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The Constitution of Kenya Review Act

CHAPTER 3A

**CHAPTER 3A****THE CONSTITUTION OF KENYA REVIEW ACT****ARRANGEMENT OF SECTIONS****PART I—PRELIMINARY***Section*

- 1— Short title.
- 2— Interpretation.
- 3— Object and purpose of constitutional review.
- 4— Organs of review.
- 5— Guiding principles.

**PART II—ESTABLISHMENT AND COMPOSITION  
OF COMMISSION**

- 6— Establishment and membership of the Commission.
- 7— Procedure for appointing commissioners.
- 8— Qualifications and disqualifications for appointment as commissioner
- 9— Chairperson and vice-chairperson.
- 10— Establishment of Parliamentary Select Committee.
- 11— The Secretariat.
- 12— Staff of the Commission, experts and consultants.
- 13— Oaths of office and affirmations.
- 14— Code of conduct.
- 15— Tenure of office of commissioners and secretary.
- 16— Disqualification of commissioners for election.

**PART III—FUNCTIONS, POWERS AND PRIVILEGES OF  
THE COMMISSION AND COMMISSIONERS**

- 17— Functions of the Commission.
- 18— Powers of the Commission.
- 19— Committees of the Commission.
- 20— Constituency Constitutional Forums.
- 21— Procedure.

## ARRANGEMENT OF SECTIONS—(Contd.)

- 22—Publication of Commission's records.
- 23—Documentation centres.
- 24—Civic Education.
- 25—Privileges of commissioners and secretary during office and other immunities.

**PART IV—REPORT OF COMMISSION AND ACTION THEREON**

- 26—Completion of work, report and action thereon.
- 27—National Discussion of Commission's Report
- 28—Introduction of Commission's Report to National Assembly.

**PART V—EXPENSES OF THE REVIEW PROCESS**

- 29—Funds for expenses of the review process.
- 30—Constitution of Kenya Review Fund.
- 31—Accounts and audit.

**PART VI—DISSOLUTION OF ORGANS OF REVIEW  
AND FINAL PROVISIONS**

- 32—Dissolution of the organs of review and repeal of Act.
- 33—Regulations.

FIRST SCHEDULE - Oath and affirmations.

SECOND SCHEDULE - Code of conduct for the members and staff of the Commission.

## CHAPTER 3A

## THE CONSTITUTION OF KENYA REVIEW ACT

13 of 1997

6 of 1998

5 of 2000

*Commencement: 25th January, 1999*

**An Act of Parliament to facilitate the review of the Constitution by the people of Kenya and its alteration by Parliament; to provide for the establishment, powers and functions of the Commission and the National Conference and for connected purposes**

**ENACTED** by the Parliament of Kenya as follows:-

## PART I—PRELIMINARY

Short title.

1. This Act may be cited as the Constitution of Kenya Review Act.

Interpretation.

6 of 1998

5 of 2000

2. In this Act, unless the context otherwise requires -

“Commission” means the Constitution of Kenya Review Commission established under section 6;

“Commissioner” means a Commissioner appointed under this Act;

11 of 1998.

“Communications Commission of Kenya” means the Communications Commission of Kenya established by the Kenya Communications Act, 1998;

“Constituency Constitutional Forum” means a forum within the meaning of section 20;

“the Constitution” means the Constitution of Kenya;

“Kenya Broadcasting Corporation” means the Kenya Broadcasting Corporation established under the Kenya Broadcasting Corporation Act;

Cap. 221.

“Kenya National Library Services Board” means the Board established under the Kenya Library Services Board Act;

Cap. 225

“National Conference” means the National Constitutional Conference referred to in section 27(1)(c);

“secretary” means the secretary appointed under section 11.

3. The object and purpose of the review and eventual alteration of the Constitution is to secure provisions therein –

Object and purpose of constitutional review.

(a) guaranteeing peace, national unity and integrity of the Republic of Kenya in order to safeguard the well-being of the people of Kenya;

6 of 1998.

