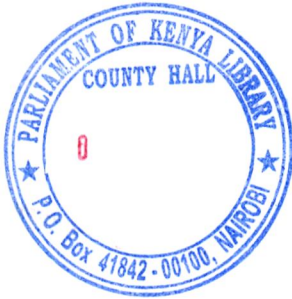


Approved for tabling in the House.

R
SNA
2/6/2022



THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT-SIXTH SESSION (2022)

COMMITTEE ON DELEGATED LEGISLATION

REPORT ON THE CONSIDERATION OF

1. THE DRAFT ELECTIONS (REGISTRATION OF VOTERS (AMENDMENT) REGULATIONS, 2022
2. THE DRAFT ELECTIONS (GENERAL)(AMENDMENT) REGULATIONS, 2022
3. THE DRAFT ELECTIONS (VOTER EDUCATION) (AMENDMENT) REGULATIONS, 2022
4. THE DRAFT ELECTIONS (PARTY NOMINATIONS AND PARTY LISTS) (AMENDMENT) REGULATIONS, 2022
5. THE DRAFT ELECTIONS (TECHNOLOGY)(AMENDMENT) REGULATIONS, 2022

JUNE, 2022

*The Directorate of Audit, Appropriations
and Other Select Committees
The National Assembly,
Parliament Buildings,
NAIROBI.*

THE NATIONAL ASSEMBLY	
DATE: 02 JUN 2022	THURSDAY
TABLED BY:	HON. WILLIAM KAMKET (CHAIRPERSON)
CLERK AT THE TABLE:	ITZOFU MWALE

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ABBREVIATIONS

IEBC	Independent Electoral and Boundaries Commission
SI	Statutory Instrument
SO	Standing Order
L.N.	Legal Notice

CHAIRPERSON'S FOREWORD

The Chairperson of the Independent Electoral and Boundaries Commission (IEBC) vide a letter Ref. No. IEBC/DLPA/LR/CORR/4/2021 dated 7th April 2022 addressed to the Clerk of the National Assembly submitted the following regulations for consideration by the National Assembly:-

- a) The Draft Elections (Registration of Voters (Amendment) Regulations, 2022
- b) The Draft Elections (General)(Amendment) Regulations, 2022
- c) The Draft Elections (Voter Education) (Amendment) Regulations, 2022
- d) The Draft Elections (Party Nominations and Party Lists)(Amendment) Regulations, 2022
- e) The Draft Elections (Technology)(Amendment) Regulations, 2022

The regulations were received on 11th April 2022 and tabled before the House on 14th April 2022.

Section 109(3) of the Elections Act provides that the power to make regulations shall be exercised **only after** a draft of the proposed regulations has been approved by the National Assembly, **at least four months** preceding a general election, and further that the Commission (IEBC) publish the regulations approved by the National Assembly in the Gazette, **not later than sixty days** before the date of a general election (latest being 10th of June, 2022).

The Committee at its sitting on 10th May 2022 resolved to meet the IEBC pursuant to section 16 of the Statutory Instrument Act, 2013 which requires the Committee to as far as is practically possible confer with the regulation-making authority before tabling the report to Parliament, for information and modification where necessary. Consequently, the Clerk of the National Assembly *vides* a letter Ref. No. NA/DAA&OSC/CDL/2022/038 dated 28th April 2022 invited the IEBC for a meeting scheduled for Saturday 14th May 2022 in Mombasa where the IEBC would engage with the Committee on the regulations.

The IEBC *vide* a letter Ref. No. IEBC/DLPA/11/05/2022 dated 11th May 2022 wrote to the Clerk of the National Assembly requesting for rescheduling of the meeting to a later date and suggested three weeks from the date thereof for among other reasons that-

- a) That the regulations in question were still in draft form and had been submitted to the National Assembly in a bid to comply with Section 109 of the Elections Act that requires that such Regulations be submitted in draft form to both the National Assembly and Senate at least six months to the General Elections. Therefore, there was a need to refine the same. In addition, some of the proposed regulations are hinged on the Election Laws (Amendment) Bill, 2019 which was yet to be passed and enacted into law.
- b) That whereas the Commission is required to present a public participation report on the Regulations, due to competing electoral programs and activities, the Regulations are yet to be subjected to public participation. However, the same was planned to be undertaken soon.

The Committee considered the submissions from IEBC as contained in the letter and resolved to consider the draft Elections regulations. The Committee noted *inter alia*-

- a) That some of the regulations do not Conform to the Constitution and the Elections Act, 2011 contrary to section 13(a) of the Statutory Instruments Act, 2013 hence need to be amended.
- b) That IEBC may not have adhered to the statutory timelines and the House may need to extend time if it has to allow the deliberations on the regulations.
- c) That most of the regulations contain drafting errors contrary to section 13(m) of the Statutory Instruments Act, 2013 which ought to be corrected before publication.
- d) That there was no public participation and/or consultation sufficiently done as required under Article 10 and 118 of the Constitution hence IEBC must conduct the same sufficiently if the regulations were to be approved.
- e) That unlike Regulations made under other statutes, section 109(3) of the Elections Act (*No. 24 of 2011*) requires that the Regulations made by the Commission under the Act must be laid before the National Assembly and approved by the House before they are published in the gazette. This calls for an affirmative Resolution by the House

The Committee wishes to express its gratitude to the Speaker for the support accorded to the Committee in the discharge of its mandate. The Committee also wishes to record its appreciation to the Office of the Clerk of the National Assembly and the supporting Directorates for providing the necessary technical support to the Committee.

On behalf of the Members of the Select Committee on Delegated Legislation and under Standing Order 210 (4), it is my pleasure and duty to present to the House the Committee's **Report on the Consideration of the draft Elections regulations made according to section 109 of the Elections Act (*No. 24 of 2011*)**.

HON. KAMKET KASSAIT WILLIAM, M.P.

1.0 PREFACE

1.1 Establishment and Mandate of the Committee

1. The Select Committee on Delegated Legislation is established under *Standing Order No. 210* and is mandated to consider statutory instruments submitted to Parliament for consideration. The Committee is expected to consider in respect of any statutory instrument, whether it is in accordance with the provisions of the Constitution, the Act under which it is made, or other relevant written laws.

2. The Committee is mandated to consider in respect of any statutory instrument, whether it:
 - a) is in accordance with the provisions of the Constitution, the Act under which it is made, or other relevant written laws;
 - b) infringes on fundamental rights and freedoms of the public;
 - c) contains a matter which in the option of the Committee should more properly be dealt with in an Act of the Parliament;
 - d) contains imposition of taxation;
 - e) directly or indirectly bars the jurisdiction of the court;
 - f) gives retrospective effect to any of the provisions in respect to which the Constitution does not expressly give any such power;
 - g) it involves expenditure from the consolidated fund or other public revenues;
 - h) is defective in its drafting or for any reason form or part of the statutory instrument calls for any elucidation;
 - i) appears to make some unusual or unexpected use of the power conferred by the Constitution or the Act under which it is made;
 - j) appears to have had an unjustifiable delay in its publication or laying before Parliament;
 - k) makes rights, liberties, or obligations unduly dependent upon non-renewable decisions;
 - l) makes rights, liberties, or obligations unduly dependent on insufficiently defined administrative powers;
 - m) inappropriately delegates legislative powers;
 - n) imposes a fine, imprisonment, or other penalties without express authority having been provided for in the enabling legislation;
 - o) appears for any reason to infringe on the rule of law;
 - p) inadequately subjects the exercise of legislative power to Parliamentary scrutiny; and
 - q) accords to any other reason that the Committee considers fit to examine.

1.2 Committee Membership

3. The Committee membership comprises –

The Hon. William Kassait Kamket, M.P. (Chairperson)

Tiaty Constituency

KANU

The Hon. Muriuki Njagagua, M.P. (Vice Chairperson)

Mbeere North Constituency

Jubilee Party

COMMITTEE MEMBERS

The Hon. Waihenya Ndirangu, M.P.

Roysambu Constituency

Jubilee Party

The Hon. Ronald Tonui, M.P.

Bomet Central Constituency

Jubilee Party

The Hon. William Cheptumo, M.P.

Baringo North Constituency

Jubilee Party

The Hon. William Kamoti, M.P.

Rabai Constituency

Orange Democratic Movement

The Hon. Cecily Mbarire, MGH, M.P.

Nominated

Jubilee Party

The Hon. Martha Wangari, M.P.

Gilgil Constituency

Jubilee Party

The Hon. Alice Wahome, M.P.

Kandara Constituency

Jubilee Party

The Hon. Gideon Mulyungi, M.P.

Mwingi Constituency

Wiper Democratic Movement – Kenya

The Hon. Robert Mbui, M.P.

Kathiani Constituency

Wiper Democratic Movement -Kenya

The Hon. (Dr.) Wilberforce Oundo, M.P.

Funyula Constituency

Orange Democratic Movement

The Hon. Daniel Maanzo, M.P.

Makueni Constituency

Wiper Democratic Movement -Kenya

The Hon. George G. Murugara, M.P.

Tharaka Constituency

Democratic Party

The Hon. Timothy Wanyonyi, M.P.

Westlands Constituency

Orange Democratic Movement

The Hon. Jennifer Shamalla, M.P.

Nominated

Jubilee Party

The Hon. Munene Wambugu, M.P.
Kirinyaga Central Constituency
Jubilee Party

The Hon. Patrick Mariru, M.P.
Laikipia West Constituency
Jubilee Party

The Hon. Sammy Seroney, M.P.
Nominated
Wiper Democratic Movement – Kenya

The Hon. Robert Gichimu, M.P.
Gichugu Constituency
Jubilee Party

The Hon. Tindi Mwale, M.P.
Butere Constituency
Amani National Congress

The Hon. Edith Nyenze, M.P.
Kitui West Constituency
Wiper Democratic Movement – Kenya

The Hon. Abdi Koropu Tepo, M.P.
Isiolo South Constituency
Kenya Patriots Party

1.3 Committee Secretariat

4. The secretariat facilitating the Committee comprises -

Mr. Mohamed Jimale
Clerk Assistant II (Team Leader)

Ms. Ruth Mwihaki
Clerk Assistant II

Mr. Wilson Dima Dima
Principal Legal Counsel

Mr. Josphat Motonu
Fiscal Analyst I

Ms. Fiona Musili
Research Officer II

Ms. Noelle Chelagat
Media Relations Officer II

Mr. Anthony Wamae
Assistant Serjeant at Arms

Mr. Charles Ayari
Superintendent of Electronics

2.0 CONSIDERATION OF DRAFT ELECTIONS REGULATIONS, 2022

2.1 Introduction

5. The Chairperson of the Independent Electoral and Boundaries Commission (IEBC) forwarded a letter Ref. No. IEBC/DLPA/LR/CORR/4/2021 dated 7th April 2022 addressed to the Clerk of the National Assembly submitting the following regulations for consideration by the National Assembly:
 - (i) The Draft Elections (Registration of Voters (Amendment) Regulations, 2022
 - (ii) The Draft Elections (General)(Amendment) Regulations, 2022
 - (iii) The Draft Elections (Voter Education) (Amendment) Regulations, 2022
 - (iv) The Draft Elections (Party Nominations and Party Lists)(Amendment) Regulations, 2022
 - (v) The Draft Elections (Technology)(Amendment) Regulations, 2022
6. The Regulations were received on 11th April 2022 at the Speakers Office, tabled before the House on 14th April 2022 (being the last day preceding the long recess which ran from Friday, 15th April 2022 to Monday, 9th May 2022), and were subsequently committed to the Committee on Delegated Legislation for Consideration.
7. Section 109(1) of the Elections Act (*No. 24 of 2011*) confers on the Commission power to make regulations generally for the better carrying out of the purposes and provisions of the Act.
8. Section 109(3) of the Elections Act provides that the power to make regulations shall be exercised **only after** a draft of the proposed regulations has been approved by the National Assembly, **at least four months** preceding a general election. The latest possible statutory timeline within which the draft regulations ought to have been approved was the 9th of April, 2022, being exactly four (4) months before the general elections scheduled for the 9th of August, 2022. Section 15(2) of the Statutory Instruments Act, 2013 requires the Committee to make its decision within twenty-eight sitting days, or the regulations are deemed to have been approved by operation of law. The House was on recess from Friday, 15th April 2022 to Monday 9th May 2022 time stopped running during the recess hence the Committee's statutory timelines run-up to the 16th of June, 2022 when the House is to adjourn for the *sine die* recess.
9. Section 109(4) of the Elections Act requires the Commission to publish in the Gazette, **not later than sixty days** before the date of a general election, the regulations approved by the National Assembly under subsection (3), hence the latest possible date that the Commission ought to publish the regulations is 10th day of June 2022, being sixty (60) days from the date of the General Elections for the year, 2022.
10. Section 15(3) of the Statutory Instruments Act, 2013, provides that ***“Despite the provision of this Act or any other written law, where a time is prescribed for doing an act or taking a proceeding by the National Assembly relating to the handling of a statutory instrument, the National Assembly may, by resolution, extend that time by a period not exceeding twenty-one days”***.

2.2 Summary of the Provisions of the Regulations

2.2.1 The Elections (Registration of Voters) (Amendment) Regulations, 2022

11. The regulations seek to amend The Elections (Registration of Voters) Regulations to correct certain terminologies used in the principal Regulations, remove ambiguity, promote clarity and align the Regulations with the Election Act.
 - a) The regulations seek to delete the words “**eligibility to vote**” wherever they appear and to substitute therefore the words “**eligibility to register as a voter**”. The amendments speak to the main object and subject matter of the Regulations which is voter registration procedures.
 - b) The proposed Regulation 3 of the **Elections (Registration of Voters) (Amendment) Regulations** which seeks to amend regulation 13A of the principal Regulations seeks to delete the words “identification documents” and substitute therefor the words “National ID or Valid Kenyan Passport” as the required documents for registration as a voter. This requirement could offend Article 38(3) (a) of the Constitution which provides that “*Every adult citizen has the right, without unreasonable restrictions... to be registered as a voter...*” It is our considered opinion that at the point of registration a person may be allowed to use any valid identification document like “ID waiting card for young new applicants, “Huduma Card”, Drivers Licence, Employers Card, and Birth Certificate as an individual may sometimes have lost their Identity Card during the registration period and only a few Kenyans hold passports. This may amount to unreasonable restrictions as against Article 38(3) (a) of the Constitution.
 - c) Section 13(h) of the Statutory Instruments Act, 2013 requires the Committee to *inter alia* consider whether the statutory instrument is defective in drafting or for any reason the form or purport of the statutory instrument calls for any elucidation. The amendments are defective in their drafting and the commission ought to correct the drafting errors before publication.

2.2.2 The Elections (General) (Amendment) Regulations, 2022

12. The regulations seek to amend **The Elections(General) Regulations**, to *inter alia* substitute the use of certain terms within the Regulations to conform to the Constitution, the Election Act, (No.24 of 2011), and the Political Parties (Amendment) Act, (No.2 of 2022). The draft Regulations propose to *inter alia*-
 - a) delete the word “**nomination**” whenever it appears and substitute therefor the words “**registration of candidates**”;
 - b) delete the words “**nomination papers**” whenever it appears and substitute therefor the words “**candidate registration forms**”;
 - c) delete the word “**primary**” and substitute therefor the word “**nomination**” to conform with the Political Party (Amendment) Act, (No. 2 of 2022);
 - d) delete the words “**ward representative**” and substitute therefor the words “**County Assembly Ward member**” ;
 - e) delete the words “**woman representative**” whenever it appears and substitute therefor the words “**County Woman Member of the National Assembly**”;
 - f) delete the words “**nomination fees of**” and substitute therefore the words “**candidate registration fees**”.

13. The Regulations introduce the specific provisions for the registration of county women member to the National Assembly through political parties in Regulation 22A and as independent candidates in Regulation 23A. They also introduce candidate registration fees for women members in Regulation 25A.
14. Further, the Amendment clearly outlines the process of delivering presidential results from the constituency tallying centre to the Presidential election results tallying centre to ensure management of the presidential election results until the Commission declares the president-elect.

2.2.3 The Elections (Voter Education) (Amendment) Regulations, 2022

15. The Amendment seeks to substitute the reference to "constituency elections coordinator" with "senior elections officer" to align the Regulations with the changes of titles in the IEBC Strategic Plan 2020-2024. It also seeks to promote public participation in the development of the voter education curriculum.

2.2.4 The Elections (Party Nominations and Party Lists) (Amendment) Regulations, 2022

16. The regulations seek to amend the principal regulations by deleting the words "party primaries" in the Elections (Party Primaries and Party Lists) Regulations, 2017 and substituting therefor the words "party nominations" to conform to the changes made in the Political Parties (Amendment) Act, (No. 2 of 2022).
17. The Regulations further seek to amend the principal Regulations to expound on the contents of party nomination rules and procedures of a political party as canvassed under the Political Parties Act.
18. The Regulations further seek to amend the principal Regulations deleting Part III of the principal Regulations which provides for Party Primaries conducted by the Commission because according to the justification advanced by IEBC, conducting party primaries interferes with the independence of the Commission.

2.2.5 The Elections (Technology) (Amendment) Regulations, 2022

19. The regulations seek to amend the principal regulations to provide clarity on the use of Technology in elections. It defines election technology as the "Integrated Electronic Electoral System and any other technology used by the Commission". It mandates the Commission to ensure transparency and public participation in the testing of election technology before use.
20. Further, it gives guidelines on access to the information contained on the election technologies under the IEBC Act and Access to Information Act. The Amendment does away with the Elections Technology Advisory Committee established under Part XI of the principal Regulations.

2.3 Conferring with the Regulation Making Authority

21. The Committee at its sitting held on 10th May 2022 resolved to meet the IEBC pursuant to section 16 of the Statutory Instrument Act, 2013 which requires the Committee to as far as is practically possible confer with the regulation-making authority before tabling the report to Parliament, for information and modification where necessary. Consequently, the Clerk of the National Assembly *vide* a letter Ref. No. NA/DAA&OSC/CDL/2022/038 dated 28th

April 2022 invited the IEBC for a meeting scheduled for Saturday 14th May 2022 in Mombasa where the IEBC would engage with the Committee on the regulations.

22. The IEBC *vide* a letter Ref. No. IEBC/DLPA/11/05/2022 dated 11th May 2022 wrote to the Clerk of the National Assembly requesting for rescheduling of the meeting to a later date on the following grounds:

- a) That the regulations in question were still in draft form and had been submitted to the National Assembly in a bid to comply with Section 109 of the Elections Act that requires that such Regulations be submitted in draft form to both the National Assembly and Senate at least six months to the General Elections. Therefore, there was a need to refine the same. In addition, some of the proposed regulations are hinged on the Election Laws (Amendment) Bill, 2019 which was yet to be passed and enacted into law.
- b) Budgetary Constraint - That the Commission had made effort to source funds to facilitate the workshop in vain. The Commission was without the requisite budget line to support the activity and was making effort towards seeking donor support which might not yield immediately.
- c) That whereas the Commission is required to present a public participation report on the Regulations, due to competing electoral programs and activities, the Regulations are yet to be subjected to public participation. However, the same was planned to be undertaken soon.
- d) That there were pressing electoral activities such as the audit of the register of voters, verification of the biometric data of voters, processing of political parties' nominations lists, and processing of independent candidates that had called for an exigent meeting with the political parties under the auspices of the Political Parties Liaison Committee for purposes of addressing the same on 13th and 14th May 2022.

23. In light of the above, the Commission requested that the meeting with the Committee slated for the 13th and 14th May 2022 be rescheduled to another date preferably when the Commission would be in funds and upon the conduct of public participation on the Regulations and that the commission hoped that it would not be beyond three weeks from the date thereof [presumably latest being 1st of June, 2022].

3.0 COMMITTEE OBSERVATIONS

24. The Committee examined the said regulations in line with the Constitution, the Elections Act (*No. 24 of 2011*), the Statutory Instruments Act (*No. 23 of 2013*), the Interpretation and General Provisions Act (*Cap 2*), the Elections (Voter Registration) Regulations, 2012, the Elections (General) Regulations, 2012, the Elections (Voter Education) Regulations, 2017, the Elections (Party Primaries and Party Lists) Regulations, 2017 and the Elections (Technology) Regulations, 2017, and made the following observations –

3.1 Conformity with the Constitution and the Statutory Instruments Act

25. Section 13(a) of the Statutory Instruments Act requires the Committee to ensure the Instruments conform to the Constitution, the Act under which they are made, and any other written law. The proposed Regulation 3 of the **Elections (Registration of Voters) (Amendment) Regulations** which seeks to amend regulation 13A of the principal

Regulations seems to limit a person seeking to register as a voter to only produce a National ID or valid passport which, in our considered view, offends Article 38(3)(a) of the Constitution which provides that “*Every adult citizen has the right, without unreasonable restrictions... to be registered as a voter...*”.

3.2 Statutory Timelines

26. Section 109(3) of the Elections Act (*No. 24 of 2011*) provides that the power to make regulations shall be exercised **only after** a draft of the proposed regulations has been approved by the National Assembly; **at least four months** preceding a general election and that IEBC are to gazette the regulations **sixty days** before a general election. The latest possible time that the House ought to have approved the Regulations was the 9th of April, 2022, being exactly four (4) months before the general elections scheduled for the 9th of August, 2022. The letter from IEBC submitting the draft Regulations was dated the 7th of April, 2022. The Regulations may only be considered and entertained by a resolution of the House, if the House extends the time under section 15(3) of the Statutory Instruments Act, 2013.

3.3 Affirmative Resolution by the House (Approval by National Assembly)

27. Unlike Regulations made under other statutes, 109(3) of the Elections Act (*No. 24 of 2011*) requires that the Regulations made by the Commission under the Act must be laid before the National Assembly and approved by the House before they are published in the gazette. This calls for an affirmative Resolution by the House.

3.4 Drafting errors contrary to section 13(m) of the Statutory Instruments Act

28. The Committee noted that most of the sets of regulations submitted to the National Assembly had drafting errors contrary to section 13(m) of the Statutory Instruments Act, 2013 which ought to be corrected by the Commission before the Regulations may be published. The Committee noted that most of the draft Regulations as presented therefore offend section 13(m) of the Statutory Instruments Act, 2013 which requires the Committee of Delegated Legislation to check during scrutiny if the Regulations contain drafting errors or require further elucidation.

3.5 Public Participation/ Consultation

29. Article 10 of the Constitution read together with Section 5, 5A and the Schedule to the Statutory Instruments Act requires that a Regulation Making Authority must conduct sufficient Public Participation and Consultation with persons before publishing and operationalizing any Statutory Instrument.

The Independent Electoral and Boundaries Commission *vide* a letter to the Clerk of the National Assembly Ref. No. IEBC/DLPA/11/05/2022 dated 11th May 2022 indicated that whereas the Commission is required to present a public participation report on the Regulations, due to competing electoral programs and activities, the Regulations are yet to be subjected to public participation.

3.6 Conferring with the Regulatory Making Authority

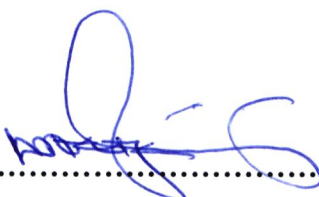
30. The Committee at its sitting held on 10th May 2022 resolved to meet the IEBC pursuant to section 16 of the Statutory Instrument Act, 2013 which requires the Committee to as far as is practically possible confer with the regulation-making authority before tabling the report to Parliament, for information and modification where necessary. Consequently, the Clerk of the National Assembly *vide* a letter Ref. No. NA/DAA&OSC/CDL/2022/038 dated 28th April 2022 invited the IEBC for a meeting scheduled for Saturday 14th May 2022 in Mombasa where the IEBC would engage with the Committee on the regulations.
31. The IEBC *vide* a letter Ref. No. IEBC/DLPA/11/05/2022 dated 11th May 2022 wrote to the Clerk of the National Assembly requesting that the meeting with the Committee slated for the 13th and 14th May 2022 be rescheduled to another date preferably when the Commission would be in funds and upon the conduct of public participation on the Regulations and that the commission hoped that **it would not be beyond three weeks from the date thereof [presumably latest being 1st of June, 2022].**

4.0 COMMITTEE RECOMMENDATION

32. Having examined the following Regulations:-

- a) The Draft Elections (Registration of Voters (Amendment) Regulations, 2022
- b) The Draft Elections (General)(Amendment) Regulations, 2022
- c) The Draft Elections (Voter Education) (Amendment) Regulations, 2022
- d) The Draft Elections (Party Nominations and Party Lists)(Amendment) Regulations, 2022
- e) The Draft Elections (Technology)(Amendment) Regulations, 2022

in line with the Constitution, the Elections Act (*No. 24 of 2011*), the Statutory Instruments Act (*No. 23 of 2013*), the Interpretation and General Provisions Act (*Cap 2*), the Elections (Voter Registration) Regulations,2012, the Elections (General) Regulations,2012, the Elections (Voter Education) Regulations,2017, the Elections (Party Primaries and Party Lists) Regulations, 2017 and the Elections (Technology) Regulations,2017, the Committee **resolved to recommend to the House to adopt the report recommending to the House NOT to approve** the five sets of regulations for contravening section 109(3) which requires that the Regulations be submitted on time in draft form for the National Assembly to approve them before publication at least four (4) months before the general elections, and for failing to conduct public participation as required by the Constitution and the Statutory Instruments Act.

Signed.....

