word “nominated” appearing immediately after the words “may be” in the opening statement and substituting therefor the word “registered”;

Justification: To prescribe educational requirements for election as MP of MCA pursuant to Articles 99(1)(b) and 193(1)(b) of the Constitution.

CLAUSE 16

THAT Clause 16 of the Bill be amended by deleting paragraph (c) and substituting therefor the following new paragraph—

“(c) in subsection (3) by—

(i) deleting paragraph (b) and substituting therefor the following new paragraph—
(b) is the symbol of another independent candidate within the same county or of a political party; or

(ii) deleting paragraph (c) and substituting therefor the following paragraph—
(c) so nearly resembles the symbol of another independent candidate within the same county or political party or any other legal entity registered under any other written law.”

Justification: To correct an error in the cross-reference and to limit the resemblance of symbols to candidates within the same county.

CLAUSE 21

THAT the Bill be amended by deleting Clause 21

Justification: To retain the maximum number of voters per polling station at not exceeding seven hundred.

CLAUSE 22

THAT the Bill be amended by deleting Clause 22 and substituting therefor the following new Clause—

Amendment of section 39 of Cap. 7. **22.** Section 39 of the Elections Act is amended—

- (a) in subsection (1C) by deleting paragraph (a);
- (b) by deleting subsection (1E);
- (c) by deleting subsection (1F);
- (d) by deleting subsection (1G);

Justification: To ensure compliance with the court decisions on the provisions of section 39 of the Elections Act. (*Maina Kiai & 5 Others [2017] eKLR, National Assembly v Katiba Institute & 6 others (Civil Appeal 243 of 2018) [2023] KECA 1174 (KLR)*)

THAT the Bill be amended by deleting Clause 25 and substituting therefor the following new Clause—

Amendment of
section 45 of Cap. 7.

25. Section 45 of the principal Act is amended—

- (a) in subsection (1), by deleting the words “specified in subsection (2)” appearing immediately after the word “grounds”;
- (b) by deleting subsection (2);
- (c) by deleting subsection (3); and
- (d) by deleting subsection (6).

Justification: To ensure compliance with the court decisions on the provision of section 45 of the Elections Act (*Katiba Institute & another v Attorney General & another (Constitutional Petition 209 of 2016) [2017] KEHC 4648 (KLR)*)

CLAUSE 26

THAT the Bill be amended by deleting Clause 26 and substituting therefor the following new Clause—

Amendment of
section 46 of Cap. 7.

26. Section 46 of the principal Act is amended—

- (a) in subsection (1), by—
 - (i) deleting paragraph (b) and substituting therefor the following new paragraph—
 - (b) signed by a petitioner who is a voter in the constituency or county in respect of which the recall is sought;
 - (ii) deleting paragraph (c);
- (b) in subsection (2), by deleting the words “as specified under section 45(2)” appearing immediately after the word “recall” in paragraph (a);

Justification: To ensure compliance with the court decisions on the provision of section 46 of the Elections Act (*Katiba Institute & another v Attorney General & another (Constitutional Petition 209 of 2016) [2017] KEHC 4648 (KLR)*)

CLAUSE 30

THAT the Bill be amended by deleting Clause 30 and substituting therefor the following new Clause—

30. The principal Act is amended by inserting the following new section immediately after section 82—

Scrutiny of
technology.

82A. (1) The Commission shall, pursuant to an order of an election court for a forensic image of the server, memory cards or any other materials, provide the server, memory cards or other materials for scrutiny by the Court.
(2) The Commission shall make Regulations to give effect to the provisions of this section.

Insertion of new
section 82A in
Cap. 7.

Justification: To provide for a framework to be followed by the Commission and parties to an election petition when an order of scrutiny of election technology is issued by an election court.

CLAUSE 32

THAT Clause 32 of the Bill amended in subsection (1) of the proposed new section 87A by deleting the words “one year” appearing immediately after the word “within” and substituting therefor the words “eighteen months”.

Justification: To align the provision with section 24A of the IEBC Act which provides that the IEBC shall, after a general election, review its operations and that the review shall be completed within eighteen months.

NEW CLAUSE 13A

THAT the Bill be amended by inserting the following new Clause after Clause 13—

Amendment of
section 26 of
Cap. 7.

13A. Section 26 of the principal Act is amended by inserting the following new subsection after subsection (1)—

(3) A person who registers as a voter during the period when registration of voters is suspended for the purposes of a by-election as contemplated under section 5(1)(b) shall not be eligible to contest in the electoral area affected by the by-election.

Justification: Section 26 which provides for additional disqualifications for registration of a candidate is the appropriate section to provide for the disqualification as proposed by the Senate.

NEW CLAUSE 33

THAT the Bill be amended by inserting the following new Clauses immediately after Clause 32—

Amendment of
section 109 of Cap.
7.

33. Section 109 of the principal Act is amended by—

(a) deleting subsection (3) and substituting therefor the following new subsection—

(3) The Commission shall make or amend its regulations and publish them in the Gazette not later than four months before the date of a general election.

(b) by inserting the following new subsection immediately after subsection (3)—

Cap. 2A.

(3A) The Commission shall subject the regulations made or amended pursuant to subsection (3) to public participation in accordance with the Statutory Instruments Act.

(c) deleting subsection (4).

Justification: To delete the spent provisions on the requirement that the proposed regulations require approval of the National Assembly which applied to the first general elections after enactment of the Elections Act. Further, to require IEBC to publish the regulations and subject them to constitutional requirement of public participation.