(b) establishing a free and democratic system of Government that enshrines good governance, constitutionalism, the rule of law, human rights and gender equity;

(c) recognising and demarcating divisions of responsibility among the state organs of the executive, the legislature, and the judiciary so as to create checks and balances between them and to ensure accountability of the Government and its officers to the people of Kenya;

- (d) promoting the peoples' participation in the governance of the country through democratic, free and fair elections and the devolution and exercise of power;
- (e) respecting ethnic and regional diversity and communal rights including the right of communities to organise and participate in cultural activities and the expression of their identities;
- (f) ensuring the provision of basic needs of all Kenyans through the establishment of an equitable frame-work for economic growth and equitable access to national resources; and
- (g) promoting and facilitating regional and international co-operation to ensure economic development, peace and stability and to support democracy and human rights.

Organs of  
review.  
6 of 1998.  
5 of 2000.

4.(1) The organs through which the review process shall be conducted shall be -

- (a) the Commission; and
- (b) the National Conference.

(2) The organs specified in subsection (1) shall not be dissolved except in accordance with section 32.

Guiding  
principles.  
6 of 1998.

5. In the exercise of the powers or the performance of the functions conferred by this Act, the organs specified in section 4 shall -

- (a) be accountable to the people of Kenya;
- (b) ensure that the review process-

- (i) accommodates the diversity of the Kenyan people including socio-economic status, race, ethnicity, gender, religious faith, age, occupation, learning, persons with disabilities and the disadvantaged;
  - (ii) provides the people of Kenya an opportunity to actively, freely and meaningfully participate in generating and debating proposals to alter the Constitution;
  - (iii) is, subject to this Act, conducted in an open manner;
  - (iv) is guided by respect for the universal principles of basic human rights, gender equity and democracy; and
- (c) ensure that the final outcome of the review process faithfully reflects the wishes of the people of Kenya.

## PART II - ESTABLISHMENT AND COMPOSITION OF COMMISSION

6.(1) There is established a Commission to be known as the Constitution of Kenya Review Commission.

Establishment and membership of the Commission.  
6 of 1998.

(2) The Commission shall consist of-

- (a) the chairperson appointed from amongst the commissioners in accordance with section 9;

5 of 2000.

(b) fifteen commissioners nominated by the National Assembly and appointed by the President in accordance with section 7;

(c) the Attorney-General or his representative who shall be an *ex officio* commissioner.

(3) In nominating persons for appointment as commissioners, the National Assembly shall have regard to -

(a) Kenya's ethnic, geographical, cultural, political, social and economic diversity; and

(b) the principle of gender equity.

Procedure for  
appointing  
commissioners.  
6 of 1998.  
5 of 2000.

7.(1) The National Assembly shall, within seven days of the commencement of this section, by advertisement in the Gazette and in at least three daily newspapers of national circulation, invite applications from persons qualified under this Act for nomination as commissioners.

(2) An application under subsection (1) shall be forwarded to the National Assembly within fourteen days of the advertisement and may be made -

(a) by any qualified person; or

(b) by any person, organisation or group of persons proposing the nomination of any qualified person.

(3) The National Assembly shall, within fourteen days of the expiry of the period prescribed in subsection

(2), consider the applications received pursuant to that subsection and shall nominate -

(a) fifteen persons for appointment as commissioners, and

(b) eight persons for appointment as alternate commissioners.

(4) In considering the applications under this section, the National Assembly shall consult widely.

(5) The National Assembly shall submit the list of nominees under subsection (3) to the Attorney-General for onward transmission to the President.

(6) The Attorney-General shall forthwith submit the list of the nominees received under sub-section (5) to the President.

(7) The President shall, upon receipt of the names forwarded under subsection (6), notify the appointment of the fifteen persons nominated under subsection (3) (a) as commissioners.

8.(1) Subject to subsection (3), of the fifteen commissioners referred to in section 6 -

Qualifications and disqualifications for appointment as commissioners.

(a) seven shall have knowledge and at least five years' experience in matters relating to constitutional law; and

6 of 1998.  
5 of 2000.

(b) eight shall have knowledge and experience in public affairs:

Provided that -

- (i) the persons qualified in terms of paragraph (b) shall comprise one person from each province;
- (ii) the total membership of the Commission shall not comprise more than two persons from any one province; and
- (iii) at least three members of the Commission shall be women.

(2) Subject to subsection (3), the eight alternate commissioners referred to in subsection (3) (b) of section 7 shall -

- (a) comprise one person from each province; and
- (b) hold the academic or professional qualifications specified in paragraph (a) or (b) of subsection (1) of this section.

