

C. Mwangi
17/10/01

REPUBLIC OF KENYA
NATIONAL ASSEMBLY

LEGAL NOTICE NO.....

THE TREATY FOR THE ESTABLISHMENT OF THE EAST AFRICAN
COMMUNITY (ELECTION OF MEMBERS OF THE ASSEMBLY) DRAFT RULES,
2001

THE TREATY FOR THE ESTABLISHMENT OF THE EAST AFRICAN
COMMUNITY (NO.2 OF 2000)

IN EXERCISE of the powers conferred by Article 50(1) of the Treaty for the
Establishment of the East African Community Act, the National Assembly makes the
following Rules:-

Citation

1. These Rules may be cited as the Treaty for the Establishment of
the East African Community (Election of Members of the Assembly)
Rules, 2001.

Interpretation

1. In these Rules, all the parliamentary words and expressions used
shall have the same meaning which is assigned to them in the
Standing Orders of the National Assembly, and unless the context
otherwise requires:-

"candidate" means a person who is nominated to stand for election
to the East African Legislative Assembly;

"counting agent" means a counting agent appointed under Rule 10(1)
of these Rules;

"election" means an election to the East African Legislative
Assembly;

"nomination" means nomination as a candidate to stand for election
to the East African Legislative Assembly.

"party" means a parliamentary political party represented in the
National Assembly;

"returning officer" means the Clerk of the National Assembly;

"voter" means a Member of Parliament present and voting during an
election.

PART I: QUALIFICATION OF CANDIDATES

Qualification

3(1) The National Assembly shall elect nine members of the East African Legislative Assembly required to be elected under Article 50(1) of the Treaty from candidates nominated by a party or parties.

(2) For the avoidance of doubt, the number of candidates a party or parties shall be entitled to nominate for election under (1) shall be arrived at by multiplying the number of elected members of the National Assembly of the party or parties by six and dividing the result by the total number of elected members of the National Assembly.

Provided that all parliamentary parties whose individual members do not individually qualify them to nominate candidates shall have their members added up and collectively allocated a slot or slots, as the case may, be under this formula.

(3) No person shall be qualified to be a candidate for election to the East African Legislative Assembly unless he is qualified to be so elected in accordance with Article 50(2) of the Treaty.

PART II: NOMINATION OF CANDIDATES

Nomination Procedure

4(1) For the purpose of election of Members of the East African Legislative Assembly, the Returning Officer shall by notice in the Gazette, notify the general public that the election is to be held and invite all interested and qualified persons to apply, within a period of not more than seven days, for nomination.

(2) The Returning Officer shall, by notice in the Gazette, appoint a Nomination Day at Parliament Buildings, which shall not be more than fourteen days from the expiry of the period prescribed under (1).

5(1) In order to be validly nominated as a candidate for an election, a person shall be nominated by a political party or parties under the Treaty, to represent various parliamentary political parties, shades of opinion, gender and other special interest groups.

(2) A party which is entitled to nominate candidates shall submit to the Returning Officer the names of three candidates, at least one of whom shall be a woman and ~~and~~ a person with disability, in respect of each seat allocated to that party or parties.

(3) The nomination shall be in the prescribed *Nomination Form*, signed by the candidate and the Secretary General of the party or parties nominating him.

(4) Every Nomination Form shall be accompanied and contain the following particulars:-

(a) name, address, educational and professional qualifications and occupation of the candidate;

(b) certificate by the candidate confirming his qualification and willingness to stand for the election;

(c) proof of citizenship of the Republic of Kenya;

(d) curriculum vitae, signed by the candidate, relating to the candidate's experience in public affairs and interest in promoting the aims and objectives of the East African Community in accordance with Article 50(2)(e) of the Treaty.

6(1) A candidate or an official of the nominating party or parties shall deliver the Nomination Form of the candidate to the Returning Officer at Parliament Buildings not later than four o'clock in the afternoon of the Nomination Day.

(2) Every party or parties nominating a candidate or candidates shall submit to the Returning Officer the names of three candidates, at least one of whom shall be a woman and one a person with disability, in respect of each of the nine seats.

(3) A candidate or an official of the nominating party or parties shall, at the time of delivering the Nomination Form, pay a non-refundable deposit of Five Thousand Kenya Shillings.

7(1) The Returning Officer, if it is apparent to him from the contents of the Nomination Form that the candidate is not qualified to stand for election, shall forthwith reject the Nomination Form of the candidate.

(2) The names of the candidates validly nominated shall be published in the Gazette.

PART III: ELECTION PROCEDURE AND VOTING

Election campaign,
Death or
Withdrawal of
candidate

8(1) The Returning Officer shall, by notice published in the Gazette, appoint an Election Day, which shall not be more than seven days and not less than three days after Nomination Day.

