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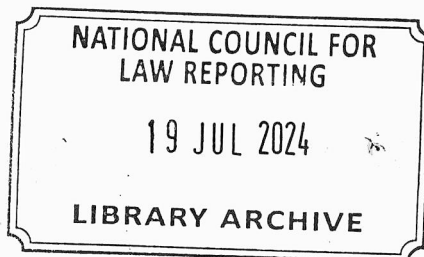
NAIROBI, 15th July, 2024

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**THE INDEPENDENT ELECTORAL AND
BOUNDARIES COMMISSION (AMENDMENT) ACT,
2024**

No. 9 of 2024

Date of Assent: 9th July, 2024

Date of Commencement: See Section 1

AN ACT of Parliament to amend the Independent Electoral and Boundaries Commission Act and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Independent Electoral and Boundaries Commission (Amendment) Act, 2024 and shall come into force upon publication in the *Gazette*.

Short title and
commencement.

2. Section 2 of the Independent Electoral and Boundaries Commission Act (hereinafter referred to as “the principal Act”) is amended—

Amendment of
section 2 of
Cap. 7C.

- (a) in the definition of the word “chairperson” by deleting the words “or the vice-chairperson or a member of the Commission when discharging the functions of the chairperson” appearing immediately after the word “Constitution”;
- (b) by deleting the definition of the expression “first review”;
- (c) by deleting the definition of the expression “former Boundaries Commission”;
- (d) by deleting the definition of the expression “former Constitution”;
- (e) by deleting the definition of the expression “issues arising”;
- (f) in the definition of the expression “Parliamentary Committee” by inserting the words “and Senate” immediately after the words “the National Assembly”;
- (g) by inserting the following new definition in proper alphabetical sequence—

“parliamentary party” means a party or coalition of parties consisting of not less than five percent of the membership of the National Assembly and Senate.

3. Section 6 of the principal Act is amended in sub-section (2)(c)—

Amendment of section 6 of Cap. 7C.

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

“(c) has proven knowledge and at least ten years’ experience in any of the following fields—”

(b) by inserting the following new sub-paragraphs immediately after sub-paragraph (vi)—

(vii) information and communication technology;

(viii) accounting.

4. Section 7A of the principal Act is amended—

Amendment of section 7A of Cap. 7C.

(a) by deleting sub-section (4);

(b) by deleting sub-section (5);

(c) by deleting sub-section (6).

5. Section 10 of the principal Act is amended by deleting sub-section (4) and substituting therefor the following new sub-section—

Amendment of section 10 of Cap. 7C.

(4) The secretary shall hold office for a term of four years and is eligible for re-appointment for one further term of four years.

6. The principal Act is amended by inserting the following new section immediately after section 24—

Insertion of a new section 24A in Cap. 7C.

Review of conduct of general election.

24A. (1) The Commission shall, after every general election, review its operations and make the necessary changes required to make its operations more efficient, effective, transparent and accountable.

(2) The review shall be completed within eighteen months after every general election and the Commission shall publish the report in the *Gazette* and submit the report to Parliament.

7. The principal Act is amended by inserting the following new Part immediately after section 24A—

Insertion of a
new PART IIIA
in Cap. 7C.

PART IIIA—DELIMITATION OF ELECTORAL UNITS

Procedure for
delimitation of
electoral boundaries.

24B. (1) The Commission shall discharge its mandate of the delimitation of boundaries of constituencies and wards in accordance with the Constitution, this Act and any other law.

(2) Subject to the Constitution, matters to be addressed in the delimitation of electoral boundaries are—

- (a) review of the names and boundaries of constituencies;
- (b) review of the number, names and boundaries of wards;
- (c) re-distribution of wards affected by any changes in the boundaries of constituencies; and
- (d) ensuring that the number of inhabitants in each constituency and ward is as nearly as possible, equal to the population quota as provided for by Article 89(5) of the Constitution and that such a process—
 - (i) allows for variation of margin of not more than the limits provided under Article 89(6) of the Constitution in relation to cities, sparsely populated areas and other areas;
 - (ii) takes into account the provisions of Article 89(7)(b) of the Constitution that provides for the progressive realization of the requirement that the number of inhabitants in each constituency and ward to be as nearly as possible, equal to the population quota

for the purposes of the each review;

(iii) is subject to the use of enumerated national census figures.

(3) The Commission shall prepare and publish a preliminary report outlining—

(a) the proposed delimitation of boundaries for constituencies and wards; and

(b) the specific geographical demographical details relating to such delimitation; and

(4) The Commission shall ensure that the preliminary report is made available to the public for a period of thirty days and invite representations from the public on the proposals contained in the report during that period.

(5) Upon the expiry of the period provided in subsection (4), the Commission shall, within fourteen days, review the proposed delimitation of boundaries considering the views received and submit the revised preliminary report to the Parliamentary Committee in each House of Parliament.