(3) Notwithstanding the provisions of subsections (1) and (2), no person shall be qualified for appointment as a commissioner or an alternate commissioner -

- (a) unless such person -
  - (i) is of sound mind; and
  - (ii) is of good character and integrity; or
- (b) if such person is an undischarged bankrupt.

Chairperson  
and vice-  
chairperson.

6 of 1998.  
5 of 2000.

9.(1) There shall be a chairperson of the Commission who shall be appointed by the President from amongst the names submitted to him under subsection (3) (a) of section 7.

(2) There shall be a vice-chairperson of the Commission who shall be elected by the commissioners from amongst their number.

(3) The chairperson shall, within fifteen days of the appointment of the commissioners, convene the first meeting of the Commission at which the commissioners shall elect a vice-chairperson of the Commission.

10.(1) The National Assembly shall, in accordance with its Standing Orders, establish a Select Committee consisting of not less than five, and not more than twenty-seven members.

Establishment of  
Parliamentary  
Select  
Committee, etc.  
5 of 2000.

(2) In determining the membership of the Select Committee, the National Assembly shall ensure proportionate representation of the parliamentary political parties.

(3) The functions of the Select Committee shall be –

(a) to recommend to the National Assembly suitably qualified persons for appointment under sections 7, 11 (1) and 15 (5); and

(b) to perform such other functions as the National Assembly may, by resolution, assign.

(4) The National Assembly may, in accordance with its Standing Orders, establish such machinery for resolving any disputes arising in the course of the review process as it may deem appropriate.

11.(1) There shall be a secretary to the Commission who shall be appointed by the President from two persons nominated by the National Assembly.

The Secretariat.  
5 of 2000.

(2) The secretary shall serve on a full-time basis and shall be an *ex-officio* member of the Commission.

(3) There shall be at least three deputy secretaries appointed by the Commission to assist the secretary in administration, research and drafting and other duties or functions of the Commission.

Staff of the  
Commission,  
experts and  
consultants.  
6 of 1998.  
5 of 2000.

12.(1) The staff of the Commission shall comprise –

(a) such officers and other staff as the Commission may appoint to assist it in the discharge of its functions under this Act; and

(b) such public officers as may be necessary for the purposes of the Commission as may, upon the request of the Commission, be seconded thereto by the Public Service Commission, the Parliamentary Service Commission, the Judicial Service Commission or the Teachers' Service Commission, as the case may be and such public officers shall, during their secondment, be deemed to be officers of the Commission and subject to the direction and control of the Commission.

(2) The Commission may employ experts or consultants to assist the Commission as appropriate and necessary under this Act.

Oaths of office  
and  
affirmations.  
6 of 1998.  
5 of 2000.

13.(1) A commissioner, the secretary and the deputy secretaries appointed under this Act shall, according to their religious or other beliefs –

(a) make and subscribe to the oath prescribed in the First Schedule; or

- (b) make the solemn affirmation in the form prescribed in the First Schedule

before the Chief Justice, prior to embarking on the duties of the Commission.

- (2) Every oath and affirmation made and subscribed to under this section shall be deposited with the secretary and with the Chief Justice.

14.(1) For the better discharge of the functions of the Commission and the Secretariat of the Commission under this Act, the code of conduct prescribed in the Second Schedule shall apply.

Code of  
conduct.  
6 of 1998.  
5 of 2000.

(2) A person who breaches the provisions of the code of conduct shall -

- (a) in the case of a commissioner or the secretary, subject to the provisions of section 15, be disqualified from holding office as such; and

- (b) in the case of a member of staff of the Commission, be liable to such disciplinary action as the Commission may prescribe.

15.(1) The term of office of a commissioner (other than the *ex officio* commissioner under section 6(2) (c)) or the secretary shall be from the date of appointment under section 7 or 11 respectively and shall, unless the commissioner or the secretary resigns under subsection (2) or the office falls vacant earlier owing to any reason specified in subsection (4), terminate on the date of the repeal of this Act under section 32, subject to the provisions of that section as to the winding up of the financial and administrative affairs of the Commission.

Tenure of office  
of commissioners  
and secretary.  
6 of 1998.  
5 of 2000.