Date.....02/06/2022

**THE HON. WILLIAM KASSAIT KAMKET, M.P.
(CHAIRPERSON)**

ANNEXURES

- 1. Adoption Schedule**
- 2. Draft Regulations**
- 3. Correspondences**

COMMITTEE ON DELEGATED LEGISLATION


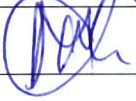
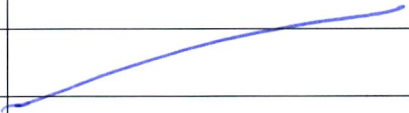
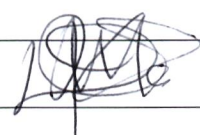
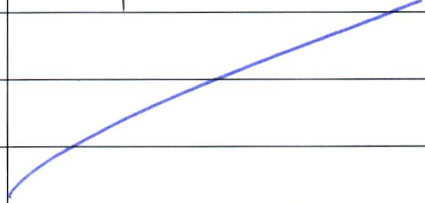

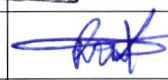
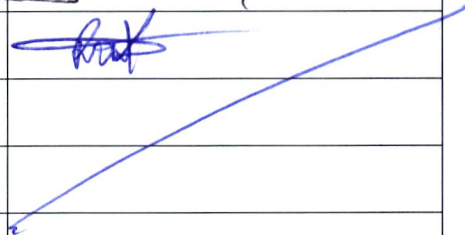
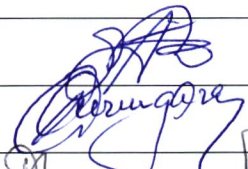
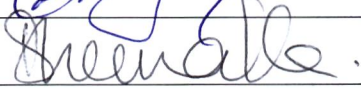
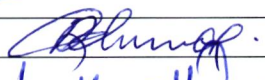

ADOPTION LIST

Adoption of the Report on the consideration

- (a) the Draft Elections (Voter Registration)(Amendment) Regulations, 2022;
- (b) the Draft Elections (General)(Amendment) Regulations, 2022;
- (c) the Draft Elections (Voter Education) Regulations, 2022;
- (d) the Draft Elections (Party Primaries And Party Lists) Regulations, 2022;and
- (e) the Draft Elections (Technology)(Amendment) Regulations, 2022

We, the undersigned, hereby affix our signatures to this Report to affirm our approval:

DATE: 24/05/2022

	HON. MEMBER	SIGNATURE
1.	Hon. Kassait Kamket, MP (Chairperson)	
2.	Hon. Muriuki Njagagua, MP (Vice Chairperson)	
3.	Hon. Waihenya Ndirangu, MP	
4.	Hon. Robert Mbui, MP	
5.	Hon. Alice Wahome, MP	
6.	Hon. Cecily Mbarire, MGH, MP	
7.	Hon. Daniel Maanzo, MP	
8.	Hon. William Cheptumo, MP	
9.	Hon. Martha Wangari, MP	
10.	Hon. Timothy Wanyonyi, MP	
11.	Hon. William Kamoti, MP	
12.	Hon. Patrick Kariuki Mariru, MP	
13.	Hon. Ronald Tonui, MP	
14.	Hon. Munene Wambugu, MP	
15.	Hon. Gideon Mulyungi, MP	
16.	Hon. Edith Nyenze, MP	
17.	Hon. Abdi Tepo, MP	
18.	Hon. George Murugara, MP	
19.	Hon. Jennifer Shamalla, MP	
20.	Hon. (Dr.) Wilberforce Oundo, MP	
21.	Hon. Robert Gichimu, MP	
22.	Hon. Sammy Seroney, MP	
23.	Hon. Tindi Mwale, MP	

MINUTES OF THE 22ND SITTING OF THE COMMITTEE ON DELEGATED LEGISLATION HELD ON TUESDAY 24TH MAY, 2022 AT 10.00 AM IN THE NEW DINING ROOM, MAIN PARLIAMENT BUILDINGS.

PRESENT

- | | | |
|-------------------------------------|---|---------------------------|
| 1. The Hon. Kassait Kamket, M.P. | - | Chairperson |
| 2. The Hon. Muriuki Njagagua, M.P. | - | Vice-Chairperson |
| 3. The Hon. Daniel Maanzo, M.P. | | |
| 4. The Hon. Patrick Mariru, M.P. | | |
| 5. The Hon. Waihenya Ndirangu, M.P. | | |
| 6. The Hon. Abdi Tepo, M.P. | | |
| 7. The Hon. George Murugara, M.P. | | |
| 8. The Hon. Robert Gichimu, M.P. | | |
| 9. The Hon. Jennifer Shamalla, M.P. | | |
| 10. The Hon. Ronald Tonui, M.P. | | <i>Virtual Attendance</i> |
| 11. The Hon. Sammy Seroney, M.P. | | <i>Virtual Attendance</i> |

ABSENT WITH APOLOGY

1. The Hon. Robert Mbui, M.P.
2. The Hon. Edith Nyenze, M.P.
3. The Hon. Munene Wambugu, M.P.
4. The Hon. Cecily Mbarire, MGH, M.P.
5. The Hon. Timothy Wanyonyi, M.P.
6. The Hon. Kamoti Mwamkale, M.P.
7. The Hon. Martha Wangari, M.P.
8. The Hon. (Dr.) Wilberforce Oundo, M.P.
9. The Hon. Alice Wahome, M.P.
10. The Hon. Gideon Mulyungi, M.P.
11. The Hon. Nicholas Tindi Mwale, M.P.
12. The Hon. William Cheptumo, M.P.

IN-ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | |
|-------------------------|-----------------------------------------|
| 1. Ms. Ruth M. Gakuya | - Clerk Assistant II |
| 2. Mr. Wilson Dima Dima | - Principal Legal Counsel |
| 3. Ms. Noelle Chelagat | - Media Relations Officer |
| 4. Mr. Charles Ayari | - Superintendent of Electronics (Audio) |

MIN.NO. /NA/CDL/2022/112 PRAYER AND PRELIMINARIES

The Chairperson called the meeting to order at 10.15 am with the Prayer.

MIN.NO./NA/CDL/2022/113**ADOPTION OF THE AGENDA**

The agenda was unanimously adopted having been proposed by the Hon. Abdi Tepo, M.P and Seconded by the Hon. Jennifer Shamalla, M.P.

MIN.NO./NA/CDL/2022/114**CONFIRMATION OF MINUTES**

1. Minutes of the 13th sitting held on Friday 1st April 2022 at 9.00 am were confirmed as a true record of the proceedings having been proposed by the Hon. Jennifer Shamalla, M.P. and seconded by the Hon. Sammy Seroney, M.P.
2. Minutes of the 14th sitting held on Friday 1st April 2022 at 2.00 pm were confirmed as a true record of the proceedings having been proposed by the Hon. Ronald Tonui, M.P. and seconded by the Hon. Sammy Seroney, M.P.
3. Minutes of the 15th sitting held on Saturday 2nd April 2022 at 9.00 a.m were confirmed as a true record of the proceedings having been proposed by the Hon. Sammy Seroney, M.P. and seconded by the Hon. Jennifer Shamalla, M.P.
4. Minutes of the 18th sitting held on Friday 13th April 2022 at 9.00 am were confirmed as a true record of the proceedings having been proposed by the Hon. Daniel Maanzo, M.P. and seconded by the Hon. Abdi Tepo, M.P.
5. Minutes of the 19th sitting held on Friday 13th April 2022 at 2.30 pm were confirmed as a true record of the proceedings having been proposed by the Hon. Abdi Tepo, M.P. and seconded by the Hon. Jennifer Shamalla, M.P.
6. Minutes of the 20th sitting held on Saturday 14th April 2022 at 9.30 am were confirmed as a true record of the proceedings having been proposed by the Hon. Sammy Seroney, M.P. and seconded by the Hon. Sammy Seroney, M.P.
7. Minutes of the 21st sitting held on Saturday 14th April 2022 at 2.30 pm were confirmed as a true record of the proceedings having been proposed by the Hon. Abdi Tepo, M.P. and seconded by the Hon. Ronald Tonui, M.P.

MIN.NO./NA/CDL/2022/115**CONSIDERATION AND ADOPTION OF REPORT ON THE DRAFT ELECTIONS REGULATIONS, 2022**

The Committee examined -

1. The Draft Elections (Registration of Voters (Amendment) Regulations, 2022
2. The Draft Elections (General)(Amendment) Regulations, 2022
3. The Draft Elections (Voter Education) (Amendment) Regulations, 2022
4. The Draft Elections (Party Nominations and Party Lists)(Amendment) Regulations, 2022
5. The Draft Elections (Technology)(Amendment) Regulations, 2022

and made the following observations-

1. Conformity with the Constitution and the Statutory Instruments Act

Section 13(a) of the Statutory Instruments Act requires the Committee to ensure the Instruments conform to the Constitution, the Act under which they are made, and any other written law. The proposed Regulation 3 of the Elections (Registration of Voters) (Amendment) Regulations which seeks to amend regulation 13A of the principal Regulations seems to limit a person seeking to

register as a voter to only produce a National ID or valid passport which, in our considered view, offends Article 38(3)(a) of the Constitution which provides that “Every adult citizen has the right, without unreasonable restrictions...to be registered as a voter...”.

2. Statutory Timelines

Section 109(3) of the Elections Act (No. 24 of 2011) provides that the power to make regulations shall be exercised only after a draft of the proposed regulations has been approved by the National Assembly; at least four months preceding a general election and that IEBC are to gazette the regulations sixty days before a general election. The latest possible time that the House ought to have approved the Regulations was the 9th of April, 2022, being exactly four (4) months before the general elections scheduled for the 9th of August, 2022. The letter from IEBC submitting the draft Regulations was dated the 7th of April, 2022. The Regulations may only be considered and entertained by a resolution of the House, if the House extends the time under section 15(3) of the Statutory Instruments Act, 2013.

3. Affirmative Resolution by the House (Approval by National Assembly)

Unlike Regulations made under other statutes, 109(3) of the Elections Act (No. 24 of 2011) requires that the Regulations made by the Commission under the Act must be laid before the National Assembly and approved by the House before they are published in the gazette. This calls for an affirmative Resolution by the House.

4. Drafting errors contrary to section 13(m) of the Statutory Instruments Act

The Committee noted that most of the sets of regulations submitted to the National Assembly had drafting errors contrary to section 13(m) of the Statutory Instruments Act, 2013 which ought to be corrected by the Commission before the Regulations may be published. The Committee noted that most of the draft Regulations as presented therefore offend section 13(m) of the Statutory Instruments Act, 2013 which requires the Committee of Delegated Legislation to check during scrutiny if the Regulations contain drafting errors or require further elucidation.

5. Public Participation/ Consultation

Article 10 of the Constitution read together with Section 5, 5A and the Schedule to the Statutory Instruments Act requires that a Regulation Making Authority must conduct sufficient Public Participation and Consultation with persons before publishing and operationalizing any Statutory Instrument.

The Independent Electoral and Boundaries Commission vide a letter to the Clerk of the National Assembly Ref. No. IEBC/DLPA/11/05/2022 dated 11th May 2022 indicated that whereas the Commission is required to present a public participation report on the Regulations, due to competing electoral programs and activities, the Regulations are yet to be subjected to public participation.

6. Conferring with the Regulatory Making Authority

The Committee at its sitting held on 10th May 2022 resolved to meet the IEBC pursuant to section 16 of the Statutory Instrument Act, 2013 which requires the Committee to as far as is practically possible confer with the regulation-making authority before tabling the report to Parliament, for

information and modification where necessary. Consequently, the Clerk of the National Assembly vide a letter Ref. No. NA/DAA&OSC/CDL/2022/038 dated 28th April 2022 invited the IEBC for a meeting scheduled for Saturday 14th May 2022 in Mombasa where the IEBC would engage with the Committee on the regulations.

The IEBC vide a letter Ref. No. IEBC/DLPA/11/05/2022 dated 11th May 2022 wrote to the Clerk of the National Assembly requesting that the meeting with the Committee slated for the 13th and 14th May 2022 be rescheduled to another date preferably when the Commission would be in funds and upon the conduct of public participation on the Regulations and that the commission hoped that it would not be beyond three weeks from the date thereof [presumably latest being 1st of June, 2022].

Committee Resolution

Having examined the draft elections regulations in line with the Constitution, the Elections Act (No. 24 of 2011), the Statutory Instruments Act (No. 23 of 2013), the Interpretation and General Provisions Act (Cap 2), the Elections (Voter Registration) Regulations, 2012, the Elections (General) Regulations, 2012, the Elections (Voter Education) Regulations, 2017, the Elections (Party Primaries and Party Lists) Regulations, 2017 and the Elections (Technology) Regulations, 2017, the Committee resolved to recommend to the House to adopt the report recommending to the House NOT to approve the five sets of regulations for contravening section 109(3) which requires that the Regulations be submitted on time in draft form for the National Assembly to approve them before publication at least four (4) months before the general elections, and for failing to conduct public participation as required by the Constitution and the Statutory Instruments Act.

MIN.NO. /NA/CDL/2022/ 116

ADJOURNMENT

There being no other business, the meeting was adjourned at 11.43 a.m. The next sitting will be held on notice.

Signed.....



Date.....

02/06/2022

**HON. KASSAIT KAMKET, M.P.
(CHAIRPERSON)**

3) Hon. Justice
for registration, taking
payment to Commission
and address of receipt
2022 APR 21 12:42 PM
B/A.



THE NATIONAL ASSEMBLY
NAIROBI

DATE: 14 APR 2022

Our Ref: IEBC/DLPA/LR/CORR/4/2021

Hon. Justin B. N. Muturi, E.G.H, M.P
Speaker of the National Assembly
Parliament Buildings
P. O. Box 41842-00100
NAIROBI

7th April, 2022

Noted. eWA to act as necessary.

SNA
12/4/2022

Dear Speaker

DLPA
see deal.

RE: SUBMISSION OF THE DRAFT AMENDMENTS TO THE ELECTION REGULATIONS, 2022

Greetings from the Commission.

12/4/22

The Commission met with the Justice and Legal Affairs Committee (JLAC) of the National Assembly on 24th and 25th March, 2021 at Windsor Golf Hotel and Country Club to deliberate on electoral issues with specific reference to the proposed Election Law (Amendment) Bill, 2022.

Following this meeting the Commission has interrogated the effect of the proposed amendments under the Election Act, which is pending enactment, to the existing Election Regulations including the impact of the recently enacted Political Parties (Amendment) Act, 2022 on the same.

The Commission has identified areas for review under the said regulations which include;

1. Election (Voter Registration) (Amendment) Regulations, 2022;
2. Election (General) Regulations (Amendment) Regulations, 2022;
3. Election (Voter Education) (Amendment) Regulations, 2022;
4. Elections (Party Primaries and Party Lists) Amendment) Regulations, 2022 and

NATIONAL ASSEMBLY
RECEIVED
11 APR 2022
SPEAKER'S OFFICE
P. O. Box 41842, NAIROBI

5. Elections (Technology) (Amendment) Regulations, 2022.

The Commission forwards herewith the Draft amendments to the regulations for your full consideration and approval.

Your continued support is highly appreciated.

Yours Sincerely



W. W. CHEBUKATI
CHAIRMAN

Encls. (10) Draft Amendment Regulations (5)
Matrices on the Amended Regulations (5)



LEGAL NOTICE NO.

THE ELECTIONS ACT, 2011

(No. 24 of 2011)

IN EXERCISE of the powers conferred by section 109 of the Elections Act, 2011, the Independent Electoral and Boundaries Commission makes the following Regulations—

**THE ELECTIONS (REGISTRATION OF VOTERS) (AMENDMENT)
REGULATIONS, 2022**

- Short title. 1. These Regulations may be cited as the Elections (Registration of Voters) (Amendment) Regulations, 2022 and shall come into effect upon publication in the *Gazette*.
- L.N..... 2. Regulation 2 of the principal regulation is amended by deleting the definition of “foreign representative of Kenya”
3. Regulation 13A of the principal Regulations is amended in sub regulation (1) by deleting the words “identification document” and substituting therefor with the words “National ID or valid Kenyan Passport.”
4. Regulation 27 of the principal Regulations is amended by deleting the words “at all polling stations” appearing after the word “public”
5. Regulation 36 of the principal regulation is amended by deleting the letter “I” appearing immediately after the word “Form” and substituting therefor with the letter “J”
6. Regulation 37 of the principal Regulations is amended
- (a) In the marginal note by deleting the words “vote” and substitute the same with “register as a voter”

7. Regulation 38 of the principal regulation is amended by deleting the words "a foreign"
8. Regulation 39C of the principal Regulations is amended in the marginal note by deleting the words "to vote" and substituting therefor with the words "to register as a voter"

MATRIX PROPOSAL ON VOTER REGISTRATION AND TRANSFER ELECTIONS REGISTRATION OF VOTERS) REGULATIONS, 2012

S/No.	Current Law	Issue with the Law	Proposal	Justification
4.	Regulation 37 – Eligibility to vote	The contents of Regulation 37 speak to Eligibility to a Kenya citizen residing outside Kenya applying to be registered as a voter	Regulation 37 is amended in the marginal note by deleting the expression “vote” and substituting therefor the expression “Register as a voter”	Necessity to have the heading/marginal note and the content speaking to the same thing.
5.	Regulation 36 – Provides that an application for registration by Kenyan citizens residing out of Kenya is by form I	Under the schedule, the correct form is form J	Regulation 36 is amended by deleting the letter “I” appearing immediately after the word “Form” and substituting therefor the letter “J”	The correct form used to register Kenyans living outside Kenya is form J. Mismatch of form and corresponding regulation.
6.	Regulation 38 – Registration Personnel	The wording of the Regulation creates ambiguity.	Regulation 38 is amended by deleting the expression “a foreign” appearing immediately after the expression “may appoint”	The statement with the word “foreign” creates ambiguity making it difficult to decipher the intended meaning of the Regulation.
7.	Regulation 39C Eligibility to vote	The contents of Regulation 39C speak to Eligibility of prisoners	Regulation 39C is amended in the marginal note by deleting the expression “vote” and	Necessity to have the heading/marginal note and the content speaking to the same thing.

MATRIX PROPOSAL ON VOTER REGISTRATION AND TRANSFER ELECTION REGISTRATION OF VOTERS)
REGULATIONS, 2012

S/No.	Current Law	Issue with the Law	Proposal	Justification
1.	Regulation 2 “foreign representative of Kenya” means a public officer serving in a Kenyan foreign mission abroad;	The definition is ambiguous	Regulation 2 is amended by deleting the definition of “foreign representative of Kenya”	To remove ambiguity in the definition
2.	Regulation 13 A (1) of the Elections (Registration of Voters) Regulations, 2012, provides that a person wishing to register as a voter shall present their identification documents	The term ‘shall present their identification document’ is unclear and ambiguous.	Regulation 13A (1) is amended by deleting the expression “identification documents” appearing immediately after the expression “their” and substituting therefor the expression “National ID or valid Kenyan Passport”	To provide clarity on the required Identity documents that one can use to register as a voter.
3.	Regulation 27 – Inspection of the Register The Commission shall make available the Register of Voters for inspection to the public at all polling stations, by way of public web portal or any other medium the Commission may approve.	The law is not practical as polling stations are not yet gazetted by this time	Regulation 27 is amended by deleting the expression “at all polling stations” appearing immediately after the expression “public at”	To align it with the proposed amendment to Section 6 of the Election Act

MATRIX PROPOSAL ON VOTER REGISTRATION AND TRANSFER ELECTIONS (REGISTRATION OF VOTERS)
REGULATIONS, 2012

S/No.	Current Law	Issue with the Law	Proposal	Justification
		applying to be registered as a voter	substituting therefor the expression "Register as a voter"	



THE NATIONAL ASSEMBLY
PARLIAMENTS BUILDING

LEGAL NOTICE NO.

DATE: 14 APR 2022
DAY: THURS

TABLED BY: LEADER OF MAJORITY
(No. 24 of 2011)
RESPONSIBLE: CHRISTINE NDIRITU

IN EXERCISE of the powers conferred by section 109 of the Elections Act, 2011, the Independent Electoral and Boundaries Commission makes the following Regulations—

THE ELECTIONS (GENERAL) (AMENDMENT) REGULATIONS, 2022

Short title. 1. These Regulations may be cited as the Elections (General) (Amendment) Regulations, 2022 and shall come into effect upon publication in the *Gazette*.

Subleg

L.N. 2. Regulation 2 of the Elections (General) Regulations, 2012, in these Regulations referred to as “the principal Regulations”, is amended –

- (a) in the definition of “close of nomination” by deleting the expression “of nominations” and substituting therefor the expression “registration of candidates”;
- (b) in the definition of “close of nomination” by deleting the expression “nomination day” and substituting therefor the expression “day of registration of candidates”;
- (c) by inserting the definition of “live streaming” to mean “the transmission and display of the election results as announced at the polling station.”
- (d) by inserting the definition of “local time” to mean “6:00a.m. to 5:00p.m. of the gazetted election date.”
- (e) in the definition of “nomination paper” deleting the expression “nomination paper” and substituting therefor the expression “candidate registration form”;
- (f) in the definition of “nomination paper” deleting the expression “nomination papers” and substituting therefor the expression “candidate registration forms”;

- (g) in the definition of “party primary” deleting the expression “primary” and substituting therefor the expression “nomination”;
- (h) in the definition of “subscriber” deleting the expression “nomination paper” appearing after the words “to a” and before the words “other than” substituting therefor the expression “candidate registration form”;

3. Regulation 3 of the principal Regulations is amended —

- (a) In sub regulation (2) by deleting sub regulation (2)
- (b) In sub-regulation 3 (b) by deleting the words “nomination papers” and substituting therefor with the words “candidate registration forms”
- (c) In sub regulation (3) (b) by deleting the words “Ward representative” and substituting therefor with the words “County Assembly Ward Member”
- (d) In sub-regulation 3 (d) by deleting the words “representative” appearing after the word “woman” and substituting therefor with the words “Member”
- (e) By adding a new sub-regulation (7) to read:
 - (7) An Election Officer shall not be deployed as a Returning or Deputy Returning Officer in the Constituency they were recruited.

4. Regulation 4 of the principal Regulations is amended—

- (a) in sub regulation 1 (a) by deleting the word “nomination papers” and substituting therefor with the words “candidate registration forms”
- (b) in sub regulation 1 (b) by deleting the word “representative” appearing after the word women and substituting therefor with the words “member”
- (c) in sub regulation (2) by deleting sub regulation (2)
- (d) by deleting sub regulation (4) and substituting therefor a new sub regulation (4) to read
 - (4) An Election Officer shall not be deployed as a Returning or Deputy Returning Officer in the County they were recruited.

5. Regulation 5 of the principal Regulations is amended
- a. In Sub Regulation 1A (b) by deleting the word “tallying” and substituting therefor with the word “sorting”
- In Sub Regulation 1A (c) by deleting and substituting therefor with a new paragraph (c)—
- i. “electronically transmitting the presidential results in the prescribed form to the National Tallying Centre”
- (b) In paragraph 1A (d) by deleting and substituting therefor with a new paragraph (d)—
- i. “deliver the results in person from the polling station to the Constituency Tallying Centre”
- (c) Inserting a new Sub-Regulation 1A (e) to read
- i. “submitting the original Form 34A that was electronically transmitted to the Constituency returning officer at the Tallying Centre”
- (d) In sub regulation (2) by deleting the words “fourteen days” and substituting therefor with the words “seven days”
- (e) In sub regulation (5) by deleting the expression “agent” appearing after the words “interpreter and” and before the words “authorized”
- (f) In sub regulation (6) by deleting “(4)” appearing before the word “shall” and substituting it therefor with “(5)”
6. Regulation 6 is amended by deleting sub regulation (2) and substituting therefor a new sub regulation (2) to read
- (2) Prior to appointment under sub regulation (1), the Commission shall provide the list of persons proposed for appointment to political parties and independent candidates at least seven days prior to the proposed date of appointment to enable them make any representations.
7. Regulation 10 (3) of the principal Regulations is amended by:
- (a) deleting sub regulation 3 and substituting it therefor with
“The symbol of a presidential independent candidate shall be submitted in

an electronic and print format as prescribed by the Commission together with the candidates details in Form 11 set out in the Schedule.”

- (b) Inserting a new sub regulation (4) to immediately after sub regulation (3)
“The symbol of independent candidate vying for parliamentary and county elections shall be submitted in an electronic and print format as prescribed by the Commission together with the candidates details in Form 11A set out in the Schedule.”

8. Regulation 12 of the principal Regulations is amended—

- (a) In sub regulation (2) deleting and substituting it therefor with a new sub-regulation (2) —

(2) The returning officer shall notify the public of the notice of election by exhibiting the gazette notice of the election in public places within the constituency and county.

- (b) by deleting sub regulation (4)

9. Regulation 13 of the principal Regulations is amended--

- (a) In 13A by inserting the following words “certified by the Office of the Registrar of Political Parties” immediately after the word “list”.
- (b) In 13A by deleting “11A” appearing after the word “Form” and substituting it therefor with “8”
- (c) by deleting regulation 13B
- (d) by deleting regulation 13C

10. Regulation 14 of the principal Regulations is amended —

- (a) In the marginal note by adding the word “Political” before the word “Party”
- (b) In sub regulation (2) by deleting the words “set out in sub-regulation 13C” after the word “Forms” and substituting it therefor with “9, 9A, 9B, 9C, 9D, 9E”

11. Regulation 15 of the principal Regulations is amended in sub regulation (b) by deleting the words “Form 11N” after the word “the” and substituting thereof

with "Form 10 for Presidential election and Form 10A for Parliamentary and County elections"

12. Part IV of the Principal Regulation is amended in the Title by deleting the title and substituting therefor with the new title "REGISTRATION OF CANDIDATES FOR PRESIDENTIAL ELECTION"

13. Regulation 16 of the principal Regulations is amended—

- (a) in the title by deleting the word "nomination" and substituting therefor the word "registration"
- (b) In sub-regulation (1) deleting the word "nomination" appearing immediately after the words "fixed for the" and substitute with "registration"
- (c) In sub-regulation (1) deleting the word "nomination" appearing immediately after the words "application for" and substitute with "registration of candidates for elections"
- (d) in sub regulation (2) (a) by deleting the words "the authorized official" appearing immediately the word "and the" and substituting therefore the expression "two (2) members of the political party".

14. Regulation 17 of the principal Regulations is amended—

- (a) in sub regulation (a) by deleting the words "nomination" and substituting therefore the words "registration";
- (b) In sub-regulation (1) deleting the word "nomination" appearing immediately after the words "fixed for the" and substitute with "registration";
- (c) In sub-regulation (1) deleting the word "nomination" appearing immediately before the words "in Form 12" and substitute with "registration of candidates for elections"
- (d) In sub-regulation (2) (a) deleting the word "nomination" and substituting therefor the expression "registration of candidates"
- (e) In sub-regulation (2) (a) deleting the words "in accordance with section 29(2) of the Act;"

15. Regulation 19 of the Principal Regulation is amended

- (a) In the title by deleting the words "Nomination fees of" and substituting therefor with the words "Candidate Registration fee for"

- (b) by deleting the word “nomination” appearing after the words “An application for” and substituting therefor with the word “Registration”
- (c) by deleting the word “nomination” appearing after the word “non-refundable” and substituting therefor with the words “candidate registration”

16. Regulation 21 of the principal Regulations is amended by deleting and substituting therefor with a new regulation 21 to read—

If at the close of nominations for a presidential election, under Article 138(1) of the Constitution, which shall be deemed under these regulations to mean, close of registration of candidates for a Presidential election, only one candidate is validly registered as a candidate, the Commission shall publish a notice in the *Gazette* stating that the presidential election shall not be held, and the Commission shall declare the candidate elected as President in Form 14.

17. Part V of the principal Regulations is amended—

- (a) by deleting and substituting therefor with a new Part V—
“REGISTRATION OF CANDIDATES FOR NATIONAL ASSEMBLY”

18. The principal Regulation is amended by deleting regulation 22 and substituting therefor with —

22. Registration of political party candidate for Member of National Assembly

A political party candidate for the member of National Assembly nominated by a political party shall deliver to the Returning Officer on the day fixed for registration of candidates at that election an application for candidate registration in Form 15 set out in the schedule.