(6) The Parliamentary Committee in each House of Parliament shall, within fourteen days of receipt of the revised preliminary report, table the report in the respective House of Parliament together with its recommendations.

(7) The National Assembly and the Senate shall, within fourteen days of the tabling of the revised preliminary report, consider the report and forward their recommendations to the Commission.

(8) Within fourteen days of the expiry of the period provided for in sub-section

(7), the Commission shall upon receipt and consideration of the recommendations of the National Assembly and the Senate and representations from the public, prepare the final report for publication in the *Gazette*.

(9) Where the National Assembly or the Senate fails to make recommendations within the period specified in sub-section (7), the Commission shall publish its report in accordance with sub-section (8).

(10) A person who, being responsible for the publication in the *Gazette* of the final report submitted under this subsection fails to publish the report within the time required by the Commission after the report has been submitted to that person, commits an offence and is liable to imprisonment for a term of one year.

(11) Notwithstanding any other written law, where the final report is not published in accordance with the provisions of sub-section (9) the Commission shall, within seven days of the submission of the said report, cause the report to be published in at least two dailies of national circulation and such publication shall have effect as if it were done in the *Gazette*.

(12) Subject to this section, the provisions set out in the Fifth Schedule shall apply during the process of delimitation of electoral units.

8. The principal Act is amended by repealing section 36.

9. The First Schedule to the principal Act is amended —

(a) in paragraph 1 —

(i) by deleting the word “seven” appearing immediately after the words “consisting of” appearing in sub-paragraph (1) and substituting therefor the word “nine”;

Repeal of section
36 of Cap. 7C.

Amendment of
the First
Schedule to Cap.
7C.

- (ii) by deleting sub-paragraph (2) and substituting therefor the following new sub-paragraph—

“(2) The selection panel shall consist of—

- (a) two persons nominated by the Parliamentary Service Commission, representing the majority party or coalition of parties and the minority party or coalition of parties;
 - (b) three persons nominated by the Political Parties Liaison Committee of whom—
 - (i) one shall be from a party other than a parliamentary party or coalition of parties;
 - (ii) one shall be from the majority party or coalition of parties;
 - (iii) one shall be from the minority party or coalition of parties;
 - (c) one person nominated by the Law Society of Kenya;
 - (d) one person nominated by the Institute of Certified Public Accountants of Kenya; and
 - (e) two persons nominated by the Inter-religious Council of Kenya.”
- (iii) by inserting the following new sub-paragraphs immediately after sub-paragraph (2A)—

“(2B) The respective nominating bodies shall select the nominees for appointment through a competitive and transparent process.

(2C) In nominating, the persons under sub-paragraph (2)(a), (b) and (e), the respective nominating bodies shall ensure that not more than two-thirds of the nominees are of the same gender.”

- (iv) in sub-paragraph (3), by deleting the words “sub-paragraphs (2)(b) and (c)” and substituting therefor the words “sub-paragraphs (2)(b), (c), (d) and (e)”;
- (v) by inserting the following new subparagraph immediately after subparagraph (6)—

“(7) The Parliamentary Service Commission shall provide for and meet the expenditure of the selection panel.”

- (b) by deleting paragraph 6 and substituting therefor the following new paragraph—

“Dissolution of Selection Panel

6. (1) The selection panel shall finalize the recruitment exercise within ninety days of its appointment and forward the names of the nominees to the President and shall thereafter stand dissolved.

(2) Despite sub-paragraph (1), Parliament may, by resolution passed in both the National Assembly and the Senate, extend the tenure of the selection panel for a specified period.”

10. The Second Schedule to the principal Act is amended—

Amendment of
the Second
Schedule to
Cap. 7C.

- (a) by deleting paragraph 5 and substituting therefor the following new paragraph—

“5. The quorum for the conduct of business at a meeting of the Commission shall be at least five members of the Commission.”

- (b) by deleting paragraph 7 and substituting therefor the following new paragraph—

“(7) Unless a unanimous decision is reached, a decision on any matter before the Commission shall be by the concurrence of a majority of all the members of the Commission.”

11. The principal Act is amended by deleting the Fifth Schedule and substituting therefor the following new Schedule—

Repeal and replacement of the Fifth Schedule to Cap. 7C.

FIFTH SCHEDULE (s.24B(12))

PROCEDURES FOR THE DELIMITATION OF ELECTORAL UNITS

1. Notice of delimitation of electoral units

(1) Whenever it is necessary to review the names and boundaries of electoral units in accordance with Article 89(2) and (3) of the Constitution, the Commission shall notify the public of—

- (a) the intended review;
- (b) invite representations from interested parties; and
- (c) specify the period within which the Commission shall publish the preliminary report.

(2) A notice under sub-paragraph (1) shall be accompanied by a preliminary report containing the particulars set out under paragraph 2.