(2) A commissioner or the secretary may, at any time after appointment, resign, by notice in writing to the President through the chairperson of the Commission and the resignation shall take effect from the date the President receives the notice.

(3) The President shall notify every resignation in the Gazette within fifteen days thereof.

(4) The office of a commissioner or the secretary shall fall vacant if the person -

(a) dies; or

(b) resigns from office; or

(c) is adjudged bankrupt; or

(d) is convicted of an offence and sentenced to imprisonment for a term of six months or more without the option of a fine; or

(e) is in breach of the code of conduct prescribed under section 14; or

(f) without reasonable excuse, fails to attend three consecutive meetings of the Commission; or

(g) is by reason of physical or mental infirmity, unable to discharge his duties as a commissioner or as the secretary; or

(h) is for any other reason, unable or unwilling to act as a commissioner or as the secretary,

and in any case to which paragraphs (e), (f), (g) and (h) apply, the breach, failure, inability or unwillingness is noted by the Commission in its records and supported by a resolution of two-thirds majority of the members and the person is informed of the termination of the appointment in writing through the secretary, or where the affected person is the secretary, through the chairperson.

(5) Where any vacancy occurs on the Commission under this section, the Commission shall, within seven days of the occurrence, notify the President of the vacancy through the chairperson and in the case of a vacancy in the office of the chairperson, through the vice-chairperson.

(6) The President shall, within seven days of the notification under subsection (4), appoint the alternate commissioner holding the same qualifications and from the same province as the Commissioner in respect of whom the vacancy has arisen:

Provided that where there is no suitably qualified replacement, the President shall seek the nomination of a suitable replacement by the National Assembly.

(7) The Commission may, subject to its rules of procedure, act notwithstanding a vacancy and its proceedings shall not be invalid by reason of the presence or participation of a person not entitled to be present at or to participate in those proceedings.

16. The office of a commissioner shall be deemed to be an office for the purposes of subsection (1) (f) of section 35 of the Constitution.

Disqualification  
of commissioners.  
for election.  
6 of 1998.

### PART III – FUNCTIONS, POWERS AND PRIVILEGES OF THE COMMISSION AND COMMISSIONERS

Functions of  
the Commission.  
6 of 1998.  
5 of 2000.

17. The functions of the Commission shall be-

- (a) to conduct and facilitate civic education in order to stimulate public discussions and awareness on constitutional issues;
- (b) to collect and collate the views of the people of Kenya on proposals to alter the Constitution and on the basis thereof, to draft a Bill to alter the Constitution for presentation to the National Assembly;
- (c) to carry out or cause to be carried out such studies, researches and evaluations concerning the Constitution and other constitutions and constitutional systems as, in the Commission's opinion, may inform the Commission and the people of Kenya on the state of the Constitution of Kenya; and
- (d) without prejudice to paragraphs (b) and (c), to ensure that in reviewing the Constitution, the people of Kenya -
  - (i) examine and recommend the composition and functions of the organs of state, to wit, the executive, the legislature and the judiciary and their operations aiming to maximise their mutual checks and balances and secure their independence;

- (ii) examine the federal and unitary systems of government and recommend an appropriate system for Kenya;
- (iii) examine and recommend improvements to the existing constitutional commissions, institutions and offices and the establishment of additional ones to facilitate constitutional governance and the respect for human rights and gender equity in Kenya as an indispensable and integral part of the enabling environment for economic, social, religious, political and cultural development;
- (iv) examine and recommend improvements to the electoral system of Kenya;
- (v) without prejudice to subparagraph (i), examine and make recommendations on the judiciary generally and in particular, the establishment and jurisdiction of the courts, aiming at measures necessary to ensure the competence, accountability, efficiency, discipline and independence of the judiciary;
- (vi) examine and review the place of local government in the constitutional organisation of the Republic of Kenya and the degree of

the devolution of powers to local authorities;