22A. Registration of political party candidate for County Woman Member to the National Assembly

A political party candidate for the County Woman Member to the National Assembly nominated by a political party shall deliver to the Returning Officer on the day fixed for registration of candidates at that election an application for candidate registration in Form 16 set out in the schedule.

19. The principal Regulation is amended by deleting regulation 23 and substituting therefor with —

23. Registration of Independent Candidates for Member of National

Assembly

An Independent candidate for the member of National Assembly shall deliver to the Returning Officer on the day fixed for registration of candidates at that election an application for candidate registration in Form 15 set out in the schedule.

23A. Registration of Independent Candidates for County Woman Member to the National Assembly

An Independent candidate for the County Woman Member to the National Assembly shall deliver to the Returning Officer on the day fixed for registration of candidates at that election an application for candidate registration in Form 16 set out in the schedule.

20. Regulation 24 of the principal Regulations is amended—

- (a) in the title by deleting “of nomination”
- (b) in sub regulation (1) by deleting the word “nomination” appearing after the words “application for” and substituting therefor the word “registration”
- (c) In sub regulation (1) by deleting the word “each” and substituting therefor the words “the”
- (d) In sub regulation (1) by deleting the words “or county, as the case may be.”
- (e) In sub regulation (2) (b) by deleting the words “of Form 15” and substituting therefor the words “Supporters of Independent Candidates for Election of Member of National Assembly”

21. The principal Regulations are amended by deleting regulation 24A and substituting therefore the following new regulation

24A. Supporters for candidate for County Woman Member to National Assembly

(1) The person delivering an application for registration under regulation 23A shall at the same time deliver to the returning officer for the elective post, standard A4 sheets of paper bearing the names, respective signatures and identity card numbers of at least one thousand voters registered in the county

(2) The sheets of paper delivered under sub-regulation (1) shall—

- (a) be serially numbered;
- (b) each have at the top, the wording at the top “Supporters of Independent Candidates for Election of County Woman Member to the National

Assembly”

(c) be accompanied by copies of the identification documents of the voters referred to in sub regulation (1).

22. Regulation 25 of the principal Regulations is amended

(a) In the Title by deleting the title and substituting it with the title “Candidate registration fee for Member of National Assembly”

(b) by deleting the words “nomination for candidature at a parliamentary election” appearing immediately after the words “application for” and substituting therefor the words “registration as a candidate”

(c) by deleting the words “nomination” appearing immediately before the words “non-refundable” and substituting therefor the words “candidate registration”

(d) by inserting regulation 25A immediately after regulation 25

25A. Candidate registration fee for County Woman Member to the National Assembly

An application for registration as a candidate shall be accompanied by a non-refundable candidate registration fee, in banker’s draft, of-

(a) five thousand shillings for a candidate who is a youth or person with disability; and

(b) ten thousand shillings for the women candidate

23. Part VI of the principal Regulations is amended by deleting and substituting therefor with a new Part VI — “REGISTRATION OF CANDIDATES FOR SENATE”

24. Regulation 26 of the principal Regulations is amended—

(a) in the heading by deleting the word “nomination” and substituting therefor the word “registration”;

(b) by deleting the words “shall be” appearing immediately after the word “senate”

(c) by deleting the words “by delivery” and substituting therefor the words “shall deliver”

(d) by deleting the words “nomination” appearing before the words “of candidates” and substituting therefor the words “registration”

(e) by deleting the words “nomination” appearing after the words “application for” and substituting therefor the words “registration”

(f) by deleting the word “16” appearing immediately after the word “Form”

and substituting therefore the word "17"

25. Regulation 27 of the principal Regulations is amended —

- (a) in the heading by deleting the word "nomination" and substituting therefor the word "registration";
- (b) by deleting the words "be nominated by delivery" appearing after the word "shall" and substituting therefor the words "deliver"
- (c) by deleting the words "nomination" appearing after the words "fixed for the" and substituting therefor the word "registration"
- (d) by deleting the word "of" appearing immediately after the words "at that election"
- (e) by deleting the words "nomination" appearing after the words "application for" and substituting therefor the words "registration"
- (f) by deleting the word "16" appearing immediately after the word "Form" and substituting therefore the word "17"

26. The principal Regulations is amended by deleting regulation 28 and substituting therefore the following regulation

28. Supporters for candidate for Senate

- (1) The person delivering an application for registration under regulation 27 shall at the same time deliver to the returning officer for the elective post, standard A4 sheets of paper bearing the names, respective signatures and identity card numbers of at least two thousand voters registered in the county
- (2) The sheets of paper delivered under sub-regulation (1) shall—
 - (a) be serially numbered;
 - (b) each have at the top, the wording at the top "Supporters of Independent Candidates for Senate Election"
 - (c) be accompanied by copies of the identification documents of the voters referred to in sub regulation (1). inserting the words "not later than three days after nomination" at the end;

27. Regulation 29 of the principal Regulations is amended

- (a) in the heading by deleting the word "nomination fees" and substituting therefor the word "Candidate registration fee"

(b) by deleting the word nomination appearing immediately after the words “application for” and substituting therefor with the word “registration”

(c) by deleting the word nomination appearing immediately after the words “non-refundable” and substituting therefor with the word “candidate registration”

28. Part VII of the principal Regulations is amended by deleting and substituting therefor with “Registration of Candidates for County Governor”

29. Regulation 30 of the principal Regulations is amended—

(a) in the heading by deleting the word “Nomination for” and substituting therefor the word “Registration of”;

(b) by deleting the words “shall be” appearing immediately after the word “governor”

(c) by deleting the words “by delivery” and substituting therefor the words “shall deliver”

(d) by deleting the words “nomination” appearing before the words “of candidates” and substituting therefor the words “registration”

(e) by deleting the words “nomination” appearing after the words “application for” and substituting therefor the words “registration”

(f) by deleting the word “17” appearing immediately after the word “Form” and substituting therefor the word “18”

30. Regulation 31 of the principal Regulations is amended —

(a) in the heading by deleting the word “nomination” and substituting therefor the word “registration”;

(b) by deleting the words “nomination” appearing after the words “fixed for the” and substituting therefor the word “registration”

(c) by deleting the words “nomination” appearing after the words “application for” and substituting therefor the words “registration”

(d) by deleting the word “17” appearing immediately after the word “Form” and substituting therefor the word “18”

31. The principal Regulations are amended by deleting regulation 32

(a) In the heading by deleting “of nomination of” and substituting therefor with the word “for”

- (b) In sub regulation 1 by deleting the words "nomination" appearing after the words "application for" and substituting therefor the words "registration"
- (c) In sub regulation 1 by inserting the word "county" immediately before the words "returning officer"
- (d) In sub regulation 2 (b) by deleting the words "in typescript"
- (e) In sub regulation 2 (b) by deleting the words "of Form 18" and substitute therefor with "Supporters of Independent Candidates for Election of County Governor"

32. Regulation 33 of the principal Regulations is amended—

- (a) in the heading by deleting the words "Nomination fees" and substituting therefor the words "Candidate Registration fee"
- (b) by deleting the word nomination appearing immediately after the words "application for" and substituting therefor with the word "registration"
- (c) by deleting the word nomination appearing immediately after the words "non-refundable" and substituting therefor with the word "candidate registration"

33. Part VIII is amended by deleting and substituting therefor with "REGISTRATION OF CANDIDATES FOR MEMBER OF COUNTY ASSEMBLY"

34. Regulation 34 of the Principal Regulations is amended

- (a) In the heading by deleting the heading and substituting therefor with "Registration of political party candidates for Member of County Assembly election"
- (b) by deleting the words "shall be" appearing immediately after the word "county assembly election"
- (c) by deleting the words "by delivery" and substituting therefor the words "shall deliver"
- (d) by deleting the words "nomination" appearing before the words "of candidates" and substituting therefor the words "registration"
- (e) by deleting the words "nomination" appearing after the words "application for" and substituting therefor the words "registration"
- (f) by deleting the word "18" appearing immediately after the word "Form" and substituting therefore the word "19"

35. The principal Regulations are amended in regulation 35—

- (a) In the heading by deleting and substituting therefor with a new heading “Registration of independent candidates for member of county assembly election”
- (b) By deleting the words “county assembly member” and substituting therefor with the words “member of county assembly”
- (c) By deleting the word “nomination” appearing immediately after the words “fixed for the” and substituting therefor with the word “registration”
- (d) By deleting the word “nomination” appearing immediately after the words “application for” and substituting therefor with the word “registration”
- (e) By deleting the word “18” appearing immediately after the word “Form” and substituting therefor with the word “19”

36. Regulation 36 of the principal Regulations is amended by—

- a. In the heading by deleting the heading and substituting therefor with “Supporters for candidate for member of county assembly election”
- b. In sub regulation (1) by deleting the words “a nomination application” and substituting therefor with the words “an application for registration”
- c. In sub regulation 2 (b) by deleting the words “of Form 18” and substitute therefor with “Supporters of Independent Candidates for Election of member of County Assembly”

37. Regulation 37 of the principal Regulations is amended

- (a) in the heading by deleting the words “Nomination fees for candidate” and substituting therefor the words “Candidate Registration fee”
- (b) by deleting the word “nomination for candidature at a county assembly member” and substituting therefor with the word “registration as a candidate for a county assembly”
- (c) by deleting the word nomination appearing immediately after the words “non-refundable” and substituting therefor with the word “candidate”

registration”

38. Part IX is amended by deleting and substituting therefor with “GENERAL PROVISIONS ON REGISTRATION OF CANDIDATES AND REFERENDUM”

39. Regulation 38 of the principal Regulations is amended—

- (a) In the introductory paragraph by deleting “nomination paper” and substituting therefor with the words “candidate registration form”;
- (b) in sub regulation (b) by deleting the word “and” appearing after the words “political party” and substituting therefor with the word “or”
- (c) in sub regulation (c) by deleting the word “nomination” appearing after the words “for the” and substituting therefor with the word “registration of candidates”
- (d) In sub regulation (c) by deleting the words “by a person authorized by the candidate” and substituting therefor with “the proposer or seconder”

40. The principal Regulations are amended in regulation 39

- (a) In the introductory paragraph by deleting “nomination paper” and substituting therefor with the words “candidate registration form”;
- (b) In sub regulation (e) by deleting the words “a person authorized” and substituting therefor with the words “proposer or seconder”
- (c) In sub regulation (e) by deleting the word “nomination” and substituting therefor with the words “registration of candidates”

41. Regulation 41 of the principal Regulations is amended

- (a) In the marginal note by deleting the word “nomination” and substituting therefor the word “candidate registration”
- (b) by deleting the word “nomination” appearing after the words “application for” and substituting therefor the word “registration as a candidate,”
- (c) deleting the word “Form 19” and substituting therefor the word “Form 20”

42. The principal Regulations are amended in regulation 42

In the marginal note by deleting the word “nomination” and substituting therefor the word “candidate registration”

by deleting the word “nomination” and substituting therefor the word

“registration of candidate,”

43. The principal Regulations are amended by deleting regulation 43

- (a) In the marginal note by deleting the expression “nomination paper” and substituting therefor the word “candidate registration forms”
- (b) In sub-regulation (1) by deleting the expressions “nomination” and substituting therefor the expressions “registration as a candidate”
- (c) In sub-regulation (1) by deleting the expressions “nomination paper” and substituting therefor the expressions “candidate registration form”
- (d) In sub-regulation (1) by deleting the expressions “nominated” appearing after the words “validly” and substituting therefor the expressions “registered as a candidate”
- (e) In sub-regulations (2) (a) by deleting the expression “nomination paper” and substituting therefor the expression “candidate registration form”
- (f) In sub-regulations (2) (b) by deleting the expression “nomination paper” and substituting therefor the expression “candidate registration form”
- (g) In sub-regulation (2) (c) by deleting the words “nominated” and substituting therefor the words “registered”
- (h) In sub-regulation (2) (c) by deleting the words “nomination” and substituting therefor the words “registration” respectively
- (i) In sub-regulation (2)(e) by deleting the word “nominated” and substituting therefor the word “registered”
- (j) In sub-regulations (2) (g) by deleting the expression “nomination paper” and substituting therefor the expression “candidate registration form”
- (k) In sub-regulations (2) (h) by deleting the expression “nomination paper” and substituting therefor the expression “candidate registration form”
- (l) In sub-regulation (2) (i) by deleting the words “nominated” and substituting therefor the words “registered”
- (m) In Sub-regulation (3) by deleting the expression “nomination paper” and substituting therefor the expression “candidate registration form”
- (n) In Sub-regulation (4) by deleting the expression “nomination paper” and substituting therefor the expression “candidate registration form”
- (o) In Sub-regulation (5) by deleting the expression “nomination paper” and substituting therefor the expression “candidate registration form”

44. The principal Regulations are amended by deleting regulation 44.

45. Regulation 45 of the Principal Regulation is amended

- (a) In sub-regulations (1) by deleting the expression "nomination paper" immediately before the words "in respect of" and substituting therefor the expression "candidate registration form"
- (b) In sub-regulations (1) by deleting the expression "nomination paper" immediately after the word "to more than" and substituting therefor the expression "candidate registration form"
- (c) In sub-regulations (1) by deleting the expression "nomination paper" immediately after the words "in operative on" and substituting therefor the expression "candidate registration form"
- (d) In sub-regulations (1) by deleting the expression "nomination paper" immediately after the words "having subscribed a" and substituting therefor the expression "candidate registration form"
- (e) In sub-regulations (1) by deleting the expression "nomination paper" immediately after the words "before a second" and substituting therefor the expression "candidate registration form"

46. The principal Regulations are amended by deleting Regulation 47

- (a) In sub regulation (1) by deleting the expression "nomination" and appearing immediately before the words "shall" substituting therefor the expression "to be registered as a candidate"

47. Regulation 48 of the principal regulation is amended

- (a) In the title by deleting the title and substituting thereof with "Persons allowed at the candidate registration venue"
- (b) In sub regulation (1) by deleting the word "nomination papers" and substituting therefor with "candidate registration form"
- (c) by inserting a new paragraph 1 (aa) under sub regulation 1 (a)
1(aa) the spouse(s)
- (d) In sub regulation 1 (b) by deleting the words "person nominated as"
- (e) In sub regulation 1 (b) by deleting the words "where applicable"
- (f) by deleting sub regulation (2) and substituting therefor with "Subject to sub regulation (1), the Returning Officer shall take into consideration adequacy of sitting space and security in allowing persons to attend proceedings at a candidate registration venue"

(g) By deleting sub regulation (3)

48. Regulation 49 of the principal regulations is amended

- (a) By deleting the word “nomination” appearing immediately after the words “close of” and substituting therefor with “registration”
- (b) By deleting the word “nominated” appearing immediately after the words “duly” and substituting therefor with “registered”
- (c) By deleting the word “nomination” appearing immediately after the words “fresh” and substituting therefor with “registration of candidates”
- (d) By deleting the word “nominated” appearing immediately before the words “for the election” and substituting therefor with “registered as a candidate”
- (e) By deleting the word “nomination” appearing immediately after the words “regulation whose” and substituting therefor with “registration as a candidate”

49. The principal Regulations are amended in regulation 50

- (a) In the title by deleting the words “of nomination” and substituting therefor with “of candidate registration proceedings”
- (b) In sub regulation (1) by deleting the word “a nomination” and substituting therefor with the words “registration of candidates”
- (c) In sub regulation (2) by deleting the words “nomination papers” and substituting therefor with “candidate registration form”
- (d) In sub regulation (2) by deleting the words “nomination” and substituting therefor with “candidate registration”
- (e) In sub regulation (3) by deleting the word “the nominations” and substituting therefor with “registration of candidates”
- (f) by deleting the sub regulation (4) and substituting thereof

A returning officer may extend the registration of candidates where the proceedings have been interrupted and shall extend the hours of registration by the amount of time which was so lost in starting late

50. Regulation 51 is amended in the principal regulation

- (a) In the marginal note by deleting the word “Nomination” and substituting therefor with the words “Candidate registration”
- (b) In sub regulation (1) by deleting the word “a nominated” and

substituting therefor with the words "registered as a candidate"

- (c) In sub regulation (1) by deleting the word "Form 20" and substituting therefor with the words "Form 21"
- (d) In sub regulation (2) by deleting the word "a nominated" and substituting therefor with the words "registered as a candidate"
- (e) In sub regulation (2) by deleting the word "Form 21" and substituting therefor with the words "Form 22"
- (f) In sub regulation (3) by deleting the word "nomination" immediately after the words "closure of" and substituting therefor with the words "registration of candidates,"
- (g) In sub regulation (3) by deleting the word "a nominated" immediately after the word "validly" and substituting therefor with the words "registered as a candidate"
- (h) In sub regulation (3) by deleting the word "Form 22" and substituting therefor with the words "Form 23"
- (i) In sub regulation (3A) by deleting the word "nomination" immediately after the words "closure of" and substituting therefor with the words "registration of candidates"
- (j) In sub regulation (3A) by deleting the word "a nominated" immediately after the word "validly" and substituting therefor with the words "registered as a candidate"
- (k) In sub regulation (3A) by inserting the following words after the words concerned "in Form 23A set out in the schedule"
- (l) In sub regulation (4) by deleting the word "nominations" immediately after the words "close of" and substituting therefor with the words "registration of candidates,"
- (m) In sub regulation (4) by deleting the word "nominated" immediately after the word "validly" and substituting therefor with the words "registered as a candidate"
- (n) By deleting paragraph (a) of sub regulation (4) and substituting therefor with the words "issue the certificate of registration to the person validly registered as a candidate in Form 22 set out in the schedule"
- (o) In sub regulation (4) (b) by deleting the word "Form 23" and substituting therefor with the words "Form 23B"
- (p) In sub regulation (6) by deleting the word "nominations" immediately after the words "close of" and substituting therefor with the words "registration of candidates,"
- (q) In sub regulation (6) by deleting the word "nominated" immediately

after the word “validly” and substituting therefor with the words “registered as a candidate”

- (r) In sub regulation (6)(a) by deleting the words “nomination papers” and substituting therefor with “candidate registration forms”
- (s) In sub regulation (6)(b) by deleting the words “to the nomination papers” and substituting therefor with “in the candidate registration form”

51. Regulation 52 of the principal regulations is amended

- (a) In the marginal note by deleting the words “after nomination”
- (b) By deleting sub regulation (1).
- (c) By deleting sub regulation (2).
- (d) By inserting the following new sub regulations
 - (1) A candidate whose candidate registration form has been delivered to the returning officer may, before the close of registration of candidates, by notice in writing signed by him or her before the returning officer and presented to the returning officer, withdraw his or her candidature.
 - (2) A person who has been registered as a candidate, may withdraw his or her candidature by delivering to the respective returning officer a notice to that effect in Form 24A not later than three days after registration.
 - (3) Where there are only two registered candidates and one candidate withdraws, the remaining candidate shall be declared duly elected in accordance with regulation 53.

52. Regulation 53 is amended

- (a) by deleting the word “nomination” immediately after the words “close of” and substituting therefor with the words “registration of candidates”
- (b) by deleting the word “nominated” immediately after the word “validly” and substituting therefor with the words “registered as a candidate”

53. Regulation 57 of the principal regulations is amended

- (a) In the title by deleting the words “national and county chief”
- (b) By deleting sub regulation (1) and inserting the following new sub regulation

Every political party and independent candidate shall at least fourteen

days to the date of the election submit to the Commission the names of:

- a) One national chief agent
- b) county chief agents
- c) constituency chief agents
- d) agents for each polling station where applicable

c) by deleting sub regulation (2) and substituting thereof with the following new sub regulations

(2) The list referred to in sub regulation (1) shall be signed by the authorized party official or the candidate.

(3) The Commission shall issue identification badges to the agents referred in sub regulation (1)

54. Regulation 69 of the principal regulations is amended

(a) In sub regulation 1 (e) i by inserting the words "biometrically" immediately after the words "a voter"

(b) In sub regulation 1 (e) ii by inserting the words "biometrically" immediately before the words "using the device"

(c) In sub regulation 1 e ii by deleting the expression "Verification Form 32A" and substituting thereof with "Form 43"

(d) By deleting sub regulation 1 e iii and substituting therefor with "The Presiding Officer initiates the supervisor validation function on the electronic identification device"

(e) By deleting sub regulation 1 e iv and substituting therefor with "The Presiding Officer shall key in the supervisor password to validate the voter"

(f) By inserting a new paragraph (v)

Once identified and validated, the voter is issued with the ballot papers to vote.

(g) In sub-regulation (3) by deleting the phrase "under the Act"

(h) By deleting sub regulation (4)

55. Regulation 70 of the principal regulations is amended by deleting sub regulation (3)

56. Regulation 71 of the principal regulations is amended by inserting a new sub regulation (2)

(a) By renumbering the existing provision as sub regulation (1)

(b) By inserting a new sub regulation (2) to read

(2) No replacement of a ballot paper under this regulation may be done more than once in respect of any particular voter

57. Regulation 72 of the principal regulation is amended in sub regulation (5) by inserting the words “Election Offences” immediately before the word “Act”

58. Regulation 73 of the principal regulation is amended in sub regulation (1) by inserting the phrase “aperture of the” immediately after the phrase “to seal the”

59. Regulation 74 is amended in sub-regulation (4) (a) by inserting a new paragraph (aa) “a candidate’s spouse(s)”

60. Regulation 75 of the principal regulations is amended

a) by deleting and inserting a new sub regulation

(2) The presiding officer shall carry out the counting of votes for the respective elective posts in the following order—

a) President;

b) member of the National Assembly;

c) member of the County Assembly;

d) county governor;

e) senator;

f) county woman member to the National Assembly

b) In sub-regulation (5) by deleting the phrase “in Kenya and in accordance with the time of counting in Kenya” immediately after the words “polling time in” and substitute therefor the phrase “based on the respective polling station’s local time”

61. Regulation 81 is amended

(a) in the marginal note by deleting the word “papers” and substituting therefor the word “boxes”

(b) by inserting a new paragraph (aa) under sub-regulation (4) (a) to read “a candidate’s spouse(s)”

62. Regulation 82 of the principal regulations is amended

(a) By deleting the marginal note and substituting therefor with a new

marginal note to read “Transmission of election results”

- (b) By deleting sub regulation (1) and substituting therefor with a new sub regulation (1) to read

(1) The presiding officer shall before ferrying the physical results to the constituency tallying centre-

- (a) electronically capture the result form.
 - (b) ensure that the result form is captured in a clear readable manner.
 - (c) display the captured result form on the electronic device to all the agents and candidates present before transmission.
 - (d) Electronically transmit the captured result form to the presidential tallying center.
- (c) by deleting sub regulation (2) and substituting therefor with a new sub regulation (2) to read

(2) In case the result transmission fails at the polling station, the presiding Officer will be required to:

- (a) Move to the nearest point from the polling station that has good network and transmit the result accordingly.
 - (b) If there is still no network, proceed to the Constituency Tallying Centre and transmit from the Constituency Tallying Centre.
- (d) by inserting a new sub regulation (3) to read

(3) The Commission shall set up a public portal or other media for live streaming of the results forms as it may determine.