2. Preliminary report

The preliminary report shall contain the following particulars—

- (a) the proposed delimitation of boundaries for constituencies and wards including the actual proposed names of every constituency and ward; and
- (b) description of the proposed boundaries showing the specific geographical and demographical details relating to such delimitation including—
 - (i) the population quota for constituencies and wards;

- (ii) the number of inhabitants in every constituency and ward;
- (iii) a classification in relation to each electoral area indicating whether it is a city, a sparsely populated area or other area; and
- (iv) an indication of the proposed margin of change from the population quota.

3. Reference materials

(1) The Commission shall, use as its primary reference material—

- (a) the final report of the last Electoral and Boundaries Commission on the review of electoral units; and
- (b) the latest official population census report.

(2) The Commission may use as its secondary reference material—

- (a) the reports of County Boundary Review Panels; or
- (b) other relevant data.

(3) The County Boundary Review Panels shall conduct their business as the Commission may, by guidelines determine.

4. Ascertainment of the inhabitants of Kenya

(1) For purposes of determining the population quota, the Commission shall ascertain the number of the inhabitants of Kenya from the figures contained in the latest official national population census report.

(2) Despite sub-paragraph (1), the Commission shall, subject to the timelines set out under Article 89(2) of the Constitution, conduct the delimitation exercise after the national population census.

(3) The Kenya National Bureau of Statistics, shall, as soon as possible after the completion of every national census, submit a copy of the report in the prescribed format to the Commission.

5. Publicization of the preliminary report

(1) The Commission shall—

- (a) publicize the preliminary report in its website and in at least two newspapers of nationwide circulation;
- (b) invite the public to make representations on the proposals contained in the report; and
- (c) put in place administrative mechanisms for receiving representations from the public.

(2) The period set aside for receiving representations from the public on the proposals contained in the report under this paragraph shall be as determined by the Commission.

6. Public sensitization

(1) The Commission shall, upon notification of the public of the intended delimitation of boundaries under paragraph 1 of this Schedule, provide the framework for sensitization and participation of the public.

(2) The Commission may engage the media, avail equipment and prepare materials for effective public education and engagement.

7. Public hearings

(1) The Commission shall conduct boundaries review hearings in every county and may constitute constituencies and wards boundaries review panels in each county for the purposes of facilitating public hearings.

(2) Before engaging in the county boundaries review hearings, the Commission shall notify the public of date, time and place of such hearings.

(3) Representations to the Commission may be made orally or in writing.

(4) The proceedings of all boundary review public hearings shall be recorded, translated and transcribed.

8. Preparation of revised report

(1) Upon completion of the public hearings, the Commission shall review the proposed delimitation of boundaries and submit the report to Parliament.

(2) The revised report shall be based on the feedback received during the public consultative process, subject to the relevant provisions of the law.

9. Preparation and dissemination of maps

(1) The Commission shall prepare and publish maps in its website—

(a) for all the electoral units in accordance with the final boundary dissemination delimitation report;

(b) for the respective constituencies in every county; and

(c) for wards in every constituency.

(2) Despite sub-paragraph (1), the Commission shall provide physical copies of the maps to Parliament.

10. Review of the decisions of the Commission

(1) Pursuant to Article 89(10) of the Constitution, a person may apply to the High Court for review of a decision of the Commission on the delimitation of electoral boundaries.

(2) An application for the review under this paragraph shall be made within thirty days of the publication of the decision in the *Gazette* as required under Article 89(9) of the Constitution and shall be heard and determined within three months of the date on which it is filed.

11. Maintenance of records

The Commission shall ensure that all documents, materials, publications, reports and recommendations arising from the delimitation process are maintained in a form that is accessible and usable by members of the public.

12. Duty of certain officers to co-operate with the Commission

It shall be the duty of every state officer or public officer serving in the relevant government ministry, department or agency including the ministry for the time

being responsible for Interior and National Administration, Director of Surveys, Director-General of the Kenya National Bureau of Statistics and every other public officer whose services are required by the Commission for purposes of the delimitation of electoral units to provide the necessary information and technical support.

12. Upon the commencement of this Act—

Saving and transition.

- (a) the selection panel existing immediately before the commencement of this Act shall stand dissolved but—
 - (i) the members of that panel may be nominated to serve in any subsequent panel; and
 - (ii) nothing done by that panel for purposes of executing its functions shall, if done in good faith, render any member of that panel personally liable for any action, claim or demand;
- (b) the respective nominating bodies under paragraph 1(2)(b), (c), (d) and (e) of the First Schedule to the principal Act shall within fourteen days from the date of commencement of this Act submit the names of their nominees to the Parliamentary Service Commission for transmission to the President for appointment to the selection panel under the Act;
- (c) the President shall, within seven days of receipt of the names of the nominees under paragraph 1(2) of the First Schedule to the principal Act from the Parliamentary Service Commission, appoint a selection panel for the purpose of appointment of the chairperson and members of the Commission; and
- (d) a person holding the office of the secretary of the Independent Electoral and Boundaries Commission shall continue in office for the remainder of the unexpired period of their term.