- (vii) examine and review the place of property and land rights, including private, Government and Trust land in the constitutional frame-work and the law of Kenya and recommend improvements that will secure the fullest enjoyment of land and other property rights;
- (viii) examine and review the management and use of public finances and recommend improvements thereto;
- (ix) examine and review the right to citizenship and recommend improvements that will, in particular, ensure gender parity in the conferment of the right;
- (x) examine and review the socio-cultural obstacles that promote various forms of discrimination and recommend improvements to secure equal rights for all;
- (xi) examine and review the rights of the child and recommend mechanisms that will guarantee protection thereof;
- (xii) examine and review succession to office and recommend a suitable system for the smooth and dignified

transfer of power after an election or otherwise;

- (xiii) examine and recommend on the treaty-making and treaty-implementation powers of the Republic and any other relevant matter to strengthen good governance and the observance of Kenya's obligations under international law;
- (xiv) examine and make recommendations on the necessity of directive principles of state policies;
- (xv) examine and make recommendations on any other matter which is connected with or incidental to the foregoing and achieves the overall objective of the constitutional review process;
- (xvi) establish and uphold the principle of public accountability by holders of public or political offices.

**18.(1)** The Commission shall have all powers necessary for the execution of its functions under this Act, and, without prejudice to the generality of the foregoing, the Commission –

Powers of the Commission.  
6 of 1998.  
5 of 2000.

- (a) shall, without let or hindrance, receive memoranda, hold public or private hearings throughout Kenya and in any other manner collect and collate the views and opinions of Kenyans, whether resident in or outside Kenya,

and for that purpose the Commission may summon public meetings of the inhabitants of any area for the discussion of any matter relevant to the functions of the Commission;

(b) may summon any person to appear in person before it or before a committee or to produce any document or thing or information that may be considered relevant to the functions of the Commission.

(2) A person who, without lawful cause, fails to appear before the Commission pursuant to any summons by the Commission under subsection (1) (b) commits an offence and shall be liable on conviction to a fine not exceeding ten thousand shillings, or to imprisonment for a term not exceeding three months, or to both.

Committees of  
the Commission.  
6 of 1998.  
5 of 2000.

19.(1) The Commission may establish such committees of the Commission as it may deem necessary for the better carrying out of its functions under this Act.

(2) A meeting of any committee established under subsection (1) shall be deemed to be a meeting of the Commission.

Constituency  
Constitutional  
Forums.  
6 of 1998.  
5 of 2000.

20.(1) The Commission shall, in the performance of its functions under this Act, visit every constituency in Kenya and therein facilitate forums for the collection and collation of the views of the members of the public on proposals to alter the Constitution.

Cap.7

(2) In subsection (1), the word "constituency" has the meaning assigned to it in section 2 of the National Assembly and Presidential Elections Act.

21.(1) Subject to this section, the Commission shall regulate its own procedure and that of its committees. Procedure.  
6 of 1998.  
5 of 2000.

(2) Subject to subsection (3), the Commission shall hold such number of meetings in such places, at such times and in such manner as the Commission shall consider necessary for the discharge of its functions under this Act.

(3) Notwithstanding the provisions of subsection (2), any meeting of the Commission for the collection of the views of the public shall be held in public except on the written request of any person being heard that the hearing be private.

(4) The chairperson shall -

- (a) preside over all meetings of the Commission, and in the absence of the chairperson for any cause, the vice-chairperson shall preside;
- (b) be the spokesperson for the Commission and in the absence of the chairperson, the vice-chairperson shall be the spokesperson;
- (c) supervise and direct the work of the Commission:

Provided that in the absence of both the chairperson and the vice-chairperson for any cause, the commissioners present shall elect one of their number to perform the functions under this subsection during such absence.

(5) The quorum of the Commission and of any of its committees shall be one half of the members.

(6) All questions before the Commission or a committee thereof shall be determined by consensus, but in the absence of unanimity, decisions of the Commission shall be carried by a simple majority of the members present and voting.

(7) The secretary shall be responsible for -

- (a) the day to day administration of the affairs of the Commission;
- (b) the co-ordination of the Commission's studies, research and evaluations;
- (c) the recording of the proceedings; and
- (d) custody of all records and documents of the Commission.

Publication of  
Commission's  
records.  
6 of 1998.  
5 of 2000.

**22.**(1) Subject to subsection (3) of section 21, the Commission shall avail the record of the proceedings of every meeting of the Commission through -

- (a) the documentation centres established under section 23;
- (b) the libraries provided by the Kenya National Library Services Board throughout the country; and
- (c) through the print and the electronic media.