63. Regulation 83 Regulation 83 of the principal regulation is amended by inserting a new regulation 83A—

83A. Opening of a Ballot Box at the Constituency Tallying Centre

Upon arrival at the Constituency Tallying Centre, where the Presiding Officer is found to have wrongly put materials in the sealed ballot box;

- a) the Presiding Officer shall inform the Returning Officer;
- b) the Presiding Officer shall summon his/her polling station agents to the Constituency Tallying Centre;
- c) in the presence of the Returning Officer, the Constituency Tallying Center Agents, and polling station agents, the Presiding Officer shall open

the ballot box and retrieve the required materials and shall seal the ballot box and record the new seal serial numbers in the Polling Station Diary.

d) the Polling Station Agents and Tallying Centre Agents will be required to sign as witnesses to the process and Returning Officer shall record in that specific Polling Station Diary

e) in the event that the Polling Station Agents are unavailable or refuse to participate, the Returning Officer shall invite the Tallying Centre Agents to witness.

f) in the event that both the Polling Station Agents and Tallying Centre Agents are unavailable or refuse to participate, the Returning Officer shall inform the Commission for further guidance

64. Regulation 87 of the principal regulation is amended in sub regulation (3) by deleting and substituting it therefor with a new sub regulation (3)

Upon receipt of Form 34A from the constituency returning officers under sub-regulation (1), the Chairperson of the Commission shall—

- (a) verify the results against Forms 34A and 34B received from the constituency returning officer at the national tallying centre;
- (b) tally and complete Form 34C;
- (c) announce the results for each of the presidential candidates for each County;
- (d) sign and date the forms and make available a copy to any candidate or the national chief agent present;
- (e) publicly declare the results of the election of the president in accordance with Articles 138(4) and 138(10) of the Constitution;
- (f) issue a certificate to the person elected president in Form 34D set out in the Schedule; and
- (g) deliver a written notification of the results to the Chief Justice and the incumbent president within seven days of the declaration; provided that the Chairperson of the Commission may declare a candidate elected as the President before all the Constituencies have delivered their results if in the opinion of the Commission the results that have not been received will not make a difference with regards to the winner on the basis of Article 138(4)(a) (b) of the Constitution; and
- (h) in the case of the other elections, whether or not forming part of a multiple election, publish a notice in the Gazette, which may form part of a composite notice, showing the name or names of the person or persons elected. The process of delivering the presidential results from the constituency is not anchored any regulation 87(3) is amended by deleting and substituting it therefor the following new

sub-regulation (3)—

- i. The Constituency Returning Officer shall, in the presence of persons authorized to access the constituency result tallying centre—
 - a. Receive election results declaration Form 34A from polling stations
 - b. Notify the persons present on the polling stations whose results have been received
 - c. Tally and display the count of Election results in Form 34A into Form 34B in the schedule
 - d. Disregard the results of the count of a polling station where the total valid votes exceed the number of registered voters in that polling station
 - e. Verify the accuracy of the count in Form 34B using the counts in the official Form 34As
 - f. Display the duly filled Form 34B results to the authorized persons present for confirmation of the accuracy of collated results form
 - g. Print the verified results in the official Form 34B provided
 - h. Invite authorized constituency tallying centre agents present to sign
 - i. Sign, date, and stamp
 - j. Make copies of the duly signed Form 34B
 - k. Announce the—
 - i. name of the respective electoral area;
 - ii. total number of registered voters;
 - iii. votes cast for each candidate in each polling station;
 - iv. number of the rejected ballot papers in each polling station;
 - v. aggregate number of votes cast in the respective electoral area;
 - vi. aggregate number of rejected ballots;
 - l. Make copies of the duly filled Form 34B available to the authorized constituency tallying centre agents
 - m. As soon as practicable, deliver in person, the physical copies to the Presidential election results tallying centre all the Form 34A from the respective polling stations in the constituency and Form 34B
2. Upon receipt of Form 34A and Form 34B from the constituency returning officer, the chairperson of the Commission, in the presence of authorized agents,

observers and candidates present shall—

- a. Notify the persons present on the constituencies whose results have been received
- b. Tally and display the count of Election results in Form 34B into Form 34C in the schedule
- c. Note any polling station count disregarded by the Returning Officer and the reason
- d. Verify the accuracy of the count in Form 34C using the counts in Form 34As
- e. Display the duly filled Form 34C results to the authorized persons present for confirmation of the accuracy of collated results form
- f. Print the verified results in the official Form 34C provided
- g. Invite authorized presidential election results tallying centre chief agents present to sign
- h. Sign, date, and stamp
- i. Make copies of the duly signed Form 34C
- j. Announce the—
 - i. total number of registered voters in the Republic;
 - ii. total valid votes cast;
 - iii. aggregate number of rejected ballots;
 - vi. total number of valid votes in favour of each candidate;
 - vii. total number of votes for each candidate in each of the forty-seven (47) counties;
 - viii. the percentage of votes cast in each county garnered by each candidate;
 - ix. the percentage total of national votes cast in favour of each candidate; and
 - x. Indicate if the percentage in (ix) above meets the threshold of garnering more than half of the votes cast in the presidential election.
- k. Make copies of the duly filled Form 34C available to the authorized presidential chief agents
- l. The chairperson declares the results and,

- m. A candidate is declared as president if the candidate—
 - i. Receives the highest number of votes being more than half of all the votes cast in the election
 - ii. Receives at least 25% of votes cast in more than half of the counties
- n. Issue the certificate in Form 34D to the president-elect
- o. deliver a written notification of the results to the Chief Justice and the incumbent president within seven days after the presidential election
- p. In the event no candidate is elected as president, the chairperson of the Commission shall notify the public of a fresh presidential election pursuant to Article 138 of the Constitution provided that the Chairperson of the Commission may declare a candidate elected as the President before all the Constituencies have delivered their results if in the opinion of the Commission the results that have not been received will not make a difference with regards to the winner on the basis of Article 138(4)(a) (b) of the Constitution; and
- q. in the case of the other elections, whether or not forming part of a multiple election, publish a notice in the Gazette, which may form part of a composite notice, showing the name or names of the person or persons elected

THE ELECTIONS ACT, 2011
(No. 24 of 2011)

IN EXERCISE of the powers conferred by section 109 of the Elections Act, 2011, the Independent Electoral and Boundaries Commission makes the following Regulations—

THE ELECTIONS (VOTER EDUCATION) (AMENDMENT) REGULATIONS, 2022

- Citation. 1. These Regulations may be cited as the Elections (Voter Education) (Amendment) Regulations, 2022, and shall come into effect upon publication in the *Gazette*.
- L.N
..... 2. Regulation 2 of the principal Regulations is amended by deleting the words “constituency elections coordinator” and substituting therefor with the words “Senior Elections Officer”
3. Regulation 5 (1) of the Principal regulations is amended by inserting the words “while adhering to the principles of public participation” appearing immediately after the word “material”
4. Regulation 6 of the Principal regulations is amended
- (a) In the title by deleting the “constituency elections coordinator” and substituting therefor with the term “senior elections officer.”
 - (b) In sub regulation (1) by deleting the term “constituency elections coordinator” and substituting therefor with the term “senior elections officer”
 - (c) In sub regulation (2) by deleting the term “constituency elections coordinator” and substituting therefor with the term “senior elections officer
 - (d) In sub regulation (3) by deleting the term “constituency elections coordinator” and substituting therefor with the term “senior elections officer.
5. Regulation 12 of the principal Regulations is amended by deleting sub regulation (4)

6. Regulation 13 is amended by inserting the following new sub regulation immediately after sub regulation (1)

(2) An application for accreditation to provide voter education shall be made to the Commission in Form 1 set out in the Schedule.

7. The principal Regulations are amended by deleting Form 1 and Form 2 in the Schedule and substituting therefor the following Forms in the Schedule—

SCHEDULE

FORM 1

r. (13(2))

FORM 1

APPLICATION FORM

APPLICATION FOR ACCREDITATION AS A VOTER EDUCATION PROVIDER

1. Name of Organization (Attach Certified Copy of Registration Certificate)

.....

2. Address: (Postal and Physical including City/Street/Building)

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.....

3. Telephone and Email Contacts of the Organization:

Office Telephone:

Mobile:

Email:

4. Principal Officers: (Attach certified copies of National ID/Passport)

(a) President/Chairperson:

Name:

ID/Passport No:

Telephone No:

(b) Secretary General/ Executive Director/ Country Director:

Name:

ID/Passport No:

Telephone No:

5. Person authorized by the organization to liaise with the Commission

Name:

Position:

Physical Address:

Telephone No:

Email:

Signature:

Date:

6. Set out the Statement of Objectives of the Organization as set out in the Instruments of Registration (One of which must be Civic/Voter Education)

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.....
.....

7. Estimated number of members that the Organization plans to deploy for Voter Education:

National Level: County Level:

Constituency Level: County Assembly Ward (CAW) Level:

Diaspora:

8. Source of Funds (Attach bank statement for the previous three months)

.....
.....
.....

9. Indicate the Constituency / Constituencies you are currently undertaking activities in.

.....

10. Months of experience in Civic or Voter Education (at least 6 Months)

.....

(Attach recommendations/previously issued certificates by IEBC or Partners)

11. Tax Compliance Status (Attach copy of valid Tax Compliance Certificate)

12. If accredited, where do you intend to provide voter education in:

a) National Level

b) County Level (Name the County/Counties):

.....

c) Constituency Level (Name the Constituency/Constituencies):

.....

d) County Assembly Ward (CAW) Level (Name the CAW/CAWs):

e) Diaspora (Name the Country / Countries):

13. Person submitting this application:

Name:

Designation:

Email:

Telephone No:

Signature:

Date:



I (*fill name of the person submitting this application*) solemnly swear (or affirm) and certify, under penalty of false declaration under the Oaths and Statutory Declaration Act (Cap 15 of the Laws of Kenya), that all the foregoing statements in this declaration are true and correct to the best of my/our knowledge.

Dated at this day of 20.....

Signature:



INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

MATRIX ON PROPOSED AMENDMENTS TO THE ELECTIONS (VOTER EDUCATION) REGULATIONS, 2017

S/No.	Current Law	Issue with the Current Law	Proposal	Justification
1.	Regulation 2 – Definition of terms	The regulation uses the term “constituency elections coordinator” which was changed in the strategic plan	Regulation 2 is amended by deleting the term “constituency elections coordinator” and substituting it therefor with the term “senior elections officer”	To align the regulations with the restructuring and change of titles in the strategic plan.
2.	Regulation 5(1) – Voter education curriculum and education materials	The Commission is obligated to develop a voter education curriculum. The Curriculum needs to be developed pursuant to public participation policy/requirements.	Regulation 5 (1) is amended by inserting the expression “while adherence to principle of public participation” after the word “materials”	To ensure the voter education curriculum satisfies constitutional requirement of public participation.
3.	Regulation 6 – (1) Constituency	The regulation uses the term “constituency elections coordinator” which was changed in the strategic plan	Regulation 6 is amended— (a) In sub-regulation (1) by deleting the expression “constituency elections coordinator” and substituting therefor	To align the regulations with the restructuring and change of titles in the strategic plan

S/No.	Current Law	Issue with the Current Law	Proposal	Justification
	election coordinators (2) Constituency election coordinators (3) Constituency election coordinators		with the expression “senior elections officer” (b) In sub-regulation (2) by deleting the expression “constituency elections coordinator” and substituting therefor with the expression “senior elections officer” (c) In sub-regulation (3) by deleting the expression “constituency elections coordinator” and substituting therefor with the expression “senior elections officer”	
4.	Regulation 12 (4) Application for accreditation	The contents of Form 1 are not aligned to the provisions of Regulation 12.	Regulation 12 is amended by deleting sub-regulation (4)	To align the Form with the regulations
5.	Form 1 in the schedule	The contents of Form 1 are not aligned to the provisions of Regulation 12.	Regulation 13 is amended by inserting the following new sub-regulation (2) immediately after sub-regulation (1)—	To align the Form with the regulations

S/No.	Current Law	Issue with the Current Law	Proposal	Justification
			<p>(2) An application for accreditation to provide voter education shall be made to the Commission in Form 1 set out in the Schedule</p> <p>Form 1 in the schedule is amended by including particulars on: the organization indicating the constituency (electoral area) that they operate in, organization outlining the six months' experience in the provision of voter education and the attaching of a tax compliance certificate</p>	<p>To enable the accreditation committee to ascertain that the organization has the requisite experience in voter education and is an organization of good standing that complies with the law</p>

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION



FORM 1
APPLICATION FORM

APPLICATION FOR ACCREDITATION AS A VOTER EDUCATION PROVIDER

1. Name of Organization (Attach Certified Copy of Registration Certificate)

2. Address: (Postal and Physical including City/Street/Building)

3. Telephone and Email Contacts of the Organization:

Office Telephone:

Mobile:

Email:

4. Principal Officers: (Attach certified copies of National ID/Passport)

(a) President/Chairperson:

Name:

ID/Passport No:

Telephone No:

(b) Secretary General/ Executive Director/ Country Director:

Name:

ID/Passport No:

Telephone No:

5. Person authorized by the organization to liaise with the Commission

Name:

Position:

Physical Address:

Telephone No:

Email:

Signature:

Date:

6. Set out the Statement of Objectives of the Organization as set out in the Instruments of Registration (One of which must be Civic/Voter Education)

.....

.....

.....

7. Estimated number of members that the Organization plans to deploy for Voter Education:

National Level: County Level:
Constituency Level: County Assembly Ward (C.A.W) Level:
Diaspora:

8. Source of Funds (Attach bank statement for the previous three months)

9. Indicate the Constituency / Constituencies you are currently undertaking activities in.

10. Months of experience in Civic or Voter Education (at least 6 Months)

(Attach recommendations previously issued certificates by IEBC or Partners)

11. Tax Compliance Status (Attach copy valid Tax Compliance Certificate)

12. If accredited, where do you intend to provide voter education in:

- a) National Level
- b) County Level (Name the County/Countries):

c) Constituency Level (Name the Constituency/Constituencies):

d) County Assembly Ward (CAW) Level (Name the CAW/CAWs):

e) Diaspora (Name the Country / Countries):

13. Person submitting this application:

Name:
Designation:
Email:
Telephone No:
Signature:
Date:



I *(fill name of the person submitting this application)* solemnly swear (or affirm) and certify, under penalty of false declaration under the Oaths and Statutory Declaration Act (Cap 15 of the Laws of Kenya), that all the foregoing statements in this declaration are true and correct to the best of my/our knowledge.

Dated at..... this day of 20.....

Signature:

Before

..... Signature: Date:

(Magistrate or Commissioner for Oaths)

IEBC ACCREDITED VOTER EDUCATION PROVIDERS FROM(date)

No	Name of Organization	Physical Address	Area of Operation
01			
02			
03			
04			
05			
06			
07			
08			
09			
10			



LEGAL NOTICE NO.

THE ELECTIONS ACT, 2011
(No. 24 of 2011)

IN EXERCISE of the powers conferred by section 109 of the Elections Act, 2011, the Independent Electoral and Boundaries Commission makes the following Regulations—

**THE ELECTIONS (PARTY NOMINATIONS AND PARTY LISTS)
(AMENDMENT) REGULATIONS, 2022**

- Short title. 1. These Regulations may be cited as the Elections (Party Nominations and Party Lists) (Amendment) Regulations, 2022 and shall come into effect upon publication in the *Gazette*.
- L.N. 2. Regulation 1 of the Elections (Party Primaries and Party lists) Regulations, 2017 is amended by deleting the word “**primaries**” and substituting therefor the word “**nominations**”
3. Regulation 2 of the Elections (General) Regulations, 2012, in these Regulations referred to as “the principal Regulations”, is amended –
- (a) in the definition of “Election Board” by deleting the expression “primaries” appearing after the words “of party” and substituting therefor the expression “nominations”;
- (b) in the definition of “party primary” by deleting the expression “primary” and substituting therefor the expression “nominations”
4. Regulation 3 of the principal Regulations is amended by deleting the word “primaries” appearing after the words “to party” and substituting therefor the word “nominations”

5. Regulation 4 of the principal regulations is amended by deleting the word “primaries” appearing after the words “of party” and substituting therefor the word “nominations”

6. Regulation 6 of the principal Regulations is amended

(a) by deleting sub regulation (2) and substituting therefor the following new sub regulation—

(2) The nomination rules and procedures under sub-regulation (1) shall provide for—

(a) the procedure a party intends to use in direct nomination for identifying aspiring candidates to stand for election in every electoral area;

(b) the procedure for the selection of delegates to participate in the indirect party nominations for identifying aspiring candidates to stand for election in every electoral area;

(c) the designated person(s) who shall issue nomination certificates to candidates after political party nominations;

(d) a mechanism for ensuring that every aspiring candidate meets the requirements of the law to stand for the respective position; and

(e) the conduct of nomination of party lists

(b) In sub-regulation (3) by deleting and substituting therefor with new sub-regulation (3) —

The nomination rules and procedures shall prescribe—

(a) method, procedure and criteria for conducting indirect party nomination that the party may employ;

(b) the functions of the body within the political party that shall be responsible for the conduct of the nominations; and

(c) internal party mechanisms for the resolution of disputes arising out of the nominations;

7. Regulation 7 of the principal regulations is amended in sub regulation (1) by deleting the word “primaries” appearing after the words “of party” and substituting therefor the word “nominations”
8. Part II of the principal regulation is amended by deleting the heading of part II
9. Regulation 10 of the principal Regulations is amended
 - (a) in sub regulation (1) by deleting the word “primaries” appearing after the word “party” and before the word “and” and substituting therefor the word “nominations”
 - (b) in sub regulation (2) by deleting the word “primary” appearing before the words “venue of the party” and substituting therefor the word “nomination”
 - (c) in sub regulation (3) by deleting the word “primary” appearing before the words “conduct the party” and substituting therefor the word “nomination”
10. The principal Regulations are amended in regulation 13 by deleting the word “primary” appearing after the words “of the party” and substituting therefor the word “nomination”
11. Regulation 14 of the principal Regulations is amended by—
 - (a) In sub regulation (1) by deleting the word “primary” appearing after the words “before a party” and substituting therefor the word “nomination”
 - (b) In sub regulation (2) (c) by deleting the word “primaries” appearing immediately after the words “different for party” and substituting therefor the word “nominations”
12. Regulation 15 of the principal Regulations is amended in sub regulation (1) (c) is amended by inserting the term “Kenyan” immediately after the word “valid”.
13. Regulation 16 of the principal Regulations is amended—
 - (a) In the marginal note by deleting the word “primary” appearing after “of a party” and substituting therefor the word “nomination”

(b) in sub regulation (1) by deleting the words “primary” appearing after the words “A party” and substituting therefor the word “nomination”

(c) in sub regulation (2) by deleting the words “primary” appearing after the words “no party” and substituting therefor the word “nomination”

(d) in sub regulation (4) by deleting the words “primary” appearing after the words “of the party” and substituting therefor the word “nomination”

14. The principal Regulation 17 of the principal Regulations is amended in sub regulation (1) by deleting the words “primary” appearing before the words “or nomination” and substituting therefore the words “nomination”

15. Regulation 18 of the principal Regulations is amended—

(a) In the marginal note by deleting the word “primaries” and substituting therefor the word “nominations”

(b) In sub-regulation (1) by deleting the word “primary” appearing immediately after the words “of the party” and substituting therefor with the word “nomination”

16. Regulation 19 of the principal Regulations is amended—

(a) In the marginal note by deleting the words “of nomination candidates” and substituting therefor with the words “in party nominations”

(b) In sub-regulation (1) by deleting the word “primary” appearing immediately after the words “in a party” and substituting therefor with the word “nomination”

(c) in sub-regulation (2) (c) by deleting the word “primary” appearing immediately after the words “to the party” and substituting therefor with the word “nomination”

17. Part III of the Principal Regulation is amended—

(a) by deleting the heading of Part III

(b) by deleting regulation 22

(c) by deleting regulation 23

(d) by deleting regulation 24

(e) by deleting regulation 25

18. Regulation 27 of the principal Regulations is amended in sub-regulation (1) by deleting the word “primaries” appearing immediately after the words “to the party” and substituting therefor with the word “nominations”

19. Regulation 28 of the principal Regulations is amended

(a) by deleting the word “primary” appearing immediately before the words “and party nomination” and substituting therefor with the word “nomination”

20. The principal Regulations are amended in the schedule and amending the following forms in the schedule

(a) In Form 2 amend the heading by deleting the term “PRIMARY” appearing after the word “PARTY” and substituting therefor with the word “NOMINATION”

(b) In Form 5 amend the heading by deleting the term “PRIMARY” appearing after the word “PARTY” and substituting therefor with the word “NOMINATION”

(c) In Form 5 by deleting the word “primary” appearing immediately before the word “process” and substituting therefor with the word “nomination”

(d) In Form 5 by deleting the word “primary” appearing immediately before the word “was conducted” and substituting therefor with the word “nomination”

S/No.	Current law	Issue with the law	Proposal	Justification
4.	<p>These Regulations shall apply to party primaries and party nomination of party lists.</p> <p>Regulation 4 of the Elections (Party Primaries and Party lists) Regulations, 2017 — The conduct of party primaries and party nomination of party lists shall—</p>	<p>the Political Parties Act, 2011 (revised 2022).</p> <p>The need to align the term with the Constitution and the Election Amendment Bill, 2022.</p>	<p>immediately after the expression “to party” and substituting therefor the word “nominations”</p> <p>Regulation 4 of the Elections (Party Primaries and Party lists) Regulations, 2017 is amended by deleting the word “primaries” appearing immediately after the expression “of party” and substituting therefor the word “nominations”</p>	<p>Need for clarity on the use of terms.</p>
5.	<p>Regulation 6 of the Elections (Party Primaries and Party lists) Regulations, 2017 —</p> <p>(2) The nomination rules and procedures under sub-regulation (1) shall provide for— (a) the procedure to be employed in party primary and nomination of party lists for identifying aspiring candidates to stand for election in every electoral area;</p> <p>(b) a mechanism for ensuring that every aspiring candidate meets the requirements of the law to stand for the respective position; and</p>	<p>The regulation conflicts with the Political Parties Act, 2011 (Revised 2022)— (i) Section 38A Methods of conducting party nominations (ii) Section 38B Establishment of party structures (iii) Section 38F Conduct of direct party nominations (iv) Section 38G Conduct of indirect party nominations</p>	<p>Regulation 6 of the Elections (Party Primaries and Party lists) Regulations, 2017 is amended— (a) by deleting sub-regulation (2) and substituting therefor the following new sub-regulation— The nomination rules and procedures under sub-regulation (1) shall provide for— (a) the procedure a party intends to use in direct nomination for identifying aspiring candidates to stand for election in every electoral area; (b) the procedure for the selection of delegates to participate in the indirect party nominations for identifying aspiring candidates to stand for election in every electoral area; (c) the designated person(s) who shall issue nomination certificates to candidates after political party nominations; (d) a mechanism for ensuring that every aspiring candidate meets the</p>	<p>It aligns the regulation to the provisions of the Political Parties Act, 2011 (revised 2022)</p>

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION



A MATRIX ON THE PROPOSED AMENDMENTS TO ELECTIONS (PARTY PRIMARIES AND PARTY LISTS) REGULATIONS, 2017

S/No	Current law	Issue with the law	Proposal	Justification
1.	Regulation 1 of the Elections (Party Primaries and Party lists) Regulations, 2017— These Regulations may be cited as the Elections (Party Primaries and Party Lists) Regulations, 2017 and shall come into operation upon publication in the <i>Gazette</i>	The need to align the term with the Constitution and the Election Amendment Bill, 2022	Regulation 1 of the Elections (Party Primaries and Party lists) Regulations, 2017 is amended by deleting the word “primaries” and substituting therefor the word “nominations”	Need for clarity on the use of terms.
2.	Regulation 2 of the Elections (Party Primaries and Party lists) Regulations, 2017— “Election Board” means the political party organ in charge of party primaries and party nomination of party lists; “party primary” means the process through which a political party elects or selects its candidates for an election but does not include a party list;	The need to align the term with the Constitution and the Political Parties Act, 2011 (revised 2022)	Regulation 2 of the Elections (Party Primaries and Party lists) Regulations, 2017 is amended— On the definition of the term “Election Board” by deleting the expression “primaries” appearing immediately after the expression “of party” and substituting therefor the expression “nominations” On the definition of the term “party primary” by deleting the expression “primary” and substituting therefor the word “nominations”	Need for clarity on the use of terms.
3.	Regulation 3 of the Elections (Party Primaries and Party lists) Regulations, 2017 —	The need to align the term with the Constitution and	Regulation 3 of the Elections (Party Primaries and Party lists) Regulations, 2017 is amended by deleting the word “primaries” appearing	Need for clarity on the use of terms.

S/No	Current law	Issue with the law	Proposal	Justification
	<p>(c) the conduct of party and primaries nomination of party lists.</p> <p>(3) The nomination rules and procedures shall prescribe—</p> <p>(a) the criteria, and procedures and circumstances under which non-competitive nomination methods, including direct and nominations and consensus may be employed; and</p> <p>(b) the structure and mandate of the party's Election Board.</p>		<p>requirements of the law to stand for the respective position; and</p> <p>(e) the procedure for conduct of nomination of party lists</p> <p>(b) In sub-regulation (3) by deleting and substituting therefor with new sub-regulation (3) —</p> <p>The nomination rules and procedures shall prescribe—</p> <p>(a) method, procedure and criteria for conducting indirect party nomination that the party may employ;</p> <p>(b) the functions of the body within the political party that shall be responsible for the conduct of the nominations; and</p> <p>(c) internal party mechanisms for the resolution of disputes arising out of the nominations;</p>	
6.	<p>Regulation 7 of the Elections (Party primaries and Party lists) 2017—</p> <p>(1) Every political party shall prepare and communicate to its members a party nomination code of conduct at least thirty days before the conduct of party primaries or nomination of the party list, whichever is the earlier.</p> <p>Part II</p>	<p>The need to align the term with the Constitution and the Political Parties Act, 2011 (Revised 2022</p>	<p>Regulation 7(l) of the Elections (Party Primaries and Party lists) Regulations, 2017 is amended by deleting the word "Primaries" appearing immediately after the expression "of party" and substituting thereof with the word "nominations"</p>	<p>Need for clarity on the use of terms.</p>
7.	<p>Part II</p>	<p>The need to align the term with the</p>	<p>Part II is amended by deleting the heading Part II</p>	<p>The Elections Amendment Bill has</p>

S/Nb	Current law	Issue with the law	Proposal	Justification
	PARTY PRIMARY AND PARTY NOMINATION OF THE PARTY LIST CONDUCTED BY THE POLITICAL PARTY	Constitution and the Election Amendment Bill, 2022.		Justification proposed the deletion of S. 31 (2) hence no need for the heading as it is the parties that will be conducting their own nominations.
8.	Regulation 10(1) of the Elections (Party Primaries and Party lists) Regulations, 2017— (1) An Election Board shall be responsible for conducting or supervising party primaries and party nomination of party lists and any other related activities for purposes of selection of candidates to participate in an election. (2) The Election Board shall notify members of the party of the date by which applications must be received, the date, time and venue of the party primary. (3) The nomination officials appointed by an Election Board shall conduct the party primary, tally the votes and present the results to an Election Board.	The need to align the term with the Constitution and the Election Amendment Bill, 2022	Regulation 10(1) of the Elections (Party Primaries and Party lists) Regulations, 2017 is amended— (a) In sub-regulation (1) by deleting the word “primaries” appearing immediately after the expression “supervising party” and substituting therefor the word “nominations” (b) In sub-regulation (2) by deleting the word “primary” appearing immediately after the expression “the party” and substituting therefor the word “nomination” (c) In sub-regulation (3) by deleting the word “primary” appearing immediately after the expression “the party” and substituting therefor the word “nominations”	Need for clarity on the use of terms.
9.	Regulation 13(b) of the Elections (Party Primaries and Party lists) Regulations, 2017— (b) any disputes arising out of the party primary or party	The need to align the term with the Constitution and the Election Amendment Bill, 2022	Regulation 13 (b) of the Elections (Party Primaries and Party lists) Regulations, 2017 is amended by deleting the word “primary” appearing immediately after the expression “of the party” and substituting therefor the word “nomination”	Need for clarity on the use of terms.

