

SPECIAL ISSUE

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KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2019

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**THE CONSTITUTION OF KENYA (AMENDMENT)
BILL, 2019**

A Bill for

AN ACT of Parliament to amend the Constitution of Kenya.

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Constitution of Kenya (Amendment) Act, 2019.

Short title.

2. Article 89 of the Constitution is amended by inserting the following new clauses immediately after clause (8)-

Amendment of Article 89 of the Constitution.

(8A) The Commission shall prepare and submit to Parliament a report containing details of proposed alteration to the –

- (a) names or boundaries of constituencies; and
- (b) number, names or boundaries of wards.

(8B) Parliament shall within thirty days of receipt of the report under clause (8A) consider the report and make its recommendations to the Commission.

(8C) The Commission shall, within fourteen days of receipt of recommendations under clause (8B) prepare and submit to Parliament the final report for approval.

(8D) The Commission shall publish in the *Gazette*, the final report as approved by Parliament within seven days of approval.

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to amend the Constitution to make it mandatory for the Independent Electoral and Boundaries Commission to submit a Report to Parliament, containing details of proposed alterations to names and boundaries of constituencies and wards.

Parliament then has thirty days to make recommendations on the report of the Independent Electoral and Boundaries Commission containing details of proposed alteration to names or boundaries of constituencies and wards.

Dated the 20th November, 2018.

KIPCHUMBA MURKOMEN,
Senator.

Article 89 that the Bill proposes to amend-

89. Delimitation of electoral units

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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