(2) The Commission shall, for the purposes of subsection (1)(c), consult with the Communications Commission of Kenya in order to secure the -

- (a) allocation of air-time for purposes of disseminating the report of the Commission through the electronic media; and
- (b) provision of a sign language inset or subtitles in all television programmes aired for purposes of paragraph (a), all newscasts, civic educational programmes and in all other programmes covering the constitutional review process.

23. (1) Notwithstanding the provisions of any other written law, the county council of every district shall facilitate the establishment by the Commission of a documentation centre in the district for the preservation and dissemination to the public of the records of the deliberations and proceedings of the Commission and such other information as the Commission may direct.

Documentation  
centres.  
6 of 1998.

(2) Any person may, during working hours, inspect at the documentation centre, any of the records preserved therein and may obtain copies thereof upon payment of such fee as the Commission may prescribe.

24.(1) The Commission shall, during the entire period of its work, conduct and facilitate civic education in order to stimulate public discussions and awareness of constitutional issues.

Civic Education.  
5 of 2000.

(2) In the performance of its functions under subsection (1), the Commission shall license all persons or groups of persons providing civic education for purposes of the constitutional review process, subject to such terms and conditions as it may prescribe.

Privileges of  
commissioners  
and secretary  
during office  
and other  
immunities.

25.(1) A commissioner or the secretary shall not be liable to any civil action or suit for or in respect of any matter or thing done or omitted to be done in good faith as a commissioner or as the secretary.

(2) No commissioner or secretary shall be liable to arrest under civil process while proceeding to, participating in, or returning from any meeting of the Commission or of any committee thereof.

(3) No person who appears before the Commission shall, whether such appearance is in pursuance of any summons by the Commission under this Act or not, be liable to any criminal or civil proceedings, or to any penalty or forfeiture whatsoever in respect of any evidence or information given to the Commission by such person.

#### PART IV – REPORT OF THE COMMISSION AND ACTION THEREON

Completion of  
work, report  
and action  
thereon.  
6 of 1998.  
5 of 2000.

26.(1) The Commission shall complete its work within a period of twenty-four months from the date of the commencement of this section:

Provided that where the Commission considers this period inadequate, it may, at least twelve months after the commencement of its work, request an extension of the period by the National Assembly.

(2) The National Assembly may, upon a request under subsection (1), by resolution, extend the period prescribed in that subsection by such period as it may deem appropriate.

(3) Subject to subsection (4), where an extension of time is granted to the Commission under this section,

the Commission shall proceed expeditiously with its work in accordance with the provisions of this Act.

(4) Notwithstanding the grant of any extension of time under this section, the Commission may, where circumstances demand, recommend such minimum amendments to the Constitution or to any other law as may be necessary towards the fulfilment of any of the objects of the review process, which shall be considered by the National Assembly in the usual way.

(6) The Commission shall, upon completion of its work, compile its report together with a summary of its recommendations and on the basis thereof, draft a Bill to alter the Constitution.

27.(1) The Commission shall -

(a) upon compilation of its report and the draft Bill referred to in section 26, publish the same for the information of the public in the manner specified in section 22 for a period of sixty days;

(b) upon the expiry of the period specified in paragraph (a), facilitate public discussion on the content thereof by holding public hearings in all provinces in the country, and shall, in addition, invite and receive memoranda;

(c) upon the completion of the public hearings provided for in paragraph (b), convene a National Constitutional Conference for

National  
discussion of  
Commission's  
report.  
5 of 2000.

discussion and adoption of its report and draft Bill.

(2) The National Constitutional Conference shall consist of -

- (a) the commissioners;
- (b) all members of the National Assembly;
- (c) three representatives of each local authority in Kenya nominated by the local authority concerned, of whom at least one shall be a woman:

Provided that -

- (i) Nairobi City Council shall have eight representatives at least two of whom shall be women;
  - (ii) Mombasa Municipal Council shall have four representatives at least one of whom shall be a woman; and
  - (iii) each town council shall have one representative;
- (d) such number of representatives of religious organisations, professional bodies, women's organisations, Non-Governmental Organisations and such other interest groups as the Commission may determine:

Provided that the members under this paragraph shall not exceed fifteen percent of the total membership of the National Conference under paragraphs (a), (b) and (c).