S/No.	Current law	Issue with the law	Proposal	Justification
10.	<p>nomination of the party list have been heard and determined,</p> <p>Regulation 14 of the Elections (Party Primaries and Party lists) Regulations, 2017—</p> <p>(1) Every political party may, at least two weeks before a party primary or nomination of the party lists, announce the fees to be levied by the party on every aspiring candidate.</p> <p>(2) The fees charged by a political party under sub regulation (1)—</p> <p>(a) shall be made known to the party members;</p> <p>(b) may be graduated or waived to take into account special interest groups; and</p> <p>(c) may be different for party primaries and for party nomination of party lists.</p>	<p>The need to align the term with the Constitution and the Election Amendment Bill, 2022</p>	<p>Regulation 14 of the Elections (Party Primaries and Party lists) Regulations, 2017 is amended—</p> <p>(a) In sub-regulation (1) by deleting the word “primary” appearing immediately after the expression “a party” and substituting therefor the word “nomination”</p> <p>(b) In sub-regulation (2)(c) by deleting the word “primaries” appearing immediately after the expression “for party” and substituting therefor the word “nominations”</p>	<p>Need for clarity on the use of terms.</p>
11.	<p>Regulation (15) (1)(c) of the Elections (Party Primaries and Party lists), Regulations 2017— copies of the person's national identity card or valid passport;</p>	<p>The passport lacks the Country of origin.</p>	<p>Regulation (15) (1)(c) of the Elections (Party Primaries and Party lists), Regulations 2017 is amended by inserting the term “Kenyan” immediately after the word “valid”</p>	<p>To specify the country of origin of the passport</p>
12.	<p>Regulation 16 of the Elections (Party Primaries and Party lists), Regulations 2017—</p> <p>Conduct of a party primary</p> <p>(1) A party primary shall be conducted in accordance with the nomination rules and</p>	<p>The need to align the term with the Constitution and the Election Amendment Bill, 2022</p>	<p>Regulation 16 of the Elections (Party Primaries and Party lists), Regulations 2017 is amended—</p> <p>(a) In the marginal note by deleting the word “primary” and substituting therefor the word “nomination”</p> <p>(b) In the sub-regulation (1) deleting the word “primary” appearing immediately after the</p>	<p>Need for clarity on the use of terms.</p>

S/No.	Current law	Issue with the law	Proposal	Justification
	<p>procedures of the party and the candidate who obtains the highest number of votes shall be declared the party nominee for the position.</p> <p>(2) Where only one aspiring candidate applies to be nominated in any elective position, no party primary shall be conducted.</p> <p>(3) An Election Board shall in writing certify and declare the aspiring candidate under sub-regulation (2) as the party nominee.</p> <p>(4) Upon conclusion of the party primary, the authorized party officials shall certify the list of nominees and submit it to the Commission.</p> <p>(5) Upon receipt of the list by the Commission, the list shall not be altered.</p>		<p>expression "a party" and substituting therefor the word "nomination"</p> <p>(c) In the sub-regulation (2) deleting the word "primary" appearing immediately after the expression "no party" and substituting therefor the word "nomination"</p> <p>(d) In the sub-regulation (4) deleting the word "primary" appearing immediately after the expression "the party" and substituting therefor the word "nomination"</p>	
13.	<p>Regulation 17(1) of the Elections (Party Primaries and Party lists) Regulations, 2017— Notices (1) Where the political party is required to issue a notice to its members regarding any exercise in the conduct of a party primary or nomination of party list, the party shall—</p>	<p>The need to align the term with the Constitution and the Election Amendment Bill, 2022</p>	<p>Regulation 17(1) of the Elections (Party Primaries and Party lists) Regulations is amended by deleting the word "primary" appearing immediately after the expression "of a party" and substituting therefor a word "nomination"</p>	<p>Need for clarity on the use of terms</p>

S/No.	Current law	Issue with the law	Proposal	Justification
14.	<p>(a) notify its members at least seven days before the date of the exercise; and</p> <p>(b) publish the notice in its website.</p> <p>Regulation 18 of the Elections (Party Primaries and Party lists) Regulations, 2017— Statutory declaration for conduct of party primaries (1) Every political party shall, at the time of submission of nominees to the Commission, file a statutory declaration signed by the person authorized to certify that candidates to the effect that the political party has complied with the nomination rules and procedures of the party in the conduct of the party primary.</p>	<p>The need to align the term with the Constitution and the Election Amendment Bill, 2022</p>	<p>Regulation 18 of the Elections (Party Primaries and Party lists) Regulations, 2017 is amended— (a) In the marginal note by deleting the word “primaries” and substituting therefor the word “nominations” (b) In sub-regulation (1) by deleting the word “primary” appearing immediately after the expression “of the party” and substituting therefor with the word “nomination”</p>	<p>Need for clarity on the use of terms.</p>
15.	<p>Regulation 19 of the Elections (Party Primaries and Party lists) Regulations, 2017— (1) An aspiring candidate in a party primary or an applicant for nomination to a party list may appoint an agent to represent his or her interests during the exercise. (2) An agent shall be appointed in writing by the candidate and shall—</p>	<p>The need to align the term with the Constitution and the Election Amendment Bill, 2022</p>	<p>Regulation 19 of the Elections (Party Primaries and Party lists) Regulations, 2017 is amended by— (a) In the marginal note by deleting the expression “of nomination candidates” and substituting therefor the expression “in party nomination” (b) In sub-regulation (1) deleting the word “primary” appearing immediately after the expression “in a party” and substituting therefor the word “nomination” (c) in sub-regulation (2)(c) by deleting the word “primary” appearing immediately after the</p>	<p>Need for clarity on the use of terms.</p>

S/No.	Current law	Issue with the law	Proposal	Justification
	(a)... (b)... (c) have access to information relating to the party primary.		expression "in a party" and substituting therefor the word "nomination"	
16.	PART III PARTY CONDUCTED BY THE COMMISSION Regulations 22 – 25 of the Elections (Party Primaries and Party lists) Regulations, 2017	Application of the part seems to interfere with the independence of the Commission	PART III is amended by deleting the whole PART III Regulations 22- 25 of the Elections (Party Primaries and Party lists), 2017 are deleted	Issues on conflict of interest would arise based on the fact that the Commission cannot be the arbiter and the judge
17.	Regulation 27 of the Elections (Party Primaries and Party lists) Regulations, 2017— (1) Every political party shall establish an internal dispute resolution mechanism in relation to the party primaries and party list.	The need to align the term with the Constitution and the Elections Amendment Bill, 2022	Regulation 27(1) of the Elections (Party Primaries and Party lists) Regulations, 2017 is amended by deleting the word "primaries" appearing immediately after the expression "the party" and substituting therefor the word "nominations"	(i)Need for clarity on the use of terms.
18.	Regulation 28 of the Elections (Party Primaries and Party lists) Regulations, 2017— The contravention of any of the provisions of the Election Offences Act, 2016 or the breach of the Electoral Code of Conduct shall constitute electoral malpractice in relation to a party	The need to align the term with the Constitution and the Election Amendment Bill, 2022	Regulation 28 of the Elections (Party Primaries and Party lists) Regulations, 2017 is amended by deleting the word "primary" appearing immediately after the expression "a party" and substituting therefor the word "nominations"	Need for clarity on the use of terms.

S/No.	Current law	Issue with the law	Proposal	Justification
19.	primary and party nomination of party lists. Form 2 DECLARATION OF RESULTS IN PARTY PRIMARY	The need to align the term with the Constitution and the Election Amendment Bill, 2022	Amend the heading in Form 2 by deleting the term "Primary" and substitute thereof with the term "Nomination"	To align with the Political Parties Act 2011 and the Elections Amendment Bill, 2022
20.	Form 5 STATUTORY DECLARATION OF COMPLIANCE IN PARTY PRIMARY	The need to align the term with the Constitution and the Election Amendment Bill, 2022	Form 5 is amended— (a) by deleting the term "Primary" and substitute thereof with the term "Nomination" (b) In the main body by deleting the word "primary" and substituting it therefor the word "nomination" everywhere it appears	To align with the Political Parties Act, 2011 and the Elections Amendment Bill, 2022

LEGAL NOTICE NO.



THE ELECTIONS ACT, 2011
(No. 24 of 2011)

IN EXERCISE of the powers conferred by section 109 of the Elections Act, 2011, the Independent Electoral and Boundaries Commission makes the following Regulations—

THE ELECTIONS (TECHNOLOGY) (AMENDMENT) REGULATIONS, 2022

Short Title

1. These Regulations may be cited as the Elections (General) (Technology) Regulations, 2022 and shall come into effect upon publication in the *Gazette*.

L.N.

2. Regulation 2 of the Elections (Technology) Regulations, 2012, in these Regulations referred to as "principal Regulations", is amended –

(a) in the definition section by deleting the phrase "committee"

(b) in the definition section by deleting the definition of the term "election technology" and substituting therefor the following new definition

"election technology" means the Integrated Electronic Electoral System as defined in the Elections Act and any other technology deployed by the Commission in the discharge of its mandate;

3. Regulation 7 of the principal Regulations is amended by deleting and substituting therefor with a new regulation 7—

The Commission shall comply with the Public Procurement and Asset Disposal Act, 2015 and its regulations and in accordance to the guidelines on e-waste management issued from time to time by the National Environmental and Management Authority during the disposal of electronic technology assets

4. Regulation 9 of the principal Regulations is amended—

- (a) By deleting sub regulation 1
- (b) by deleting sub regulation (2)
- (c) by inserting new sub regulations--

- (1) The Commission shall observe the principles of public participation in accordance with section 26 of the IEBC Act
- (2) The Commission shall issue a public notice specifying the date, time, and place of the testing and invite stakeholders to attend.
- (3) The Commission shall publish the information required under sub-regulation (2)—
 - (a) on its official website;
 - (b) through electronic and print media of national circulation;
 - (c) by posting the notice outside of the Commission's offices; and
 - (d) assign any other easily accessible mechanism.

- 5. Part VII of the principal Regulations is amended by deleting the expression “software Source Code” substituting therefor the expression “Election Technology”
- 6. Regulation 18 of the principal regulations is deleting and substituting therefor the new provision as follows—

18. Access to information

- (1) The Commission shall ensure promotion of routine and systematic information disclosure pursuant to the Access to Information Act, 2016 and the IEBC Act
- (2) The Commission shall ensure protection of data in accordance with the Guiding principle pursuant to section 25 (i) of and 27 (c) of the IEBC Act
- (3) The Commission may avail the following information on request—
 - (a) Voter identification logs in the KIEMS kit
 - (b) A record of the electronic unique reference number of result forms per polling station showing the date and time of transmission;
 - (c) Serial numbers of the Election Technology Devices deployed in the polling station
 - (d) Serial numbers of the sim cards deployed in the election;

- (e) Serial numbers of the servers used in the election;
 - (f) IEBC ICT policy on Election Technology Management;
 - (g) Business continuity and Disaster Recovery Plan; or
 - (h) Penetration test certificate.
- (4) Where applicable, the Commission may grant read-only access to information and persons authorized will be required to fill Form 1 set out in the second schedule.
- (5) The authorized persons referred to in sub regulation (4) shall be:
- (a) Registered voter;
 - (b) Authorized political party officials;
 - (c) Person authorized by independent candidates;
 - (d) Candidates;
 - (e) Referendum committee; or
 - (f) any other person that the Commission may authorize.
- (6) The information requested in sub regulation (3) shall be processed in accordance with regulation 16.

7. Regulation 24 of the principal Regulations is amended by—

- (a) In sub-regulation (1) by deleting the expression “deleting” and substituting therefor the expression “detailing”
- (b) inserting the following new sub regulation (4) immediately after regulation (3)—

The Commission shall notify the public and stakeholders on an operations continuity plan

8. The principal Regulations is amended by

- (a) deleting Part XI
- (b) deleting regulation 31
- (c) deleting regulation 32
- (d) deleting regulation 33
- (e) deleting regulation 34
- (f) deleting regulation 35

(g) deleting regulation 36

(h) deleting regulation 37

9. The principal regulations are amended by deleting the information request form in the second schedule, substituting therefor with Form 1

FORM xxxx APPLICATION FOR USER ACCESS FORM

[Reg 18(4)(ii), Reg 34(ii), Reg 35(i)]

DATE

APPLICANT DETAILS

First name		Middle name	
Last name		Signature	
Email Address			
State the data to be accessed (Tick as appropriate)	1. Voter Registration <input type="checkbox"/> 2. Voter Identification <input type="checkbox"/> 3. Results Transmission <input type="checkbox"/> 4. Candidate registration <input type="checkbox"/>	5. Accreditation Application	
Organization/Political Party: <i>Indicate organization/ Political party</i>			

APPROVAL BY ORGANIZATION/POLITICAL PARTY

Name		Designation	
Date		Signature	

Organization/Political Party <i>Provide the name, telephone contact, and signature of the authorized person in the organization/Political party.</i>	Name	
	Telephone	
	Signature	
	Date	

IMPLEMENTATION BY IEBC

APPROVED BY

Name		Designation	
Date		Signature	

IMPLEMENTED BY

Name		Designation	
Date		Signature	
User account allocated			

TERMS OF USE:

1. This user account is to be used for IEBC related purpose only.
2. Every account holder takes responsibility for the data captured through the allocated account.
3. IEBC does not accept responsibility for unauthorized use of the user account.
4. Every account holder shall be bound the Electoral code of Conduct stipulated in the second schedule of the Elections Act, 2011

IMPLEMENTATION BY IEBC

APPROVED BY

Name		Designation	
Date		Signature	

IMPLEMENTED BY

Name		Designation	
Date		Signature	
User account allocated			

TERMS OF USE:

1. This user account is to be used for IEBC related purpose only.
2. Every account holder takes responsibility for the data captured through the allocated account.
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S/NO	CURRENT LAW	ISSUE WITH THE LAW	PROPOSED AMENDMENT	JUSTIFICATION
			<p>h) Penetration test certificate.</p> <p>(4) Where applicable, the Commission may grant Read-Only access to information and persons authorized may be required to fill Form 1 set out in the second schedule</p> <p>(5) The authorized persons referred to in sub-regulation (4) shall be:</p> <p>(a) Registered voters who voted in that election;</p> <p>(b) Authorized political party officials;</p> <p>(c) Persons authorized by independent candidates;</p> <p>(d) Candidates;</p> <p>(e) Referendum committee; or</p> <p>(f) Any other person that the Commission may authorize</p> <p>(6) The information requested in sub-regulation (1) shall be processed in accordance with Regulation 16</p>	
6.	<p>Regulation 24 of the Elections (Technology) Regulations, 2017—</p> <p>(1) The Commission shall establish an operations continuity plan, deleting both operational and technical processes, procedures and tools.</p>	<p>The need to correct the term used in the regulation</p>	<p>Regulation 24 of the Elections (Technology) Regulations, 2017 is amended—</p> <p>(a) In sub-regulation (1) by deleting the expression “deleting” and substituting therefor the expression “detailing”</p> <p>(b) by inserting a new sub-regulation (4) immediately after sub-regulation (3) to read as follows—</p> <p>The Commission shall notify the public and stakeholders on an operations continuity plan</p>	<p>To bring clarity to the regulation.</p> <p>Correcting a typing error</p>

S.NO	CURRENT LAW	ISSUE WITH THE LAW	PROPOSED AMENDMENT	JUSTIFICATION
	<p>(2) The operations continuity plan established under sub regulation (1) shall provide mitigation and contingency measures, including preparedness, prevention, response and recovery measures for potential failures of technology.</p> <p>(3) The Commission shall test the operations continuity plan in a timely manner to ensure that all operational procedures are working as intended.</p>			
7.	<p>PART XI of the Elections (Technology) Regulations, 2017— THE TECHNOLOGY ADVISORY COMMITTEE</p>	<p>The Committee was declared unconstitutional. The Regulations need to provide for the usage of the Election Technology</p>	<p>PART XI of the Elections (Technology) Regulations, 2017 is amended by deleting the whole PART XI from Regulations 31 to 37.</p>	<p>To clean up the Regulations</p>
8.	<p>Second Schedule</p>	<p>Election Technology</p>	<p>The second schedule is amended by deleting the information request Form and substituting therefor with Form 1</p>	

DATE	
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APPLICANT DETAILS

First name		Middle name	
Last name		Signature	
Email Address			
State the data to be accessed (Tick as appropriate)	1. Voter Registration <input type="checkbox"/> 2. Voter Identification <input type="checkbox"/> 3. Results Transmission <input type="checkbox"/> 4. Candidate registration <input type="checkbox"/>	5. Accreditation Application <input type="checkbox"/>	
Organization/Political Party: <i>Indicate organization/ Political party</i>			

APPROVAL BY ORGANIZATION/POLITICAL PARTY

Name		Designation	
Date		Signature	

Organization/Political Party <i>Provide the name, telephone contact, and signature of the authorized person in the organization/Political party.</i>	Name	
	Telephone	
	Signature	
	Date	

IMPLEMENTATION BY IEBC

APPROVED BY

Name		Designation	
Date		Signature	

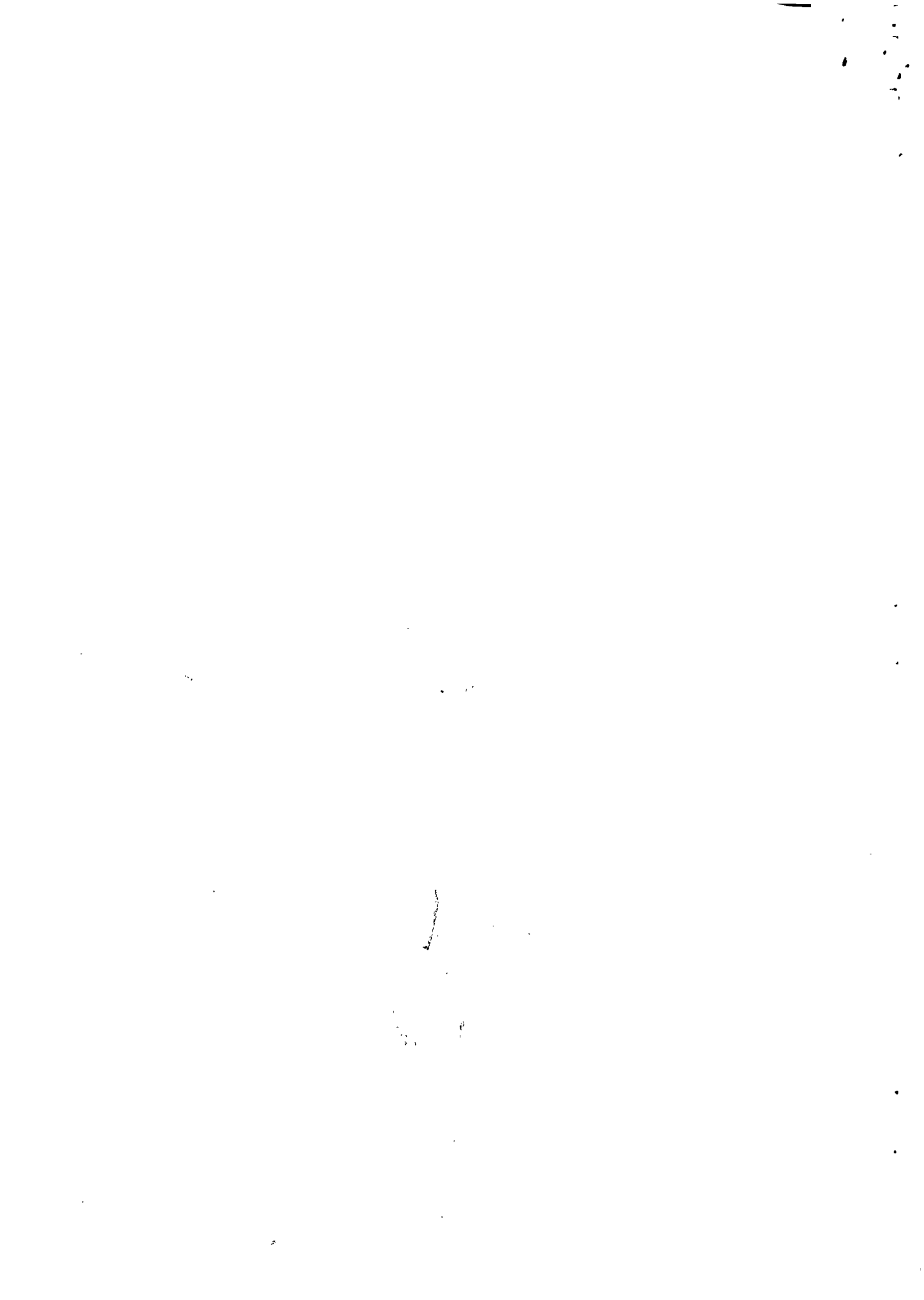
IMPLEMENTED BY

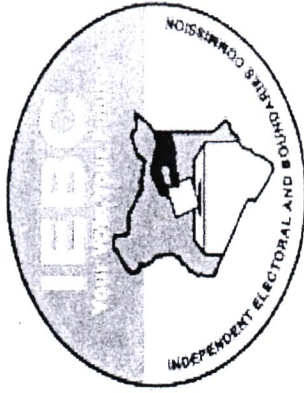
Name		Designation	
Date		Signature	
User account allocated			

TERMS OF USE:

1. This user account is to be used for IEBC related purpose only.
2. Every account holder takes responsibility for the data captured through the allocated account.
3. IEBC does not accept responsibility for unauthorized use of the user account.

4. Every account holder shall be bound by the Electoral code of Conduct stipulated in the second schedule of the Elections Act, 2011





A MATRIX ON PROPOSED AMENDMENTS TO THE ELECTIONS (GENERAL) REGULATIONS, 2012

S. No	Current Law	The issue with the law	Proposal	Justification
1.	Regulation 2 of the Elections (General) regulations, 2012 – “close of nominations” means four o’clock in the afternoon of the last nomination day for respective elections;	The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.	Regulation 2 of the Elections (General) Regulations, 2012 is amended by deleting and substituting it therefor the following new definition— “close of registration of candidates” means four o’clock in the afternoon of the last day of registration of candidates for respective elections;	Need for clarity on the use of terms.
2.	Regulation 2 of the Elections (General) Regulations, 2012—		Insert a new definition in Regulation 2 in alphabetical order— “Live streaming” means the transmission and display of the election results as announced at the polling station; “Local time” means six o’clock in the morning to five o’clock in the afternoon of the gazetted date;	-To provide for live streaming of election results -To provide for timezone for Kenyans living outside the country

5. No	Current Law	The issue with the Law	Proposal	Justification
3.	Regulation 2 of the Elections (General) regulations, 2012 – “nomination paper” means nomination papers delivered, in accordance with these Regulations, to the appropriate officer by or on behalf of a person intending to contest as a candidate at an election;	The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.	Regulation 2 of the Elections (General) Regulations, 2012 is amended by deleting the words “nomination paper(s)” and substituting it therefor the words “candidate registration form(s)”	Need for clarity on the use of terms.
4.	Regulation 2 of the Elections (General) regulations, 2012 – “party primary” means the process through which a political party elects or selects a candidate for an election but does not include a party list	The Interpretation section still uses the word ‘Party Primaries’ which was deleted by the Political Parties Amendment Act, No 2 of 2022	Regulation 2 of the Elections (General) Regulations, 2012 is amended by deleting the word “primary” and substituting it therefor the word “nomination”	To align the definitions with the Political Parties Amendment of 2022
5.	Regulation 2 of the Elections (General) Regulations, 2012— “subscriber” in relation to a nomination paper, means any supporter whose name appears on the nomination paper other than the authorized official of a political party.	The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.	Regulation 2 of the Elections (General) Regulations, 2012 is amended by deleting the expression “nomination paper” appearing after the words “to a” and before the words “other than” and substituting therefor the expression “candidate registration form”	Need for clarity on the use of terms

S. No	Current Law	The issue with the Law	Proposal	Justification
6.	<p>Regulation 3(3)(b) of the Elections (General) regulations, 2012 – The constituency returning officer shall be responsible for—</p> <p>(b) receiving nomination papers in respect of candidates nominated for the post of National Assembly and Ward representative;</p>	<p>The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.</p>	<p>Regulation 3 of the Elections (General) Regulations, 2012 is amended—</p> <p>(a) (b) by deleting sub-regulation (2)</p> <p>(b) In sub-regulation (3)(b) by deleting the expression “nomination papers” and substituting therefor “candidate registration forms”</p> <p>(c) by deleting the expression “ward representative” substituting therefor the expression “County Assembly Ward member”</p> <p>(d) In sub-regulation 3(d) deleting the word “representative” appearing after the word “woman” and substituting therefor the word “member”</p> <p>(e) By inserting a new sub-regulation (7) immediately after sub-regulation (6) to read as follows- An election officer or deputy returning officer in the constituency they were recruited</p>	<p>Need for clarity on the use of terms. -There exists a legal framework of appointment of returning officer and there is a framework to address issues of grievances on staff by any person</p> <p>-Returning officers are permanent staff of the Commission</p>
7.	<p>Regulation 4 (1) (a) of the Elections (General) regulations, 2012 – The Commission shall appoint county returning officers to be responsible for—</p> <p>(a) receiving nomination papers in respect of candidates nominated for the post of Governor or county woman representative to</p>	<p>The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.</p>	<p>Regulation 4 of the Elections (General) Regulations, 2012 is amended—</p> <p>(a) In sub-regulation (1)(a) by deleting the words “nomination papers” and substituting therefor the expression “candidate registration forms”</p> <p>(b) In sub-regulation 1 (a) by deleting the expression “representative” and substituting therefor the word “member”</p> <p>(c) In sub-regulation 4 (1) (b) by deleting the word “representative” appearing after the word “woman” and substituting therefor the word “member”</p>	<p>Need for clarity on the use of terms.</p>

S. No	Current Law	The Issue with the Law	Proposal	Justification
8.	<p>Regulation 5 (1A) of the Elections (General) Regulations, 2012— (1A) The functions of a presiding officer shall be— (a) presiding over elections at an assigned polling station; (b) tallying, counting and announcement of results at the Polling station; (c) submitting polling station results to the Constituency returning officer; and (d) electronically transmitting presidential results to the constituency, counties and national tallying centers.</p>	<p>(i) The regulation requires the presiding officer to tally the results (ii) There is no chronological flow of the result path (iii) There is no provision for submitting the electronically transmitted form</p>	<p>Regulation 5 (1A) of the Elections (General) Regulations, 2012 is amended— (a) In paragraph (b) by deleting the word “tallying” and substituting therefor the word “sorting” (b) In paragraph (c) by deleting and substituting therefor with a new paragraph (c)— electronically transmitting the presidential results in the prescribed form to the National Tallying Centre (c) In paragraph (d) by deleting and substituting therefor with a new paragraph (d)— deliver the results in person from the polling station to the Constituency Tallying Centre (d) by inserting a new sub-regulation (e) immediately after paragraph (d) to read as follows— submitting original Form 34A that was electronically transmitted to the constituency returning officer at the Tallying Centre.</p>	<p>i. The presiding officers are required to sort and not tally according to the Constitution. ii. Achieve a chronological flow of the result path. iii. Ensure security of the results iv. To ensure that the transmitted form is the same as the physical copy</p>
	<p>the National Assembly and the Senate;</p>		<p>(d) by deleting sub-regulation (2) (e) deleting sub-regulation (4) and substituting therefor the following new sub-regulation— An election officer shall not be deployed as a returning officer or deputy returning officer in the county they were recruited</p>	

S. No	Current Law	The issue with the Law	Proposal	Justification
9.	<p>Regulation 5 of the Elections (General) Regulations, 2012 –</p> <p>(2) Prior to appointment under sub regulation (1), the Commission shall provide the list of persons proposed for appointment to political parties and independent candidates at least fourteen days prior to the proposed date of appointment to enable them make any representations.</p> <p>(3)...</p> <p>(4)...</p> <p>(5) The returning officer shall require</p>	<p>An agent is outlined as one of the election officials in the regulation which is contrary to who is defined as an election official in the Regulations</p> <p>- It makes reference to the declaration in sub regulation (4) yet the oath of secrecy and the declaration are outlined in sub-regulation (5)</p>	<p>Regulation 5 of the Elections (General) Regulations, 2012 is amended—</p> <p>(a) In sub-regulation (2) by deleting the expression “fourteen days” and substituting therefor the expression “seven days”</p> <p>(b) In sub-regulation 5 by deleting the word “agent” appearing after the words “interpreter and” and before the words “authorized”</p> <p>(c) In sub-regulation (6) amended by deleting “(4)” appearing after the word “shall” and substituting it therefor with “(5)”</p> <p>Form 1 is amended by deleting “agent” as one of the listed Election officials who makes declarations.</p> <p>Form 1 on Declaration shall be administered before training begins and the oath of secrecy is to be administered after training but before deployment.</p>	<p>An agent is a political party representative, not an election official</p> <p>-To tie to the recruitment timelines</p> <p>- Achieve clarity in the regulation</p>