(2) A candidate may, not later than four o'clock in the afternoon of the day following the Nomination Day, withdraw his candidature by notice in writing signed and delivered by him to the Returning Officer with a copy to the nominating party or parties.

SCHEDULE

(rule 5(3))

NOMINATION FORM FOR ELECTION OF A MEMBER OF THE EAST
AFRICAN LEGISLATIVE ASSEMBLY

Election of a member of the East African Legislative Assembly to be held on the
..... day of 2001 in the Chamber of the National
Assembly.

I, the undersigned, being a candidate or an official of a nominating party or parties shown
below, hereby verify and submit my nomination or the nomination of the person
undermentioned as a candidate for election to the East African Legislative Assembly.

Full names of candidate	Occupation or Description	Party or Parties

Full names of candidate

Address

.....

Signature

Full names of official of nominating party or parties

Address

.....

Signature

Amendment

15. These Rules shall supercede the Draft Rules laid on the Table of the House on 17th July, 2001, and may be amended from time to time by resolution of the National Assembly.

Dated, 2001

Samuel W. Ndindiri
Clerk of the National Assembly

Counting of votes 10(1) Immediately after the Ballot Papers have been collected, the Speaker shall appoint two Counting Agents, one from each side of the House, to act as Counting Agents for all the candidates.

(2) When all the voters have cast their votes, the Returning Officer shall, with the assistance of the Clerk Assistants, count the votes cast.

Declaration of results 11. When the votes have been counted and the results of the election have been ascertained, the Returning Officer shall:-

(a) report to the National Assembly the results of the election together with the total number of votes cast for each candidate in each group and the spoilt Ballot Papers.

(b) announce to the National Assembly the names of the nine persons with the majority number of votes and declare those persons elected as Members of the East African Legislative Assembly.

Custody of documents 12(1) The Returning Officer shall ensure the safe custody of all the Ballot Papers and other documents relating and pertaining to the conduct of the election.

(2) The Returning Officer shall cause all documents to which this rule applies to be destroyed after the expiration of six months from the Election Day.

PART IV: PETITION AND VOIDANCE OF ELECTION

Petition and Voidance of election 13(1) Pursuant to the provisions of Article 50 of the Treaty, the election of a Member of the East African Legislative Assembly may be declared void only upon an Election Petition.

Cap 7 (2) The procedure, jurisdiction and grounds for declaring void the election of a Member of the East African Legislative Assembly shall be the same as those provided under the National Assembly and Presidential Elections Act, Chapter 7 of the Laws of Kenya, for election petitions in respect of Members of the National Assembly.

PART V: MISCELLANEOUS PROVISIONS

Matters not provided for 14. If any matter arises which is not specifically provided for in these Rules, the Speaker in consultation with Departmental Committee on Defence and Foreign Relations shall make a ruling directing what is to be done, and in making such a ruling, the Speaker shall be guided by the practice and procedures normally followed in similar jurisdictions with regard to parliamentary elections.

(3) No withdrawal of a candidate shall be accepted after the expiry of the period prescribed under (2).

(4) Where any candidate dies after four o'clock in the afternoon of the Nomination Day, and before the Election Day, the election shall continue and shall not be affected by such death.

(5) A candidate may introduce himself to the voters individually or in groups and seek their support before the Nomination Day, and may continue to do so after the Nomination Day.

(6) Before Election Day, each candidate shall appear before the Members of the National Assembly assembled in an extra-ordinary meeting convened by the Speaker in the Old Chamber and address the Members in English or Kiswahili for such length of time and answer such questions as the Speaker may determine.

Cap 66 (7) For the purpose of the election campaign, the provisions of the Election Offences Act, Chapter 66 of the Laws of Kenya, shall, **mutatis mutandis**, apply to the election of members to the East African Legislative Assembly.

Voting

9(1) The voting shall be conducted by the Returning Officer, under the general supervision of the Speaker, in the Old Chamber of the Assembly.

(2) The Returning Officer shall issue only one Ballot Paper to each voter.

(3) The Ballot Paper shall contain all the names of the candidates, arranged in alphabetical order as follows:-

Group A: candidates representing various parliamentary political parties and shades of opinion;

Group B: candidates representing gender;

Group C: candidates representing special interest groups.

(4) A voter shall be required to cast a specified number of votes to be determined by the Speaker, in each of the specified groups.

(5) Each voter shall mark and cast his vote in secret against the names of the nine candidates of his choice.

(6) A voter, who has accidentally spoiled his Ballot Paper while the voting is still in progress, may surrender the spoilt Ballot to the Returning Officer and obtain a replacement thereof.