(3) All questions before the National Conference shall be determined by consensus, but in the absence of unanimity, such decisions shall be carried by a simple majority of the members present.

28.(1) The Commission shall consider the report and the draft Bill as adopted by the National Conference pursuant to section 27 and on the basis thereof, finalise its report and the draft Bill and either -

- (a) submit the report and the draft Bill to the Attorney-General for introduction to the National Assembly; or
- (b) in consultation with the Electoral Commission of Kenya, refer the draft Bill to a decision of the people of Kenya and seek their approval of the draft Bill in a national referendum.

(2) A national referendum under subsection (1)(b) shall be held within two months of the National Conference.

(3) Where the people in a referendum under subsection (1) (b) approve the draft Bill, the Commission shall submit the report together with the draft Bill to the Attorney-General for introduction to the National Assembly.

(4) The Attorney-General shall, upon receipt of the report and the draft Bill under subsection (1) or (3), table

Introduction of  
Commission's  
Report to the  
National  
Assembly.  
5 of 2000.

it before the National Assembly within thirty days of the day the Assembly next sits after the report is received.

## PART V - EXPENSES OF THE REVIEW PROCESS

Funds for  
expenses of  
the review  
process.

6 of 1998.  
5 of 2000.

**29.(1)** The expenses of the constitutional review process incurred by the Commission and the National Conference in accordance with this Act shall be charged on and issued out of the Consolidated Fund without further appropriation than this Act.

(2) Without prejudice to subsection (1), there may be made to the organs specified in subsection (1), through the Permanent Secretary to the Treasury, grants, gifts, donations or bequests towards the achievement of the objects of the review process specified in section 3:

Provided that no grant, gift, donation or bequest shall be made on any condition that the said organs perform any function or discharge any duty or obligation other than duties under this Act aimed at achieving the objects of the constitutional review process.

Constitution of  
Kenya Review  
Fund.

6 of 1998.  
5 of 2000.

**30.(1)** There is established a Fund to be known as the Constitution of Kenya Review Fund which shall be administered, on behalf of the Commission, by the Clerk of the National Assembly.

(2) There shall be paid into the Fund -

(a) such monies as may be appropriated out of the Consolidated Fund for the constitutional review process pursuant to this Act; and

(b) any grants, gifts, donations or bequests received under section 29(2).

(3) There shall be paid out of the Fund all payments in respect of any expenses incurred in pursuance of the provisions of this Act.

(4) The Clerk of the National Assembly shall, in administering the Fund, consult with the Permanent Secretary to the Treasury and, subject to provisions of the Exchequer and Audit Act, manage the Fund in such manner as promotes the object and purpose of the review process. Cap.412

(5) Upon the dissolution of the Commission under section 32, any assets standing to the credit of the Constitution of Kenya Review Fund shall, subject to any condition attached to a gift, donation or bequest, be credited to the Consolidated Fund.

**31.** The accounts of the Constitution of Kenya Review Fund shall be kept, audited and reported upon to the National Assembly in accordance with section 18 and 19 of the Exchequer and Audit Act. Accounts and  
Audit.  
6 of 1998.  
Cap.412

## PART VI - DISSOLUTION OF ORGANS OF REVIEW AND FINAL PROVISIONS

**32.(1)** The Attorney-General shall - Dissolution of  
Commission  
and repeal

(a) upon the enactment of the Bill to alter the Constitution tabled before the National Assembly under subsection (1) or (3) of section 28; or of this Act.  
6 of 1998.  
5 of 2000.

(b) upon a negative vote on a referendum held pursuant to subsection (1)(b) of section 28,

introduce before the National Assembly, a Bill to repeal this Act.

(2) Upon the presentation of the Bill tabled pursuant to subsection (1), or upon a negative vote on a referendum held pursuant to subsection (1) (b) of section 28, the Commission shall stand dissolved and the terms of office of the commissioners shall thereupon expire, save that the secretary and such number of staff as shall be necessary, shall remain in office for a period of three months to conclude the financial and administrative affairs of the Commission.

Regulations.  
6 of 1998.  
5 of 2000.

33.(1) The Commission may make Regulations generally for the better carrying out of its functions under this Act.