S. No	Current Law	The issue with the Law	Proposal	Justification
	<p>every presiding officer, deputy presiding officer, clerk, interpreter and agent authorized to attend at a polling station, as soon as he or she has made the oath of secrecy prescribed by the Act, to make before the returning officer, a declaration that the officer making the declaration understands that he or she shall not prompt any voter whom he or she is empowered by these Regulations to assist, and shall strictly follow the provisions</p>			

S. No	Current Law	The Issue with the Law	Proposal	Justification
	<p>of these Regulations, and any instructions which may lawfully be given to him or her relating to the election concerned.</p> <p>(6) The declaration under sub-regulation (4) shall be in Form 1 set out in the Schedule.</p>			
10.	<p>Regulation 6 of the Elections (General) Regulations, 2012—</p> <p>(2) The Commission shall make the list of the persons appointed under sub-regulation (1) available to political parties and independent candidates within fourteen days from the</p>		<p>Regulation 6 is amended by deleting sub-regulation (2) and substituting therefor with the following new sub-regulation—</p> <p>(2) Prior to appointment under sub-regulation (1), the Commission shall provide the list of persons proposed for appointment to political parties and independent candidates at least seven days prior to the proposed date of appointment to enable them make any representations.</p>	

S. No	Current Law	The issue with the Law	Proposal	Justification
11.	<p>Regulation 10(3) of the Elections (General) Regulations, 2012—</p> <p>The symbol of an independent candidate shall be submitted in an electronic and print format as prescribed by the Commission together with the candidates details in Form 11P set out in the Schedule.</p>	<p>The need to align the Form numbering in the regulation with the new the new numbering of the Forms.</p>	<p>Regulation 10 of the Elections (General) Regulations, 2012 is amended—</p> <p>(a) In sub-regulation (3) by deleting and substituting therefor new sub-regulation (3)—</p> <p>The symbol of an independent presidential candidate shall be submitted in an electronic and print format as prescribed by the Commission together with the candidates details in Form 10 set out in the Schedule</p> <p>(b) by inserting a new sub-regulation (4) immediately after sub-regulation (3)—</p> <p>The symbol of an independent candidate vying for parliamentary and county elections shall be submitted in an electronic and print format as prescribed by the Commission together with the candidates details in Form 10A set out in the Schedule</p>	<p>Align the regulations and the forms</p>
12.	<p>Regulations 12(2) of the Elections (General) Regulations, 2012—</p>	<p>It requires the returning officer to publish a notice of</p>	<p>Regulation 12 of the Elections (General) Regulations, 2012 is amended—</p>	<p>Requiring returning officers to publish these</p>

S. No	Current Law	The Issue with the Law	Proposal	Justification
	<p>Immediately after the publication of a notice under section 14(1) of the Act, the returning officer of every constituency shall notify the holding of a presidential election in Form 8 set out in the Schedule.</p> <p>Regulations 12(4) of the Elections (General) Regulations, 2012—</p> <p>For purposes of sub-regulation (3) a notice—</p> <p>(a) for the election of a member of Parliament shall be in</p>	<p>election days for all the elective positions</p>	<p>(a) In sub-regulation (2) by deleting and substituting it therefor with a new sub-regulation (2)—</p> <p>The returning officer shall notify the public of the notice of election by exhibiting the gazette notice of the election in public places within the constituency and county.</p> <p>(b) In sub-regulation (4) is deleted.</p> <p>Forms 8,9,10 and 11 are deleted.</p> <p>Consequently, change of numbering of the subsequent Forms</p>	<p>is unnecessary and also causes unnecessary costs. The returning officers should be required to ensure they publicize the notice of election gazetted by the Chairperson of the Commission.</p>

S. No	Current Law	The issue with the Law	Proposal	Justification
13.	<p>Form 9 set out in the Schedule; (b) for the election of county governor shall be in Form 10 set out in the Schedule; and (c) for the election of a member of a county assembly shall be in Form 11 set out in the Schedule.</p>	<p>The regulation needs to be aligned with the amendments made in the</p>	<p>Regulations 13A of the Elections (General) Regulations, 2012 is amended—</p>	<p>Align the regulation with the Political Parties</p>
	<p>Regulation 13A of the Elections (General) Regulations, 2012—</p>			

S. No	Current Law	The Issue with the Law	Proposal	Justification
	<p>Each political party shall submit to the Commission a party membership list as prescribed in Form 11A in the Schedule</p>	<p>Political Parties Amendment Act, No 2 of 2022</p>	<p>(a) by inserting the following words “certified by the Office of the Registrar of Political Parties” immediately after the word “list”.</p> <p>(b) by deleting the expression “Form 11A” appearing immediately after the words “prescribed in” and substituting therefor the expression “Form 8”</p>	<p>Amendment Act, 2022</p>
14.	<p>Regulation 13B of the Elections (General) Regulations, 2012— Submission of details by parties for primaries</p> <p>Each political party shall submit to the Commission the date, venue and names of persons contesting in party primaries in both printed and electronic format set out in Forms 11B, 11C, 11D 11E, 11F and 11G.</p>	<p>Regulation makes use of the term primaries to describe the nomination process for political parties. The term was deleted by the Political Parties Amendment Act No 2 of 2022</p> <p>The regulation makes reference to Forms 11B,11C,11D,11E,11F,11G whose numbers have changed subject to the renumbering of the forms</p>	<p>Regulation 13B of the Elections (General) Regulations, 2012 is deleted.</p>	<p>Align the regulations with the definition of nominations in the Political Parties Amendment Act</p> <p>Align the regulations and the forms</p>

S. No	Current Law	The issue with the Law	Proposal	Justification
15.	<p>Regulation 13C of the Elections (General) Regulations, 2012—</p> <p>Every political party shall submit the names of the party candidates who have been selected to participate in the general elections in both printed and electronic format as prescribed in Forms 11H, 11I, 11J, 11K, 11L and 11M set out in the Schedule.</p> <p>Regulation 14 of the Elections (General) Regulations, 2012—</p> <p>Party to submit list of candidates</p> <p>(1) Each political party intending to</p>	<p>Both regulations speak to the requirement for political parties to submit the names of persons nominated as candidates in the elective posts for which they seek election</p>	<p>Regulation 13C of the Elections (General) Regulations, 2012 is deleted.</p> <p>Regulation 14 of the Elections (General) Regulations, 2012 is amended—</p> <p>(a) In the marginal note by adding the word “Political” before the word “Party”</p> <p>(b) by amending regulation 14(2) and deleting—</p> <p>(a) the expression “set out in sub-regulation 13C” appearing immediately after the word “Forms” and substituting therefor the expression “9,9A,9B,9C,9D,9E as set out in the schedule”</p>	<p>Achieve clarity in the regulation</p>

S. No	Current Law	The issue with the Law	Proposal	Justification
	<p>present a candidate in an election shall, after its nominations and on such date or within such period as the Commission may designate, submit a list of persons nominated as candidates indicating the elective posts to which they are seeking election.</p> <p>(2) The list referred to in sub-regulation (1) shall be in the prescribed Forms set out in sub-regulation 13C</p> <p>(3) The list submitted under this regulation shall be signed by the authorized official of</p>			

S. No	Current Law	The issue with the Law	Proposal	Justification
	<p>the political party.</p> <p>(4) Each political party shall submit only the name of one person as their candidate for a presidential election or for any electoral area as defined in the Act.</p>			
16.	<p>Regulation 15 (b) file with the Commission a form of intention to contest, in the Form 11N.</p>		<p>Regulation 15 (b) is amended by deleting the expression "Form 11N" appearing immediately after the words "in the" and substituting therefor the expression "Form 10 for the presidential elections and Form 10A for the parliamentary and county elections"</p>	
17.	<p>PART IV – NOMINATION OF PRESIDENTIAL CANDIDATES</p>	<p>The need to align PART IV with the Constitution and the proposed amendments to the Elections Act, 2011.</p>	<p>PART IV of the Elections (General) Regulations, 2012 is amended by deleting and substituting therefor with a new PART IV— REGISTRATION OF CANDIDATES FOR PRESIDENTIAL ELECTION</p>	<p>Need for clarity on the use of terms.</p>
18.	<p>Regulation 16 of the Elections (General) regulations, 2012 – Manner of nomination of political party presidential candidate</p>	<p>The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.</p>	<p>Regulation 16 of the Elections (General) Regulations, 2012 is amended—</p>	<p>Need for clarity on the use of terms.</p>

S. No	Current Law	The issue with the Law	Proposal	Justification
	<p>(1) A political party candidate at a presidential election shall be nominated by a political party by and delivery to the Commission on the day fixed for the nomination of candidates at that election, an application for nomination in Form 12 set out in the Schedule.</p> <p>(2) An application for nomination under this regulation shall be—</p> <p>(a) signed by the candidate, and the authorized official of the party; and</p> <p>(b) delivered to the Commission personally by the candidate or by an official of the party.</p>		<p>(a) In the marginal note by deleting the word “nomination” and substituting therefor the word “registration”</p> <p>(b) In sub-regulation (1) deleting the word “nomination” appearing immediately after the words “fixed for the” and “application for” and substitute with “registration” and “registration of candidates for elections” respectively</p> <p>(c) In sub-regulation (2) deleting the word “nomination” and substituting therefor the expression “registration of candidates”</p> <p>(d) In sub-regulation (2)(a) deleting the expression “the authorized official” appearing immediately after the words “ and the” and substituting therefor the expression “two (2) members”</p>	
19.	<p>Regulation 17 of the Elections (General) Regulations, 2012—</p> <p>Manner of nomination of independent presidential candidate</p>	<p>The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.</p>	<p>Regulation 17 of the Elections (General) Regulations, 2012 is amended—</p> <p>(a) In the marginal note by deleting the word “nomination” and substituting therefor the word “registration”</p>	<p>Informed by the proposed amendments to Section 32(1) of the Elections Act To align with the revised Elections Act, 2011</p>

S. No	Current Law	The issue with the Law	Proposal	Justification
	<p>(1) An independent candidate at a presidential election shall deliver to the Commission on the day fixed for the nomination of candidates at that election, an application for nomination in Form 12 set out in the Schedule.</p> <p>(2) An application for nomination under this regulation shall—</p> <p>(a) signed by the candidate, and by two persons who have nominated the candidate in accordance with section 29(2) of the Act;</p> <p>(b) delivered to the Commission personally by the candidate or by any of the two persons referred to in paragraph (a).</p>		<p>(b) In sub-regulation (1) deleting the word “nomination” appearing immediately after the words “fixed for the” and substituting therefor the word “registration”</p> <p>(c) In sub-regulation (1) deleting after the word “nomination” appearing immediately before the expression “in Form 12” and substituting therefor the expression “registration of candidates for elections”</p> <p>(d) In sub-regulation (2) deleting the word “nomination” and substituting therefor the expression “registration of candidates”</p> <p>(e) In sub-regulation (2) (a) deleting the expression “in accordance with section 29(2) of the Act”</p>	
20.	<p>Regulation 19 of the Elections (General) regulations, 2012—</p> <p>Nomination fees of presidential candidates</p> <p>An application for nomination for candidature at a presidential election shall be accompanied by a non-</p>	<p>The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.</p>	<p>Regulation 19 of the Elections (General) Regulations, 2012 is amended—</p> <p>(a). In the marginal note by deleting expression “nomination fees of” and substituting therefor the expression “candidate registration fee for”</p>	<p>Need for clarity on the use of terms.</p>

S. No	Current Law	The Issue with the Law	Proposal	Justification
	<p>refundable nomination fee, in banker's draft of—</p> <p>(a) one hundred thousand shillings for a candidate who is a youth, a woman or a person with disability; and</p> <p>(b) two hundred thousand shillings for any other candidate</p> <p>Nomination fees of presidential candidates</p>		<p>(b). by deleting the word "nomination" appearing after the expression "application for" and substituting therefor the word "registration"</p> <p>(c) by deleting the word "nomination" appearing after the expression "a non-refundable" and substituting therefor the words "candidate registration"</p>	
21.	<p>Regulation 21 of the Elections (General) regulations, 2012—</p> <p>If at the close of nominations for a presidential election, only one candidate is validly nominated, the Commission shall publish a notice in the Gazette showing the name of the candidate so nominated and stating that the presidential election shall not be held, and the Commission shall declare the candidate elected as President in Form 14.</p>	<p>The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.</p>	<p>Regulation 21 of the Elections (General) Regulations, 2012 is amended by deleting regulation 21 and substituting therefor the following new regulation—</p> <p>If at the close of nominations for a presidential election under Article 138 (1) of the Constitution, which shall be deemed close of registration of candidates for presidential election, only one candidate is validly registered as a candidate, showing the name of the registered candidate, the Commission shall publish a notice in the <i>Gazette</i> stating that the presidential election shall not be held, and the Commission shall declare the candidate elected as President in Form 14</p>	<p>To align the regulation with Article 138(1) of the Constitution.</p>

S. No	Current Law	The Issue with the Law	Proposal	Justification
22.	PART V – NOMINATION OF CANDIDATES FOR NATIONAL ASSEMBLY	The need to align PART V with the Constitution, and the proposed amendments to the Elections Act, 2011.	PART V of the Elections (General) Regulations, 2012 is amended by deleting and substituting therefor with a new PART V— REGISTRATION OF CANDIDATES FOR NATIONAL ASSEMBLY	Need for clarity on the use of terms.
23.	Regulation 22 of the Elections (General) regulations, 2012— Nomination of political party candidates for National Assembly A political party candidate at a parliamentary election for the National Assembly or county woman representative shall be nominated by a political party by delivery, to the returning officer on the day fixed for the nomination of candidates at that election, of an application for nomination in Form 15 set out in the Schedule.	The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.	Regulation 22 of the Elections (General) Regulations, 2012 is amended by deleting Regulation 22 and substituting therefor— Registration of political party candidates for Member of National Assembly A political party candidate for the Member of the National Assembly nominated by a political party shall deliver to the returning officer on the day fixed for the registration of candidates at that election, an application for registration in Form 15 set out in the Schedule.	Need for clarity on the use of terms.
24.	Regulation 22 of the Elections (General) regulations, 2012— Nomination of political party candidates for National Assembly		Insert a new Regulation 22A of the Elections (General) Regulations, 2012— Registration of political party candidates for County Woman Member of National Assembly A political party candidate for the County Woman Member to the National Assembly nominated by a political party shall deliver to the returning officer on the day fixed for the registration of candidates at that	There is need to provide a specific provision for county woman member to the National Assembly

S. No	Current Law	The issue with the Law	Proposal	Justification
25.	<p>Regulation 23 of the Elections (General) Regulations, 2012— Nomination of independent candidates for National Assembly An independent candidate at a parliamentary election for the National Assembly or the county woman representative shall deliver to the returning officer, on the day fixed for the nomination of candidates at that election, an application for nomination in Form 15 set out in the Schedule.</p>	<p>The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.</p>	<p>Regulation 23 of the Elections (General) Regulations, 2012 is amended by deleting Regulation 23 and substituting therefor— Registration of Independent candidates for Member of National Assembly An Independent candidate for the Member of the National Assembly shall deliver to the returning officer on the day fixed for the registration of candidates at that election, an application for registration in Form 15 set out in the Schedule.</p>	<p>Informed by the proposed amendments to Section 32(1) of the Elections Act</p>
26.	<p>Regulation 23 of the Elections (General) Regulations, 2012— Nomination of independent candidates for National Assembly</p>		<p>Insert a new Regulation 23A of the Elections (General) Regulations, 2012— Registration of Independent candidates for County Woman Member of National Assembly An Independent candidate for the County Woman Member to the National Assembly shall deliver to the returning officer on the day fixed for the registration of candidates at that election, an application for registration in Form 16 set out in the Schedule.</p>	<p>There is need to provide a specific provision for county woman member to the National Assembly</p>

S. No	Current law	The issue with the Law	Proposal	Justification
27.	<p>Regulation 24 of the Elections (General) Regulations, 2012—</p> <p>Supporters of nomination of candidate for National Assembly</p> <p>(1) The person delivering an application for nomination under regulation 23 shall at the same time deliver to the returning officer for each elective post, standard A4 sheets of paper bearing the names, respective signatures and identity card numbers of at least one thousand voters registered in the constituency or county, as the case may be.</p> <p>(2) The sheets of paper delivered under sub-regulation (1) shall—</p> <p>(a) be serially numbered;</p> <p>(b) each have at the top, in typescript, the wording at the top of Form 15; and</p> <p>(c) be accompanied by copies of the identification documents of the voters referred to in sub regulation (1).</p>	<p>The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.</p>	<p>Regulation 24 of the Elections (General) Regulations, 2012 is amended—</p> <p>(a) In the marginal note by deleting the expression “of nomination of” and substituting therefor the expression “for”</p> <p>(b) In the marginal note by inserting the expression “Member of” appearing before the word “National”</p> <p>(c) In sub-regulation (1) by deleting the word “nomination” appearing immediately after the expression “application for” and substituting therefor the word “registration”</p> <p>(d) In sub-regulation (1) by deleting the word “each” appearing immediately after the word “officer” and substituting therefor the word “the”</p> <p>(e) In sub-regulation (1) by deleting the expression “or county, as the case may be”</p> <p>(f) In sub-regulation (2)(b) by deleting the expression “of Form 15” and substituting therefor the expression “supporters of independent candidates for the member of National Assembly”</p>	<p>Informed by the proposed amendments to Section 32(1) of the Elections Act</p>

S. No	Current Law	The issue with the Law	Proposal	Justification
28.	<p>Regulation 24A of the Elections (General) regulations, 2012— Nomination of County Woman representative of the National Assembly</p> <p>Where the nomination is for a county woman representative of the National Assembly, the candidate shall make an application for nomination in Form 15A as prescribed in the Schedule.</p>	<p>The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.</p>	<p>Regulation 24A of the Elections (General) Regulations, 2012 is amended by deleting Regulation 24A and substituting therefor— Supporters for candidate for Independent County Woman Member to the National Assembly</p> <p>(1) The person delivering an application for registration under regulation 23A shall at the same time deliver to the returning officer for the elective post, standard A4 sheets of paper bearing the names, respective signatures and identity card numbers of at least one thousand voters registered in the county.</p> <p>(2) The sheets of paper delivered under sub-regulation (1) shall— (a) be serially numbered; (b) each have at the top, the wording supporters of independent candidates of county woman member to the National Assembly; and (c) be accompanied by copies of the identification documents of the voters referred to in sub regulation (1).</p>	<p>Need for clarity on the use of terms.</p> <p>Need for consistency with the Elections Act</p>
29.	<p>Regulation 25 of the Elections (General) regulations, 2012— Nomination fees for National candidate for National Assembly</p> <p>An application for nomination for candidature at a parliamentary election shall be accompanied by a non-refundable nomination fee, in banker's draft, of—</p>	<p>The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.</p>	<p>Regulation 25 of the Elections (General) Regulations, 2012 is amended— (a) In the marginal note by deleting the expression “nomination fees” and substituting therefor the word “candidate registration fee” (b) In the marginal note by deleting the words “candidate for” and substituting therefor “Member of” (c) by deleting the expression “nomination for candidature at a parliamentary election” appearing after the expression “application for” and substituting therefor the expression “registration as a candidate” (d) by deleting the expression “nomination fee” appearing after the word “non-refundable” and</p>	<p>Need for clarity on the use of terms.</p>

S. No	Current Law	The issue with the Law	Proposal	Justification
	(a) ten thousand shillings for a candidate who is a youth, woman or person with disability; and (b) twenty thousand shillings for any other candidate Nomination fees for candidate for National Assembly		substituting therefor the expression "candidate registration" (e) by inserting a new Regulation 25A immediately after Regulation 25— 25A Candidate registration fee for County Woman member to the National Assembly An application for registration as a candidate shall be accompanied by non-refundable candidate registration fee, in banker's draft of— (a) Five thousand shillings for candidates who is a youth or person with disability; and (b) Ten thousand shillings for the women candidate	
30.	PART VI – NOMINATION OF CANDIDATES FOR SENATE	The need to align PART VI with the Constitution, and the proposed amendments to the Elections Act, 2011.	PART VI of the Elections (General) Regulations, 2012 is amended by deleting the word "nomination" and substituting therefor the word "Registration"	Need for clarity on the use of terms.
31.	Regulation 26 of the Elections (General) regulations, 2012 – Nomination of political party candidate for Senate A political party candidate at an election for the Senate shall be nominated by a political party by delivery, to the county returning officer on the day fixed for the nomination of candidates at that election, of a application for nomination in Form 16 set out in the Schedule.	The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.	Regulation 26 of the Elections (General) Regulations, 2012 is amended— (a). In the marginal note by deleting the word "nomination" and substituting therefor the word "registration" (b) by deleting the expression "shall be" appearing after the word "Senate" (c) by deleting the expression "by delivery" appearing immediately after the word "party" and substituting therefor the expression "shall deliver" (c) by deleting the word "nomination" appearing immediately after the expression "for the" and substituting therefor the expression "registration" (d). by deleting the word "nomination" appearing immediately after the expression "application for" substituting therefor the word "registration"	Need for clarity on the use of terms.

S. No	Current Law	The Issue with the Law	Proposal	Justification
32.	<p>Regulation 27 of the Elections (General) Regulations, 2012— Nomination of independent candidate for Senate An independent candidate at an election for the Senate shall be nominated by delivery to the county returning officer on the day fixed for the nomination of candidates at that election, of an application for nomination in Form 16 set out in the Schedule.</p>	<p>The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.</p>	<p>(e) by deleting the expression “16” appearing immediately after the word “Form” and substituting therefor the expression “17”</p> <p>Regulation 27 of the Elections (General) Regulations, 2012 is amended— (a) in the marginal note by deleting the word “nomination” and substituting therefor the word “registration” (b) by deleting the expression “ be nominated” appearing after the word “shall” (c) by deleting the word “nomination” appearing immediately after the expression “for the” and substituting therefor the word “registration” (d) by deleting the word “nomination” appearing immediately after the expression “application for” and substituting therefor the word “registration” (e) by deleting the expression “16” appearing immediately after the word “Form” and substituting therefor the expression “17”</p>	<p>Informed by the proposed amendments to Section 32(1) of the Elections Act</p>
33.	<p>Regulation 28 of the Elections (General) regulations, 2012 – Supporters of nomination of candidate for Senate (1) The person delivering an application for nomination under regulation 27 shall at the same time deliver to the returning officer, standard A4 sheets of paper bearing the names, and identity card numbers of</p>	<p>The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.</p>	<p>Regulation 28 of the Elections (General) Regulations, 2012 is amended by deleting Regulation 28 and substituting therefor— Supporters for Candidate for Senate (1) The person delivering an application for registration under regulation 27 shall at the same time deliver to the county returning officer for the elective post, standard A4 sheets of paper bearing the names, respective signatures and identity card numbers of at least two thousand voters registered in the county. (2) The sheets of paper delivered under sub-regulation (1) shall— (a) be serially numbered;</p>	<p>Need for clarity on the use of terms.</p>

S. No	Current Law	The issue with the Law	Proposal	Justification
	two thousand registered voters in the county.		(b) each have at the top, the wording supporters of independent candidates for Senate election; and (c) be accompanied by copies of the identification documents of the voters referred to in sub regulation (1).	
34.	Regulation 29 of the Elections (General) regulations, 2012 – Nomination fees for candidate for Senate An application for nomination for candidature at a Senate election shall be accompanied by a non-refundable nomination fee, in banker’s draft, of— (a) twenty-five thousand shillings for a candidate who is a youth, woman or person with disability; and (b) fifty thousand shillings for any other candidate.	The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.	Regulation 29 of the Elections (General) Regulations, 2012 is amended— (a). In the marginal note by deleting the expression “nomination fees” and substituting therefor the word “registration fee” (b). by deleting the word “nomination” appearing after the expression “application for” and substituting therefor the word “registration” (c) by deleting the word “nomination” appearing immediately after the word “non-refundable” and substituting therefor the expression “candidate registration”	Need for clarity on the use of terms.
35.	PART VII – NOMINATION OF COUNTY GOVERNOR CANDIDATES	The need to align PART VII with the Constitution, and the proposed amendments to the Elections Act, 2011.	PART VII of the Elections (General) Regulations, 2012 is amended by deleting and substituting therefor— REGISTRATION OF CANDIDATES FOR COUNTY GOVERNOR	Need for clarity on the use of terms.