(2) Without prejudice to the generality of subsection (1), regulations under this section may -

(a) prescribe anything required by this Act to be prescribed;

(b) subject to this Act, prescribe the procedure for-

(i) electing the vice-chairperson and filling any vacancies arising in respect thereof; and

(ii) licensing persons or groups of persons for the provision of civic education;

(c) prescribe the disciplinary procedures applicable to the staff of the Commission; or

(d) prescribe the procedure for the holding of a referendum under section 28:

Provided that regulations under this paragraph shall be made in consultation with the Electoral Commission of Kenya.

FIRST SCHEDULE

(s.13) 6 of 1998.  
5 of 2000.

OATH OFFICE OF A COMMISSIONER

I ..... being appointed a commissioner under the Constitution of Kenya Review Commission Act do solemnly swear that I will faithfully and fully, impartially and to the best of my ability discharge the trust and perform the functions and exercise the powers devolving upon me by virtue of this appointment without fear, favour, bias, affection, ill-will or prejudice and to the end that in the exercise of the functions and powers as such commissioner I shall not be influenced by any political party, religious society or other organisation or person which may have nominated me for appointment. So help me God.

.....  
COMMISSIONER

.....  
CHIEF JUSTICE

SOLEMN AFFIRMATION OF A COMMISSIONER

I ..... being appointed a commissioner under the Constitution of Kenya Review Commission Act do solemnly declare and affirm that I will faithfully and fully, impartially and to the best of my ability discharge the trust and perform the functions and exercise the powers devolving upon me by virtue of this appointment without fear, favour, bias, affection, ill-will or prejudice and to the end that in the exercise of the functions and powers as such commissioner I shall not be influenced by any political party, religious society or other organisation or person which may have nominated me for appointment.

.....  
COMMISSIONER

.....  
CHIEF JUSTICE

**OATH OF OFFICE OF THE SECRETARY OR A DEPUTY SECRETARY**

I ..... being appointed the secretary/a deputy secretary under the Constitution of Kenya Review Commission Act do solemnly swear that I will faithfully and fully, impartially and to the best of my ability discharge the trust and perform the functions and exercise the powers devolving upon me by virtue of this appointment without fear, favour, bias, affection, ill-will or prejudice and to the end that in the exercise of the functions and powers as such secretary/deputy secretary I shall not be influenced by any political, religious or other interest, or by any person. So help me God.

.....  
**SECRETARY/DEPUTY SECRETARY**

.....  
**CHIEF JUSTICE**

**SOLEMN AFFIRMATION OF THE SECRETARY AND A DEPUTY SECRETARY**

I ....., being appointed the secretary/a deputy secretary under the Constitution of Kenya Review Commission Act do solemnly and sincerely declare and affirm that I will faithfully and fully, impartially and to the best of my ability discharge the trust and perform the functions and exercise the powers devolving upon me by virtue of this appointment without fear, favour, bias, affection, ill-will or prejudice and to the end that in the exercise of the functions and powers as such secretary/deputy secretary I shall not be influenced by any political, religious or other interest, or by any person.

.....  
**SECRETARY/DEPUTY SECRETARY**

.....  
**CHIEF JUSTICE**

## SECOND SCHEDULE

( s.14)

6 of 1998.  
5 of 2000.**CODE OF CONDUCT FOR MEMBERS AND STAFF OF THE  
COMMISSION***Impartiality and Independence of Members*

1. (1) Every member of the Commission shall serve impartially and independently and perform the functions of his office in good faith and without fear, favour or prejudice.
2. (1) No member of the Commission shall, during tenure of office, be eligible for appointment or nomination to any political office.
- (2) No member of the Commission may -
  - (a) by his or her membership, association, statement, conduct or in any other manner jeopardize the perceived independence of the member, or in any other manner prejudice the credibility, impartiality, independence or integrity of the Commission;
  - (b) make private use of or profit from any confidential information gained as a result of being a member of the Commission.

*Disclosure of Conflicting Interests*

3. If a member of the Commission is directly or indirectly interested in any contract, proposed contract or other matter before the Commission, such member shall disclose the fact and shall not take part in the consideration or discussion of, or vote on, any question with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.
  4. This Code shall apply with necessary modifications to the staff of the Commission.
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