S. No	Current Law	The Issue with the Law	Proposal	Justification
36.	<p>Regulation 30 of the Elections (General) regulations, 2012 – Nomination for political party candidate for county governor</p> <p>A political party candidate for election as county governor shall be nominated by the political party by delivery, to the county returning officer, on the day fixed for the nomination of candidates at that election, of an application for nomination in Form 17 set out in the Schedule.</p>	<p>The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.</p>	<p>Regulation 30 of the Elections (General) Regulations, 2012 is amended—</p> <p>(a) In the marginal note by deleting the word “nomination” and substituting therefor the word “registration”</p> <p>(b) by deleting the expression “shall be” appearing after the word “governor”</p> <p>(c) by deleting the expression “by delivery” appearing immediately after the word “party” and substituting therefor the expression “shall deliver”</p> <p>(d) by deleting the word “nomination” appearing immediately after the expression “for the” and substituting therefor the expression “registration”</p> <p>(e) by deleting the word “nomination” appearing immediately after the expression “application for” and substituting therefor the word “registration”</p> <p>(f) by deleting the expression “17” appearing immediately after the word “Form” and substituting therefor the expression “18”</p>	<p>Need for clarity on the use of terms.</p>
37.	<p>Regulation 31 of the Elections (General) Regulations, 2012—</p> <p>Nomination of independent candidates for county governor</p> <p>(1) An independent candidate at a county governor election shall deliver to the returning officer on the day fixed for the nomination of candidates at that election, an application for nomination in Form 17 set out in the Schedule.</p>	<p>The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.</p>	<p>Regulation 31 of the Elections (General) Regulations, 2012 is amended—</p> <p>(a) In the marginal note by deleting the word “nomination” and substituting therefor the word “registration”</p> <p>(b) by deleting the word “nomination” appearing immediately after the expression “for the” and substituting therefor the word “registration”</p> <p>(c) by deleting the word “nomination” appearing after the expression “application for” and substituting therefor the word “registration”</p>	<p>Need for clarity on the use of terms</p>

S. No	Current Law	The issue with the Law	Proposal	Justification
38.	<p>Regulation 32 of the Elections (General) regulations, 2012 – Supporters of nomination of county governor candidate</p> <p>(1) The person delivering an application for nomination under regulation 31 shall at the same time deliver to the returning officer standard A4 sheets of paper bearing the names, respective signatures and identity card numbers of five hundred voters registered in the county</p> <p>(2) The sheets of paper delivered under sub-regulation (1) shall—</p> <p>(a) be serially numbered;</p> <p>(b) each have at the top, in typescript, the wording at the top of Form 17; and</p> <p>(c) be accompanied by copies of the National identification cards of the voters referred to in sub-regulation (1).</p>	<p>The term nomination is problematic as used in the Elections (General) regulations as it is used interchangeably to mean party Nomination and registration of candidates</p>	<p>Regulation 32 of the Elections (General) Regulations, 2012 is amended—</p> <p>(a). In the marginal note by deleting the expression “of nomination of” and substituting therefor the word “for”</p> <p>(b). by deleting the word “nomination” appearing immediately after the expression “application for” and substituting therefor the word “registration”</p> <p>(c) by inserting the word “county” immediately after the expression “deliver to the”</p> <p>(d) by deleting the sub-regulation (2)(b) and substituting therefor—</p> <p>each have at the top, in typescript, the wording, “supporters of independent candidates for the election of county governor”</p>	<p>Need for clarity on the use of terms.</p>
39.	<p>Regulation 33 of the Elections (General) regulations, 2012 – Nomination fees for county governor candidates</p> <p>An application for nomination for candidature at a county governor election</p>	<p>The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.</p>	<p>Regulation 33 of the Elections (General) Regulations, 2012 is amended—</p> <p>(a). In the marginal note by deleting the word “nomination fees” and substituting therefor the word “candidate registration fee”</p>	<p>Need for clarity on the use of terms.</p>

S. No	Current Law	The issue with the Law	Proposal	Justification
	<p>shall be accompanied by a non-refundable nomination fee, in banker's draft, of—</p> <p>(a) twenty-five thousand shillings for a candidate who is a youth, woman or person with disability; and</p> <p>(b) fifty thousand shillings for any other candidate.</p>		<p>(b). by deleting the word "nomination" appearing after the expression "application for" and substituting therefor the word "registration"</p> <p>(c) by deleting the word "nomination" appearing after the word "non-refundable" and substituting therefor the expression "candidate registration"</p>	
40.	PART VIII – NOMINATION OF CANDIDATES FOR COUNTY ASSEMBLY MEMBER	The need to align PART VIII with the Constitution, and the proposed amendments to the Elections Act, 2011.	PART VIII of the Elections (General) Regulations, 2012 is amended by deleting and substituting therefor with a new PART VIII— REGISTRATION OF CANDIDATES FOR MEMBER OF COUNTY ASSEMBLY	Need for clarity on the use of terms.
41.	Regulation 34 of the Elections (General) regulations, 2012 – Nomination of political party candidate for county assembly member by political parties A political party candidate at a county assembly election shall be nominated by a political party by delivery to the returning officer on the day fixed for the nomination of candidates at that election, of an application for	The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.	Regulation 34 of the Elections (General) Regulations, 2012 is amended— (a). by deleting the marginal note and substituting therefor— Registration of political party candidate for member of county assembly election (b) by deleting the expression "shall be" appearing immediately after the expression "assembly election" (c) by deleting the expression "by delivery" appearing after the word "party" and substituting therefor the expression "shall deliver" (d) by deleting the word "nomination" appearing immediately after the expression "for the" and substituting therefor the word "registration" (e) by deleting the expression "nomination in Form 18" appearing immediately after the expression	Need for clarity on the use of terms.

S. No	Current Law	The issue with the law	Proposal	Justification
	nomination in Form 18 set out in the Schedule		"application for" and substituting therefor the expression "registration in Form 19"	
42.	<p>Regulation 35 of the Elections (General) Regulations, 2012— Nomination of independent candidate for county assembly</p> <p>An independent candidate at a county assembly member election shall deliver to the returning officer on the day fixed for the nomination of candidates at that election, of an application for nomination in Form 18 set out in the Schedule.</p>	The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.	<p>Regulation 35 of the Elections (General) Regulations, 2012 is amended— (a). by deleting the marginal note and substituting therefor— Registration of independent candidates for member of county assembly election</p> <p>(b). by deleting the expression "county assembly member" appearing immediately after the expression "at a" and substituting therefor the "member of county assembly"</p> <p>c) by deleting the word "nomination" appearing immediately after the expression "for the" and substituting therefor the word "registration"</p> <p>(d) by deleting the expression "nomination in Form 18" appearing immediately after the expression "application for" and substituting therefor the expression "registration in Form 19"</p>	Need for clarity on the use of terms
43.	<p>Regulation 36 of the Elections (General) Regulations, 2012— Supporters of nomination of candidate for county assembly</p> <p>(1) The person delivering a nomination application under regulation 35 shall at the same time deliver to the returning officer, standard A4</p>	The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.	<p>Regulation 36 of the Elections (General) Regulations, 2012 is amended— (a). by deleting the marginal note and substituting therefor— Supporters for candidate for member of county assembly election</p> <p>(b). In sub-regulation (1) by deleting the expression "a nomination application" appearing immediately after the expression "delivering" and substituting therefor the expression "an application for registration"</p> <p>(c) by deleting sub-regulation (2)(b) and substituting therefor—</p>	Informed by the proposed amendments to Section 32(1) of the Elections Act

S. No	Current Law	The Issue with the Law	Proposal	Justification
	<p>sheets of paper bearing the names, respective signatures and identity card numbers of five hundred voters registered in the ward.</p> <p>(2) The sheets of paper delivered under sub-regulation (1) shall—</p> <p>(a) be serially numbered; and</p> <p>(b) each have at the top, in typescript, the wording at the top of Form 18; and</p> <p>(c) be accompanied by copies of the identity cards of the voters referred to in sub regulation (1).</p>		<p>each have at the top, in typescript, the wording, “supporters of independent candidates for the election of member of county assembly”</p>	
44.	<p>Regulation 37 of the Elections (General) regulations, 2012 – Nomination fees for candidate for member of county assembly</p> <p>An application for nomination for candidature at a county assembly member election shall be accompanied by a non-refundable nomination fee, in banker’s draft of—</p> <p>(a) two thousand five hundred shillings for a</p>	<p>The term nomination is problematic as used in the Elections (General) regulations as it is used interchangeably to mean party Nomination and registration of candidates</p>	<p>Regulation 37 of the Elections (General) Regulations, 2012 is amended—</p> <p>(a). In the marginal note by deleting the expression “nomination fees for candidate” and substituting therefor the expression “candidate registration fee”</p> <p>(b) by deleting the expression “nomination for candidature at a county assembly member” appearing immediately after the expression “application for” and substituting therefor the expression “registration as a candidate for county assembly”</p> <p>(c) by deleting the word “nomination” appearing immediately after the word “non-refundable” and substituting therefor the expression “candidate registration”</p>	<p>Need for clarity on the use of terms.</p>

S.No	Current Law	The issue with the Law	Proposal	Justification
45.	PART IX – GENERAL PROVISIONS ON NOMINATION OF CANDIDATES AND REFERENDUM candidate who is a youth, woman or person with disability; and (b) five thousand shillings for any other candidate	The need to align PART IX with the Constitution, and the proposed amendments to the Elections Act, 2011.	PART VIII of the Elections (General) Regulations, 2012 is amended by deleting the word “NOMINATION” and substituting therefor the word “REGISTRATION”	Need for clarity on the use of terms.
46.	Regulation 38 of the Elections (General) regulations, 2012 – A nomination paper submitted by a political party candidate to the Commission shall— (a).. (b) be signed by the candidate and by a proposer and seconder who shall be voters registered in the respective electoral areas, and who shall be members of the political party, and by an authorised official of the political party; and	The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.	Regulation 38 of the Elections (General) Regulations, 2012 is amended— (a) by deleting the expression “nomination paper” and substituting therefor the expression “candidate registration form” (b) In paragraph (b) by deleting the word “and” appearing immediately before the expression “by an authorized” and substituting therefor the word “or” (c) In paragraph (c) by deleting the expression “by a person authorised by the candidate” appearing immediately after the expression “candidate or” and substituting therefor the expression “the proposer or a seconder” (d) by deleting the word “nomination” appearing immediately after the expression “set for the” and substituting therefor the expression “registration of candidates”	Need for clarity on the use of terms. -To provide a specific persons in case a candidate cannot submit their documents for registration.

S. No	Current Law	The Issue with the Law	Proposal	Justification
	(c) be delivered to the returning officer personally by the candidate or by a person authorised by the candidate in that behalf on the day set for the nomination.			
47.	Regulation 39 of the Elections (General) Regulations, 2012— A nomination paper submitted by an independent candidate to the Commission shall— (a).. (b).. (c).. (d).. (e) be delivered to the returning officer personally by the candidate himself or herself or by a person authorized in that behalf by the candidate on the day set for the nomination of that election.	The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.	Regulation 39 of the Elections (General) Regulations, 2012 is amended— (a) In the introductory paragraph by deleting the expression “nomination paper” and substituting therefor the expression “candidate registration form” (b) In Paragraph (e) by deleting the expression “a person authorized in that behalf by the candidate” appearing immediately after the expression “himself or herself” and substituting therefor the expression “the proposer or the seconder” (c) in paragraph (e) by deleting the word “nomination” appearing immediately after the expression “set for the” and substituting therefor the words “ registration of candidates”	Need for clarity on the use of terms.
48.	Regulation 41 of the Elections (General) regulations, 2012 – Statutory declaration for purposes of nomination	The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.	Regulation 41 of the Elections (General) Regulations, 2012 is amended— (a). In the marginal note by deleting the word “nomination” and substituting therefor the word “candidate registration”	Need for clarity on the use of terms.

S. No	Current Law	The issue with the Law	Proposal	Justification
	A person nominated to contest in a parliamentary or county election shall submit to the returning officer together with the application for nomination a statutory declaration in Form 19 set out in the Schedule.		(b) by deleting the word "nomination" appearing immediately after the expression "application for" and substituting therefor the expression "registration as a candidate," (c) deleting the expression "Form 19" appearing immediately after the expression "declaration in" and substituting therefor the expression "Form 20"	
49.	Regulation 42 of the Elections (General) regulations, 2012— Supply of nomination forms A returning officer shall supply free of charge to any voter of his or her electoral area an application for nomination upon a request made by the voter or on behalf of the voter at such place and time as is specified in a notification under regulation 11.	The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.	Regulation 42 of the Elections (General) Regulations, 2012 is amended— (a). In the marginal note by deleting the word "nomination" and substituting therefor the word "candidate registration" (b) by deleting the word "nomination" appearing immediately after the expression "application for" and substituting therefor the expression "registration as a candidate"	Need for clarity on the use of terms.
50.	Regulation 43 of the Elections (General) regulations, 2012— Validity of nomination papers (1) Where a candidate has applied for nomination in accordance with these Regulations, unless the returning officer holds a nomination	The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.	Regulation 43 of the Elections (General) Regulations, 2012 is amended— (a). In the marginal note by deleting the expression "nomination paper" and substituting therefor the word "candidate registration forms" (b) In sub-regulation (1) by deleting the expressions "nomination" and substituting therefor the word "registrations as a candidate"	Need for clarity on the use of terms.

S. No	Current Law	The issue with the Law	Proposal	Justification
	<p>paper invalid in accordance with these Regulations, or the candidate withdraws his or her candidature, or proof is given to the satisfaction of the returning officer of the candidates' death, the candidate named therein shall stand validly nominated.</p> <p>(2) A returning officer shall hold a nomination paper invalid on any of the following grounds—</p> <p>(a) that the particulars of the candidate or supporters contained in the nomination paper are not as required by the Act or these Regulations in respect of that elective post;</p> <p>(b) that the nomination paper is not subscribed as required by these Regulations in respect of that elective post;</p>		<p>(c) in sub-regulation (1) by deleting the expression “nomination paper” and substituting therefor the expressions “candidate registration form”</p> <p>(c) in sub-regulation (1) by deleting the word “nominated” and substituting therefor the expression “registered as a candidate”</p> <p>(d) In introductory of sub-regulation (2) by deleting the expression “nomination paper” and substituting therefor the expression “candidate registration form”</p> <p>(e) In sub-regulation (2)(a) by deleting the expression “nomination paper” and substituting therefor the expression “candidate registration form”</p> <p>(f) In sub-regulation (2)(b) by deleting the expression “nomination paper” and substituting therefor the expression “candidate registration form”</p> <p>(g) in sub-regulation (2)(c) by deleting the word “nominated” and substituting therefor the word “registered”</p> <p>(h) in sub-regulation (2)(c) by deleting the word “nomination” and substituting therefor the word “registration”</p> <p>(i) in sub-regulation (2)(e) by deleting the word “nominated” and substituting therefor the word “registered”</p> <p>(j) In sub-regulation (2)(g) by deleting the expression “nomination paper” and substituting therefor the expression “candidate registration form”</p> <p>(k) In sub-regulation (2)(h) by deleting the expression “nomination paper” and substituting therefor the expression “candidate registration form”</p> <p>(l) in sub-regulation (2)(i) by deleting the word “nominated” and substituting therefor the word “registered”</p>	

S. No	Current law	The issue with the law	Proposal	Justification
	<p>(c) that the candidate is not qualified to be, or is disqualified by law from being nominated or elected to the elective post for which nomination is sought;</p> <p>(d) that so many of the supporters as would reduce the number of qualified supporters to less than the required number of supporters are not qualified to be supporters;</p> <p>(e) that the candidate was not nominated by a political party under section 13 of the Act;</p> <p>(f) that the candidate's name is not on the list submitted by the political party under section 35 of the Act;</p> <p>(g) that the nomination paper was presented after the prescribed period had lapsed;</p> <p>(h) that the nomination paper</p>		<p>(m) In Sub-regulations (3), (4), (5) by deleting the expression "nomination paper" and substituting therefor the expression "candidate registration form"</p>	

S. No	Current Law	The Issue with the Law	Proposal	Justification
	<p>was not accompanied by the prescribed fee;</p> <p>(i) that the person stands nominated as a candidate in another electoral area; or</p> <p>(j) that the candidate is disqualified under any other written law.</p> <p>(3) A returning officer shall give his or her decision on an objection to a nomination paper as soon as practicable after the objection is made.</p> <p>(4) Where a returning officer decides that a nomination paper is invalid, the returning officer shall record that decision and the reasons therefor on the nomination paper, add his or her signature thereto and return the invalid nomination paper to the candidate or its presenter.</p> <p>(5) Notwithstanding that a returning officer has held nomination</p>			

S. No	Current Law	The issue with the Law	Proposal	Justification
51.	<p>Regulation 44 of the Elections (General) regulations, 2012 –</p> <p>Withdrawal of candidature before nomination.</p> <p>A candidate whose nomination papers have been delivered to the returning officer may, before the close of nominations, by notice in writing signed by him or her before the returning officer and presented to the returning officer, withdraw his or her candidature.</p>	<p>The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.</p>	<p>Regulation 44 of the Elections (General) Regulations, 2012 is amended by deleting Regulation 44.</p>	<p>Need for clarity on the use of terms.</p>
52.	<p>Regulation 45 (1) of the Elections (General) regulations, 2012 –</p> <p>No person shall be a subscriber to more than one nomination paper in respect of different candidates in the same election and if any person subscribes to more than one nomination paper such subscription shall be</p>	<p>The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.</p>	<p>Regulation 45 of the Elections (General) Regulations, 2012 is amended—</p> <p>(a) in sub-regulation (1) by deleting the expression “nomination paper” appearing before the expression “in respect” and substituting therefor the expression “candidate registration form”</p> <p>(b) in sub-regulation (1) by deleting the expression “nomination paper” appearing after the expression “more than” and substituting therefor the expression “candidate registration form”</p>	<p>Need for clarity on the use of terms.</p>

S. No	Current Law	The issue with the Law	Proposal	Justification
	<p>inoperative on nomination papers:</p> <p>Provided that this sub regulation shall not apply to the subscription of a person by reason only of his or her having subscribed a nomination paper of a candidate who has died or who has withdrawn his or her candidature before a second nomination paper subscribed by that person has been delivered to the returning officer.</p>		<p>(c) in sub-regulation (1) by deleting the expression “nomination paper” appearing after the expression “inoperative on” and substituting therefor the expression “candidate registration form”</p> <p>(d) in the proviso of sub-regulation (1) by deleting the expression “nomination paper” appearing after the expression “subscribed a” and substituting therefor the expression “candidate registration form”</p> <p>(e) in the proviso of sub-regulation (1) by deleting the expression “nomination paper” appearing after the expression “second” and substituting therefor the expression “candidate registration form”</p>	
53.	<p>Regulation 47 (1) of the Elections (General) regulations, 2012 –</p> <p>For purposes of ascertaining the educational qualification of persons for an elective post, a person seeking nomination shall submit to the Commission certified copies of certificates of the educational qualification</p>	<p>The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.</p>	<p>Regulation 47(1) of the Elections (General) Regulations, 2012 is amended by deleting the expression “nomination” and substituting therefor the expression “to be registered as a candidate”</p>	<p>Need for clarity on the use of terms.</p>
54.	<p>Regulation 48 of the Elections (General) regulations, 2012 –</p> <p>Attendance at delivery of nomination papers</p> <p>(1) No person shall be entitled to attend the proceedings</p>	<p>The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.</p>	<p>Regulation 48 of the Elections (General) Regulations, 2012 is amended—</p> <p>(a). by deleting the marginal note and substituting therefor—</p> <p>Persons allowed at the candidate registration venue</p>	<p>Need for clarity on the use of terms.</p>

S. No	Current Law	The issue with the Law	Proposal	Justification
55.	<p>Regulation 49</p> <p>Where after the close of the nomination, and before the poll is commenced, proof is</p>	<p>taking place during the time fixed for the delivery of nomination papers unless that person is—</p> <p>(a) a candidate;</p> <p>(b) a person nominated as deputy to the candidate, where applicable;</p> <p>(c) an agent; or</p> <p>(d) present for the purpose of assisting the returning officer at the request of the returning officer.</p> <p>(2) Only two persons shall be entitled to attend the proceedings under subregulation</p> <p>(1) at any one time, in respect of any one candidate, whether one of the two persons is the candidate himself or herself or not.</p> <p>(3) A person entitled to attend proceedings under this regulation shall also be entitled to inspect and to object to the validity of any nomination paper delivered in his or her presence.</p>	<p>(b) In the sub-regulation (1) by deleting the expression “nomination papers” appearing immediately after the expression “delivery of” and substituting therefor the expression “candidate registration form”</p> <p>(c) by Inserting a new paragraph (1) (aa) under sub-regulation (1)(a)— the spouse(s)</p> <p>(d) In the sub-regulation (1)(b) by deleting the expression “person nominated as”</p> <p>(e) by deleting sub-regulation (2) and substituting therefor— subject to sub-regulation (1), the returning officer may take into consideration adequacy of the sitting space and security in allowing persons to attend proceedings at a candidate registration venue</p> <p>(e) By deleting sub-regulation (3).</p>	<p>Regulation 49 of the Elections (General) Regulations, 2012 is amended—</p> <p>(a) by deleting the word “nomination” appearing immediately after the expression “close of the” and</p>

S. No	Current Law	The issue with the Law	Proposal	Justification
	<p>given to the satisfaction of the returning officer of the death of a person who has been duly nominated, all the proceedings with reference to the election in that electoral area shall cease and shall be commenced afresh as if the notice had been received on the day on which proof of the death was given, or in the case of a general election or an election involving other electoral areas, the day following the announcement of the last election results: Provided that no fresh nomination shall be necessary in the case of a person already duly nominated for the election affected by this regulation whose nomination shall remain valid.</p>		<p>substituting therefor the expression "registration of candidates" (b) by deleting the word "nominated" appearing immediately after the expression "been duly" and substituting therefor the expression "registered as a candidate" (c) by deleting the word "nomination" appearing immediately after the expression "that no" and substituting therefor the expression "registration of candidates" (d) by deleting the word "nominated" appearing immediately after the expression "already duly" and substituting therefor the expression "registered as a candidate" (e) by deleting the word "nomination" appearing immediately after the expression "regulation whose" and substituting therefor the expression "registration as a candidate"</p>	
56.	<p>Regulation 50 Disruption of nomination (1) Where the proceedings of a nomination in an electoral area are interrupted by riots, violence, floods or other natural disaster, the proceedings in that electoral area shall be suspended for that day.</p>		<p>Regulation 50 is amended— (a) in the marginal note by deleting the expression "nomination" and substituting therefor the expression "the candidate registration proceedings" (b) in sub-regulation (1) by deleting the expression "a nomination" and substituting therefor the expression "registration of candidates" (c) in sub-regulation (2) by deleting the expression "nomination papers" and substituting therefor the expression "candidate registration forms"</p>	

S. No	Current Law	The issue with the Law	Proposal	Justification
	<p>(2) If the day referred to in subregulation (1) is the last day for the delivery of nomination papers, the nomination proceedings in that electoral area shall be continued on the next day as if that were the last day for the delivery thereof.</p> <p>(3) The "last day" referred to in sub-regulation (2) shall be treated for purposes of these Regulations as being the last day (subject to any further application of this rule in the event of interruption on that day):</p> <p>Provided the returning officer shall advertise the postponing of the nominations in such manner as the returning officer considers sufficient to bring it to the notice of the public.</p> <p>(4) A returning officer may extend the hours of nomination at the electoral area where nomination has been interrupted and shall, where nomination started late, extend the hours of</p>		<p>(d) in sub-regulation (2) by deleting the word "nomination" appearing immediately after the expression "paper, the" and substituting therefor the expression "candidate registration"</p> <p>(e) In the proviso, in sub-regulation (3) by deleting the expression "the nomination" and substituting with "registration of candidates"</p> <p>(f) in sub-regulation (4) by deleting and substituting therefor—</p> <p>A returning officer may extend the hours of registration of candidates at the electoral area where the proceedings have been interrupted and shall extend the hours of registration of candidates by the amount of time which was lost in so starting late</p>	

S. No	Current Law	The Issue with the Law	Proposal	Justification
57.	<p>nomination by the amount of time which was lost in so starting late.</p> <p>Regulation 51 of the Elections (General) regulations, 2012 – Nomination certification, etc.</p> <p>(1) The chairperson of the Commission shall issue a candidate who is validly nominated to contest in a presidential election with a certificate in Form 20 set out in the Schedule.</p> <p>(2) The returning officer shall issue a candidate who is validly nominated to contest in a parliamentary, county governor or county assembly with a certificate in Form 21 set out in the Schedule.</p> <p>(3) If, after the closure of nomination no person stands validly nominated, the returning officer shall certify accordingly to the Commission in Form 22 set out in the Schedule.</p> <p>(3A) Where after the closure of nomination no person stands validly nominated under sub regulation (3), the Commission shall publish a notice in the <i>Gazette</i></p>	<p>The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.</p>	<p>Regulation 51 of the Elections (General) Regulations, 2012 is amended—</p> <p>(a). In the marginal note by deleting the expression “nomination” and substituting therefor the expression “candidate registration”</p> <p>(b) In the sub-regulation (1), by deleting the word “nominated” substituting therefor the word “registered as a candidate”</p> <p>(c) In the sub-regulation (1), by deleting the expression “Form 20” substituting therefor the expression “Form 21”</p> <p>(d) In the sub-regulation (2), by deleting the word “nominated” substituting therefor the word “registered as a candidate”</p> <p>(e) In the sub-regulation (2), by deleting the expression “Form 21” substituting therefor the expression “Form 22”</p> <p>(f) In the sub-regulation (3), by deleting the word “nomination” substituting therefor the word “registration of candidates,”</p> <p>(g) In the sub-regulation (3), by deleting the word “nominated” substituting therefor the word “registered as a candidate”</p> <p>(h) In the sub-regulation (3), by deleting the expression “Form 22” substituting therefor the expression “Form 23”</p> <p>(i) In the sub-regulation (3A), by deleting the word “nomination” substituting therefor the word “registration of candidates.”</p>	<p>Need for clarity on the use of terms.</p>

S. No	Current Law	The issue with the Law	Proposal	Justification
	<p>cancelling the holding of the election concerned.</p> <p>(4) If, after the close of nominations, only one candidate is validly nominated, the returning officer shall—</p> <p>(a) declare the candidate to be nominated; and</p> <p>(b) certify accordingly to the Commission in Form 23 set out in the Schedule.</p> <p>(5) Upon receipt of a certificate under sub-regulation (1) or (2), the Commission shall publish a notice in the <i>Gazette</i> and, where two or more certificates are received at substantially the same time, such notice may be a composite one.</p> <p>(6) If, after the close of nominations, two or more candidates stand validly nominated, the returning officer shall publish a statement and post it prominently at a place at the returning officer's office where the public has full</p>		<p>(j) In the sub-regulation (3A), by deleting the word “nominated” substituting therefor the expression “registered as a candidate”</p> <p>(k) In sub-regulation (3A) by inserting the expression “in Form 23A” immediately after the expression “concerned”</p> <p>(l) In sub-regulation (4) by deleting the word “nomination” substituting therefor the word “registration of candidates;”</p> <p>(m) In the sub-regulation (4), by deleting the word “nominated” substituting therefor the expression “registered as a candidate”</p> <p>(n) by deleting paragraph (a) of sub-regulation (4) and substituting therefor the expression “issue the certificate of registration to the person validly registered as a candidate in Form.22 set out in the schedule”</p> <p>(o) In the sub-regulation (4)(b), by deleting the expression “Form 23” substituting therefor the expression “Form 23B”</p> <p>(p) In sub-regulation (6) deleting the word “nomination” substituting therefor the expression “registration of candidates”</p> <p>(q) In the sub-regulation (6), by deleting the word “nominated” substituting therefor the expression “registered as a candidate”</p> <p>(r) In sub-regulation (6) (a) deleting the word “nomination papers” substituting therefor the expression “candidate registration forms”</p> <p>(s) In sub-regulation (6) (b) deleting the word “to the nomination papers” substituting therefor the expression “in the candidate registration forms”</p>	

S. No	Current Law	The issue with the Law	Proposal	Justification
	<p>access and at such other places as the Commission may deem necessary in Form 24 set out in the Schedule stating—</p> <p>(a) the names, in alphabetical order of surnames, addresses and occupations or descriptions of such candidates as given in their nomination papers;</p> <p>(b) the name of the subscribers to the nomination papers;</p> <p>(c) the day or days upon which, and the hours during which, the poll will be taken;</p> <p>(d) the situation of each polling station and the description of the voters entitled to vote at each polling station; and</p> <p>(e) the location of each tallying centre</p>			
58.	<p>Regulation 52 of the Elections (General) regulations, 2012 – Withdrawal of candidature after nomination</p> <p>(1) A candidate who has been nominated may withdraw his</p>	<p>The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.</p>	<p>Regulation 52 of the Elections (General) Regulations, 2012 is amended by—</p> <p>(a) In the marginal note by deleting the expression “after nomination”</p> <p>(b) by deleting sub-regulation (1)</p> <p>(c) by deleting sub-regulation (2)</p> <p>(d) by inserting the following new sub-regulations—</p>	<p>Need for clarity on the use of terms</p>

5. No	Current Law	The issue with the Law	Proposal	Justification
	<p>or her candidature by delivering to the respective returning officer a notice to that effect in Form 24A not later than three days after nomination.</p> <p>(2) Where there are only two nominated candidates and one candidate withdraws, the remaining candidate shall be declared duly elected in accordance with regulation 53.</p>		<p>(1) A candidate whose candidate registration form have been delivered to the returning officer may, before the close of registration of candidates, by notice in writing signed by him or her before the returning officer and presented to the returning officer, withdraw his or her candidature</p> <p>(2) A person who has been registered as a candidate may withdraw his or her candidature by delivering to the respective returning officer a notice to that effect in Form 24A not later than three days after registration of candidates.</p> <p>(3) Where there are only two registered candidates and one candidate withdraws, the remaining candidate shall be declared duly elected in accordance with regulation 53.</p>	<p>Need for clarity on the use of terms</p>
59.	<p>Regulation 53 of the Elections (General) regulations, 2012 – If at the close of nominations for any elective post only one candidate is validly nominated in respect of that elective post in an electoral area, the Commission shall declare the candidate duly elected and publish a notice in the Gazette to that effect.</p>	<p>The need to align the regulation with the Constitution, and the proposed amendments to the Elections Act, 2011.</p>	<p>Regulation 53 of the Elections (General) Regulations, 2012 is amended—</p> <p>(a) by deleting the word “nominations” and substituting therefor the expression “registration of candidate”</p> <p>(b) by deleting the word ““nominated” and substituting therefor the expression “registered as a candidate”</p>	
60.	<p>Regulation 57 of the Elections (General) Regulations, 2012—</p>	<p>The time for the appointment of polling station agents is not provided.</p>	<p>Regulation 57 is amended—</p> <p>(a) In the marginal note by deleting the expression “national and county chief”</p> <p>(b) by deleting sub-regulation (1) and substituting therefor—</p>	<p>To align the timelines for the appointment of all the agents to</p>

S. No	Current Law	The issue with the Law	Proposal	Justification
	<p>Appointment of national and county chief elections agents</p> <p>(1) Every political party shall at least fourteen days to the date of the election submit to the Commission the names of one national chief agent and forty-seven county chief agents.</p> <p>(2) Every independent candidate at a presidential election shall fourteen days to the date of the election submit to the Commission the names of one national chief agent and forty-seven county chief agents.</p>		<p>Every political party and independent candidate shall at least fourteen days to the date of the election submit to the Commission the names of:</p> <ul style="list-style-type: none"> (i) national chief agent (ii) county chief agent (iii) constituency chief agent (iv) agents for each polling station where applicable <p>(c) by deleting sub-regulation (2) and substituting therefor the following new sub-regulations—</p> <p>(2) The list referred in sub-regulation (1) shall be signed by the authorized party official or the candidate.</p> <p>(3) The Commission shall issue identification badges to agents referred in sub-regulation (1)</p>	<p>participate in the elections.</p>
61.	<p>Regulation 69 (1) of the Elections (General) Regulations, 2012—</p> <p>Voting procedure</p> <p>(1) Before issuing a ballot paper to a voter, an election official shall—</p> <p>(a) require the voter to produce an identification document which shall be the</p>	<p>(i). The need to provide for the process of use of KIEMS Supervisor mode in the regulations</p> <p>(ii). The regulation is not clear as it may give room for a voter to only pick the ballot papers they want</p> <p>(iii). The Act referred to in this Regulation is the</p>	<p>Regulation 69 of the Elections (General) Regulations, 2012 is amended—</p> <p>(a) in sub-regulation (1) (e) by inserting the expression “biometrically,” immediately after the expression “identify a voter”</p> <p>(b) In sub-regulation (1) (e) ii) by deleting the expression “Verification Form 32A” appearing immediately after the word “complete” and substituting therefor the expression “KIEMS Supervisor Validation Form 43”</p>	<p>(i) The need to anchor KIEMS Supervisor mode in the regulations</p> <p>(ii). To have the voter be compelled to collect all the six ballot papers for</p>

S. No	Current Law	The issue with the Law	Proposal	Justification
	<p>same document used at the time of registration as a voter;</p> <p>(b) ascertain that the voter has not voted in that election;</p> <p>(c) call out the number and name of the voter as stated in the polling station register;</p> <p>(d) require the voter to place his or her fingers on the fingerprint scanner and cross out the name of the voter from the printed copy register once the image has been retrieved;</p> <p>(e) in case the electronic voter identification device fails to identify a voter the presiding officer shall—</p> <p>(i) invite the agents and candidates in the station to witness that the voter</p>	<p>Elections Act as it was before the electoral offences were moved to the Election Offences Act, 2016</p> <p>(iv) The way ballot papers have been stamped previously have led the courts to declare it as one of the irregularities.</p>	<p>(c) by deleting sub-regulation (1) (e) (iii) and substituting therefor—</p> <p>The Presiding Officer initiates the supervisor validation function on the electronic identification device</p> <p>(d) by deleting sub-regulation (1) (e)(iv) and substituting therefor—</p> <p>The Presiding Officer keys in the supervisor password to validate the voter</p> <p>(e) By inserting a new paragraph (e)(v), in sub-regulation (1) to read—</p> <p>Once identified and validated, the voter shall be issued with ballot paper(s) to vote.</p> <p>(f). In sub-regulation (3) by deleting the phrase “under the Act”</p> <p>(d). by deleting sub-regulation (4)</p>	<p>accountability purposes.</p> <p>(iii) Align the regulation with the Elections Act, 2011 as it now.</p> <p>(iv) The ballot papers contain enough security features hence no need of stamping them</p>

S. No	Current Law	The issue with the Law	Proposal	Justification
	<p>cannot be identified using the device;</p> <p>(ii) complete verification Form 32A in the presence of agents and candidates;</p> <p>(iii) identify the voter using the printed Register of voters; and</p> <p>(iv) once identified proceed to issue the voter with the ballot paper to vote;</p> <p>(2) A voter shall, in a multiple election, be issued with the ballot papers for all elections therein at the same time and shall after receiving the ballot papers—</p>			

S. No	Current Law	The issue with the Law	Proposal	Justification
	<p>(a) cast his or her votes in accordance with regulation 70 without undue delay;</p> <p>(b) submit to having one finger as prescribed by the Commission</p> <p>immersed, dipped or marked in ink of a distinctive colour which, so far as is possible, is sufficiently indelible to leave a mark for the period of the election;</p> <p>(c) where a voter has no finger, make a mark on the next most suitable part of the body; and</p>			

S. No	Current Law	The Issue with the Law	Proposal	Justification
	<p>(d) upon collecting his or her identification documents, immediately leave the polling station.</p> <p>(3) A person who knowingly fails to place a ballot paper issued to him or her (not being a spoiled ballot paper) into a ballot box before leaving the place where the box is situated commits an offence under the Act.</p> <p>(4) An election officer who deliberately refuses to stamp any ballot paper commits an offence.</p> <p>(5) The presiding officer may, where a voter so requests, explain the voting procedure to such voter.</p>			

S. No	Current Law	The issue with the Law	Proposal	Justification
62.	Regulation 70 (3) of the Elections (General) Regulations, 2012— No replacement of a ballot paper under this regulation may be done more than twice in respect of any particular voter.	This sub-regulation seems misplaced.	Regulation 70(3) of the Elections (General) Regulations, 2012 is repealed. Move the sub-regulation (3) to Regulation 71 of the Elections (General) Regulations, 2012	For logical flow and alignment in terms of order.
63.	Regulation 71 of the Elections (General) Regulations, 2012— A voter who has inadvertently dealt with his or her ballot paper in such a manner that it cannot be conveniently used as a ballot paper may, on delivering it to the presiding officer and providing to the satisfaction of such officer the fact of the inadvertence, obtain another ballot paper in the place of the ballot paper so delivered and the spoilt ballot paper shall be immediately cancelled and the counterfoil thereof marked accordingly.	The action that follows this is provided for in a different section thus not consistent.	Regulation 71 of the Elections (General) Regulations, 2012 is amended— (a) by renumbering the existing provision as sub-regulation (1) (b) by inserting a new sub-regulation (2) to read as follows: (2) No replacement of a ballot paper under this regulation may be done more than once in respect of any particular voter	To have consistency of what to happen in a chronological order
64.	Regulation 72 of the Elections (General) Regulations, 2012— Assisted voters (5) The following shall apply with respect to a person who assists a voter under this	The Act referred to in this Regulation is the Elections Act as it was before the electoral offences were moved to the Election Offences Act, 2016	Regulation 72(5)(b) of the Elections (General) Regulations, 2012 is amended by inserting the expression "Election Offences" immediately after the expression "under the"	Align the regulation with the Elections Act, 2011 as it now.

S. No	Current Law	The Issue with the Law	Proposal	Justification
	<p>regulation—</p> <p>(a) the person shall, before assisting or supporting the voter, make a declaration of secrecy before the presiding officer in Form 32 set out in the Schedule;</p> <p>(b) a person who breaches his or her declaration commits an offence under the Act;</p>			
65.	<p>Regulation 73 (1) of the Elections (General) Regulations, 2012—</p> <p>Procedure on close of polling</p> <p>(1) At the end of voting, the presiding officer shall declare the polling station closed and shall proceed to seal the ballot boxes in the presence of the candidates or agents and observers at his or her polling station.</p>	<p>The ballot boxes are already sealed in the morning once the polling station is opened. This causes confusion where some POs open the box then find they have no more seals.</p>	<p>Regulation 73(1) of the Elections (General) Regulations, 2012 is amended by inserting the phrase “aperture of the” immediately after the expression “to seal the”</p>	<p>To align the Regulation with the process that takes place.</p>
66.	<p>Regulation 74 of the Elections (General) Regulations, 2012—</p> <p>Attendance at counting of votes</p> <p>(4) The presiding officer shall permit into the counting venue—</p> <p>(a) a candidate;</p>	<p>The Political Parties Amendment Act, 2022 and the proposed amendments to the Elections Act, 2011 brings in the aspect of a Coalition Political Party</p>	<p>Regulation 74 of the Elections (General) Regulations, 2012 is amended—</p> <p>(a). by inserting a new paragraph (aa) under sub-regulation (4) (a) “a candidate’s spouse(s)”</p>	<p>Align it with the provision of the Political Parties Amendment Act, 2022 and the Elections Amendment Bill, 2022</p>
67.	<p>Regulation 75 of the Elections (General) Regulations, 2012—</p>	<p>(i) The order is not in conformity with the Forms</p>	<p>Regulation 75 of the Elections (General) Regulations, 2012 is amended—</p>	<p>(i) To align the Regulations in the order of the</p>

S. No	Current-law	The issue with the law	Proposal	Justification
	<p>Commencement and Sequence of the Count</p> <p>(2) The presiding officer shall carry out the counting of votes for the respective elective posts in the following order—</p> <p>(a) president;</p> <p>(b) member of the National Assembly;</p> <p>(c) member of the County Assembly;</p> <p>(d) senator;</p> <p>(e) county woman representative in the National Assembly; and</p> <p>(f) county governor.</p> <p>(3)....</p> <p>(4)....</p> <p>(5) Subject to sub-regulation (2), the counting of votes cast by Kenyan citizens residing outside Kenya shall be carried out after the close of polling time in Kenya and in accordance with the time of counting in Kenya.</p>	<p>as provided for in the schedule</p> <p>(ii) The time zone difference may present a challenge and ambiguity on exactly what time the poll counting should start.</p>	<p>(a). by deleting sub-regulation (2) and substituting therefor—</p> <p>The presiding officer shall carry out the counting of votes for the respective elective posts in the following order—</p> <p>a) President;</p> <p>b) member of the National Assembly;</p> <p>c) member of the County Assembly;</p> <p>d) county governor;</p> <p>e) senator;</p> <p>f) county woman member to the National Assembly</p> <p>(b) In sub-regulation (5) by deleting the phrase “in Kenya and in accordance with the time of counting in Kenya” appearing immediately after the expression “polling time” and substitute therefor the phrase “based on the respective polling station local time”</p>	<p>forms 34-39 as provided in the schedule</p> <p>(ii) To provide clarity on how to deal with the difference in time zone between Kenya and other countries where Kenyans living outside Kenya will vote in.</p>
68.	<p>Regulation 81 of the Elections (General) Regulations, 2012—</p> <p>Sealing of ballot papers by presiding officer</p>	<p>(i) The Presiding officer seals ballot boxes after the count of votes and not the ballot papers.</p> <p>(ii) Make a provision for the candidates' spouse as</p>	<p>Regulation 81 of the Elections (General) Regulations, 2012 is amended—</p> <p>(a). in the marginal note by deleting the word “papers” and substituting therefor the word “boxes”</p> <p>(b). by inserting a new paragraph (aa) under sub-regulation (4) (a)</p> <p>“a candidate’s spouse(s)”</p>	<p>(i) To provide clarity as it is ballot boxes that are usually sealed.</p>

S. No	Current Law	The Issue with the Law	Proposal	Justification
	<p>4. The presiding officer shall permit into the counting venue— (a) a candidate;</p>	<p>this causes challenges in the venue</p>		<p>(ii) This is to help have an order and avoid confusion.</p>
69.	<p>Regulation 82 Provisional results to be transmitted electronically (1) The presiding officer shall, before ferrying the actual results of the election to the returning officer at the tallying venue, submit to the returning officer the results in electronic form, in such manner as the Commission may direct. (2) The results submitted under sub-regulation (1) shall be provisional and subject to confirmation after the procedure described in regulation 76.</p>		<p>Regulation 82 is amended— (a) by deleting the marginal note and substituting therefor with a new marginal note— Transmission of Election Results (b) by deleting sub-regulation (1) and substituting therefor a new sub-regulation— (1) The Presiding officer shall before ferrying the physical results to the constituency tallying centre— a) Electronically capture the result Form b) Ensure that the electronic result form is captured in a clear readable manner c) Display the captured electronic results form on the electronic device to all the agents and candidates present before transmission. d) Electronically transmit the captured result form to the presidential tallying center (c) by deleting sub-regulation (2) and substituting therefor a new sub-regulation (2)— (2) In case the result transmission fails at the polling station, the presiding Officer will be required to: a. Move to the nearest point from the polling station that has good network and transmit the result accordingly. b. If there is still no network, proceed to the Constituency Tallying Centre and transmit from the Constituency Tallying Centre. (d) by inserting a new sub-regulation (3) immediately after regulation (2) as follows—</p>	

S. No	Current Law	The issue with the Law	Proposal	Justification
70.	<p>Regulation 83 of the Elections (General) Regulations, 2012—</p> <p>Tallying and announcement of election results</p> <p>(1) Immediately after the results of the poll from all polling stations in a constituency have been received by the returning officer, the returning officer shall, in the presence of candidates or agents and observers, if present—</p> <p>(a) tally the final results from each polling station in a constituency for the election of a member of the National Assembly and members of the county assembly;</p> <p>(b) disregard the results of the count of a polling station where the total valid votes exceeds the number of registered voters in that polling station;</p> <p>(c) disregard the results of the count of a polling station where the total votes exceeds</p>	<p>The Regulations do not provide for the procedure to be followed by the Presiding Officer when he/she wrongly put materials and seals them inside the ballot box</p>	<p>Regulation 83 of the Elections (General) Regulations, 2012 is amended by inserting a new regulation 83A—</p> <p>83A. Opening of a Ballot Box at the Constituency Tallying Centre</p> <p>Upon arrival at the Constituency Tallying Centre, where the Presiding Officer is found to have wrongly put materials in the sealed ballot box:</p> <p>a) the Presiding Officer shall inform the Returning Officer;</p> <p>b) the Presiding Officer shall summon his/her polling station agents to the Constituency Tallying Centre;</p> <p>c) in the presence of the Returning Officer, the Constituency Tallying Centre Agents, and polling station agents, the Presiding Officer shall open the ballot box and retrieve the required materials and shall seal the ballot box and record the new seal serial numbers in the Polling Station Diary.</p> <p>d) the Polling Station Agents and Tallying Centre Agents will be required to sign as witnesses to the process and Returning Officer shall record in that specific Polling Station Diary</p> <p>e) in the event that the Polling Station Agents are unavailable, the Returning Officer shall invite the Tallying Centre Agents to witness.</p>	

S. No	Current Law	The issue with the Law	Proposal	Justification
	<p>the total number of voters who turned out to vote in that polling station;</p> <p>(d) collate and publicly announce to the persons present the results from each polling station in the constituency for the election of the President, county Governor, Senator and county women representative to the National Assembly;</p> <p>(e) complete the relevant Form 35B and 36B for the respective elective position set out in the Schedule in which the returning officer shall declare, as the case may be, the—</p> <p>(i) name of the respective electoral area;</p> <p>(ii) total number of registered voters;</p> <p>(iii) votes cast for each candidate or referendum side in each polling station;</p> <p>(iv) number of rejected votes in each polling station;</p> <p>(v) aggregate number of votes cast in the respective electoral area; and</p> <p>(vi) aggregate number of rejected votes;</p>		<p>f) in the event that both the Polling Station Agents and Tallying Centre Agents are unavailable or refuse to participate, the Returning Officer shall inform the Commission for further guidance</p>	

S. No	Current Law	The issue with the Law	Proposal	Justification
	<p>(f) sign and date the relevant forms and publicly declare the results for the position of—</p> <p>(i) member of County Assembly;</p> <p>(ii) member of National Assembly; and</p> <p>(g) issue certificates to persons elected in the county assembly and National Assembly elections in Forms 36C and 35C respectively set out in the Schedule;</p> <p>(h) deliver to the county returning officer the collated results for the election of the county Governor, Senator and county women representative to the National Assembly; and</p> <p>(i) deliver to the Chairperson of the Commission the collated results for the election of the president to the national tallying centre.</p> <p>(2) The Chairperson of the Commission shall tally and verify the results received at the national tallying centre.</p>			

S. No	Current Law	The issue with the Law	Proposal	Justification
71.	<p>Regulations 87(3) of the Elections (General) Regulations, 2012—</p> <p>Upon receipt of Form 34A from the constituency returning officers under sub-regulation (1), the Chairperson of the Commission shall—</p> <p>(a) verify the results against Forms 34A and 34B received from the constituency returning officer at the national tallying centre;</p> <p>(b) tally and complete Form 34C;</p> <p>(c) announce the results for each of the presidential candidates for each County;</p> <p>(d) sign and date the forms and make available a</p>	<p>The process of delivering the presidential results from the constituency is not anchored any regulation</p>	<p>Regulation 87(3) is amended by deleting and substituting it therefor—</p> <p>1. The Constituency Returning Officer shall, in the presence of persons authorized to access the constituency result tallying centre—</p> <ol style="list-style-type: none"> a. Receive election results declaration Form 34A from polling stations b. Notify the persons present on the polling stations whose results have been received c. Tally and display the count of Election results in Form 34A into Form 34B in the schedule d. Disregard the results of the count of a polling station where the total valid votes exceed the number of registered voters in that polling station e. Verify the accuracy of the count in Form 34B using the counts in the official Form 34As f. Display the duly filled Form 34B results to the authorized persons present for confirmation of the accuracy of collated results form g. Print the verified results in the official Form 34B provided h. Invite authorized constituency tallying centre agents present to sign i. Sign, date, and stamp j. Make copies of the duly signed Form 34B k. Announce the— <ol style="list-style-type: none"> i. name of the respective electoral area; ii. total number of registered voters; iii. votes cast for each candidate in each polling station; iv. number of the rejected ballot papers in each polling station; 	<p>To anchor the presidential result management in the regulation.</p>

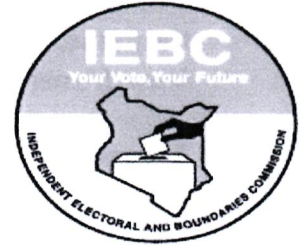
S. No	Current Law	The issue with the Law	Proposal	Justification
	<p>copy to any candidate or the national chief agent present; (e) publicly declare the results of the election of the president in accordance with Articles 138(4) and 138(10) of the Constitution; (f) issue a certificate to the person elected president in Form 34D set out in the schedule; and (g) deliver a written notification of the results to the Chief Justice and the incumbent president within seven days of the declaration;</p>		<p>v. aggregate number of votes cast in the respective electoral area: vi. aggregate number of rejected ballots; 1. Make copies of the duly filled Form 34B available to the authorized constituency tallying centre agents m. As soon as practicable, deliver in person, the physical copies to the Presidential election results tallying centre all the Form 34A from the respective polling stations in the constituency and Form 34B</p> <p>2. Upon receipt of Form 34A and Form 34B from the constituency returning officer, the chairperson of the Commission, in the presence of authorized agents, observers and candidates present shall— a. Notify the persons present on the constituencies whose results have been received b. Tally and display the count of Election results in Form 34B into Form 34C in the schedule c. Note any polling station count disregarded by the Returning Officer and the reason d. Verify the accuracy of the count in Form 34C using the counts in Form 34As e. Display the duly filled Form 34C results to the authorized persons present for confirmation of the accuracy of collated results form f. Print the verified results in the official Form 34C provided</p>	

S. No	Current Law	The issue with the Law	Proposal	Justification
	<p>Provided that the Chairperson of the Commission may declare a candidate elected as the President before all the Constituencies have delivered their results if in the opinion of the Commission the results that have not been received will not make a difference with regards to the winner on the basis of Article 138(4)(a) (b) of the Constitution; and</p> <p>(h) in the case of the other elections, whether or not forming a part of a multiple election, publish a notice in the Gazette, which may form part of a composite notice, showing the name or names of the person or</p>		<p>g. Invite authorized presidential election results tallying centre chief agents present to sign</p> <p>h. Sign, date, and stamp</p> <p>i. Make copies of the duly signed Form 34C</p> <p>j. Announce the—</p> <ol style="list-style-type: none"> i. total number of registered voters in the Republic; ii. total valid votes cast; iii. aggregate number of rejected ballots; iv. total number of valid votes in favour of each candidate; v. total number of votes for each candidate in each of the forty-seven (47) counties; vi. the percentage of votes cast in each county garnered by each candidate; vii. the percentage total of national votes cast in favour of each candidate; and viii. Indicate if the percentage in (ix) above meets the threshold of garnering more than half of the votes cast in the presidential election. <p>k. Make copies of the duly filled Form 34C available to the authorized presidential chief agents</p> <p>l. The chairperson declares the results and,</p> <p>m. A candidate is declared as president if the candidate—</p> <ol style="list-style-type: none"> i. receives the highest number of votes being more than half of all the votes cast in the election 	

S. No	Current Law	The issue with the Law	Proposal	Justification
	persons elected		<p>ii. receives at least 25% of votes cast in more than half of the counties</p> <p>n. Issue the certificate in Form 34D to the president-elect</p> <p>o. deliver a written notification of the results to the Chief Justice and the incumbent president within seven days after the presidential election</p> <p>p. In the event no candidate is elected as president, the chairperson of the Commission shall notify the public of a fresh presidential election pursuant to Article 138 of the Constitution</p> <p>Provided that the Chairperson of the Commission may declare a candidate elected as the President before all the Constituencies have delivered their results if in the opinion of the Commission the results that have not been received will not make a difference with regards to the winner on the basis of Article 138(4)(a) (b) of the Constitution; and</p> <p>q. in the case of the other elections, whether or not forming part of a multiple election, publish a notice in the Gazette, which may form part of a composite notice, showing the name or names of the person or persons elected</p>	

② Timane
Please deal
16/5/22

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION



① D/AASC
Please deal
16/5/22

Ref. No. IEBC/DLPA/11/05/2022

11th May, 2022

The Clerk
National Assembly
Parliament Building
P. O. Box 41842-00100
NAIROBI



Att: Serah M. Kioko, MBS

RE: REQUEST TO RESCHEDULE THE PROPOSED MEETING WITH THE COMMITTEE ON DELEGATED LEGISLATION

The above matter refers.

We refer to your letter Ref.NA/DAA&OSC/CDL/2022/038 dated 28th April, 2022 requesting the Commission to meet the Committee on Delegated Legislation at Mombasa on Friday 13th and Saturday 14th May 2022 and present the following:

- (i) the draft Regulations;
- (ii) the Explanatory Memorandum and evidence of Public participation as required by Section 5 of the Statutory Instruments Act, 2013;
- (iii) the enabling Statute; and
- (iv) Regulatory Impact Statement(s) where applicable.

The Commission appreciates this opportunity afforded to it to present the Five sets of Regulations that are material for purposes of enforcing the provisions of the Elections Act and enabling a robust legal framework for the conduct of a free, fair and credible General Election and indeed other elections.

However, the Commission is constrained to request that the suggested meeting be rescheduled for the following reasons:

1. That the Regulations in question are still in draft form and were basically submitted to the National Assembly in a bid to comply with section 109 of the Elections Act that requires such Regulations to be submitted in draft form to both the National Assembly

and Senate at least six months to the General Election. Therefore, there is need to refine the same. In addition, some of the proposed Regulations are hinged on the Election Laws (Amendment) Bill, 2022 which is yet to be passed and enacted into law.

2. Budgetary Constraint- the Commission has made effort to source funds to facilitate the workshop in vain. The Commission is without the requisite budget line to support this activity and is making effort towards seeking donor support, which may not yield immediately
3. Whereas the Commission is required to present a public participation report on the Regulations, due to competing election programs and activities, the Regulations are yet to be subjected to public participation. However, the same is planned to be undertaken soon.
4. There are pressing electoral activities such as audit of the Register of Voters, Verification of the biometric data of voters, processing of political parties nomination lists and processing of independent candidates that have called for an exigent meeting with the political parties under the auspices of the Political Parties Liaison Committee for purposes of addressing the same on 13th and 14th May, 2022.

In the premises, the Commission humbly requests that the meeting with your Committee earlier slated for 13th and 14th May, 2022 be rescheduled to another date preferably when the Commission will be in funds and upon conduct of public participation on the Regulations. It is our hope that that will not go beyond three weeks from the date hereof.

We thank you for your continued support.

Yours *Sincerely,*


MARJAN HUSSEIN MARJAN
COMMISSION SECRETARY/CEO

Copy to : Chairman, IEBC