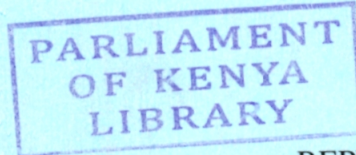


**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 96 (Senate Bills No. 26)*



REPUBLIC OF KENYA

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**KENYA GAZETTE SUPPLEMENT**

**SENATE BILLS, 2024**

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**NAIROBI, 7th May, 2024**

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**THE POLITICAL PARTIES (AMENDMENT) (NO. 2)  
BILL, 2024**

**A Bill for**

**AN ACT of Parliament to amend the Political Parties Act, Cap. 7D; and for connected purposes.**

**ENACTED** by the Parliament of Kenya as follows—

1. This Act may be cited as the Political Parties (Amendment) Act, 2024 and shall come into force upon publication in the Gazette.

Short title and commencement.

2. Section 2 of the Political Parties Act (hereinafter referred to as the “principal Act”) is amended by—

Amendment of section 2 of Cap. 7D.

(a) inserting the following new definition in proper alphabetical sequence—

“Commission” means the Independent Political Parties Regulatory Commission established under section 33A;

(b) by deleting the definition of the term “Registrar”.

3. The principal Act is amended—

Amendment of Cap. 7D.

(a) by deleting the word “Registrar” wherever it appears and substituting therefor the word “Commission”; and

(b) by deleting the words “Office of the Registrar of Political Parties” wherever they appear and substituting therefor the word “Commission”.

4. The principal Act is amended by repealing section 14A.

Repeal of section 14A of Cap. 7D.

5. The principal Act is amended by repealing section 33 and substituting therefor the following new sections—

Repeal and replacement of section 33 of Cap. 7D.

Establishment of the Independent Political Parties Regulatory Commission.

(1) There is established the Independent Political Parties Regulatory Commission.

(2) The Commission shall be responsible for—

(a) the registration of political parties and their office holders;

- (b) the management of the Political Parties' Fund established under this Act;
- (c) ensuring the publication of audited annual accounts of political parties;
- (d) the verification and making publicly available the list of all members of political parties;
- (e) keeping and maintaining a register of members of registered political parties;
- (f) maintaining a register of political parties and the symbols of the political parties
- (g) ensuring and verifying that no person is a member of more than one political party and notifying the Independent Electoral and Boundaries Commission of its findings;
- (h) certifying that an independent candidate in an election is not a member of any registered political party;
- (i) certifying that the symbol intended to be used by an independent candidate in an election does not resemble the symbol of a registered political party;
- (j) certifying that the names appearing in a party list are the names of members of the political party; presenting the party list;
- (k) regulating political party nominations in accordance with this Act;
- (l) training political party election agents upon the request and financing by the political party;

- (m) investigating complaints received under this Act;
- (n) such other functions as may be conferred on the Commission by national legislation.
- (3) The Commission, in the performance of its functions, shall be an independent office and shall not be under the direction or control of any person or authority.

Appointment of members of the Commission.

**33B.** (1) The Commission shall comprise of five commissioners appointed by the President with the approval of the National Assembly.

(2) The Commission shall consist of —

- (a) two members, one man and one woman, nominated by the majority party or coalition of parties in Parliament;
- (b) two members, one man and one woman, nominated by the minority party or coalition of parties in Parliament;
- (c) one member nominated by the Parliamentary Service Commission being a representative of non-parliamentary registered political parties.

(3) The commissioners shall each hold office for a non-renewable term of six years.

(4) The members of the Commission shall elect a chairperson and vice-chairperson from among themselves—

- (a) at the first sitting of the Commission; and
- (b) whenever it is necessary to fill a vacancy in the office of the chairperson and vice-chairperson.

(5) The chairperson and vice-chairperson of the Commission shall not be of the same gender.

Powers of the Commission to appoint staff.

**33C.** The Commission shall have the power to appoint staff upon consultation with the Public Service Commission and the Salaries and Remuneration Commission.

**6.** The principal Act is amended by repealing section 34.

Repeal of section 34 of Cap. 7D.

**7.** Section 34C(1) of the principal Act is amended by deleting the words "or is deemed to have resigned from the political party and the Registrar has been notified of the resignation" appearing in paragraph (c).

Amendment of section 34C of Cap. 7D.

**8.** A person who immediately before the commencement this Act was a member of staff of the Office of the Registrar of Political Parties shall be deemed to be a member of staff of the Commission and shall continue to serve under the same terms and conditions.

Saving provision.

## **MEMORANDUM OF OBJECTS AND REASONS**

### **Statement of objects and reasons for the Bill**

The Bill seeks to give effect to some of the recommendations and views of the public that were submitted during the national dialogue discourse on the Issues of Electoral Justice and Related Matters; Outstanding Constitutional Matters; Fidelity to Political Parties/Coalitions and the law on multiparty democracy; Entrenchment of the National Government Constituencies Development Fund; the Senate Oversight Fund and the National Government Affirmative Action Fund and Establishment and Entrenchment of State Offices.

The Bill seeks to amend the Political Parties Act, Cap. 7D in order to replace the Office of Registrar of Political Parties with the Independent Political Parties Regulatory Commission.

### **Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms**

This Bill does not delegate legislative powers nor does it limit any fundamental rights and freedoms.

### **Statement of how the Bill concerns county governments**

The Bill contains provisions that affect the functions and powers of county governments in terms of Article 110 of the Constitution.

### **Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution**

The enactment of this Bill shall not occasion additional expenditure of public funds.

AARON CHERUIYOT,  
*Senate Majority Leader.*

STEWART MADZAYO,  
*Senate Minority Leader.*

*Section 2 of Cap. 7D which it is proposed to amend—*

### **Interpretation**

In this Act, unless the context otherwise requires—

"branch" means any devolved unit of a political party;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to elections;

"coalition" means an alliance of two or more political parties formed for the purpose of pursuing a common goal and is governed by a written agreement deposited with the Registrar;

"coalition political party" means a coalition that is registered by the Registrar as a political party;

"Commission" means the Independent Electoral and Boundaries Commission established under Article 88 of the Constitution;

"direct party nomination" means the process by which a political party, through its registered members, elects candidates for an election;

"election" means the act of selecting by vote, of a person or persons from among a number of candidates to fill an office or to membership of any political party and includes a presidential, parliamentary or county election;

"ethnic minorities" means a group that is not the dominant one in a given society;

"founding members of a political party" means the persons who form a political party and who have contributed or offered to contribute either in cash or in kind to the initial assets of the party in respect of the first year of its existence;

"Fund" means the Political Parties Fund established by section 23;

"Gazette" means the Kenya Gazette published by the authority of the national government, or a supplement of the Kenya Gazette;

"governing body" means the committee responsible for administering the affairs of a political party

"indirect party nomination" means the process by which a political party, through the use of delegates selected from registered members of the political party and interviews, selects its candidates for an election;

"marginalised community" has the meaning assigned to it under Article 260 of the Constitution;

"merger" means where two or more political parties consolidate their operations and combine all officers, structure, and other functions of the political parties;

"office holder" in relation to a political party means any person who is elected by the members of the political party to hold office and is registered with the Registrar of Political Parties;

"political party" —

(a) means an association of citizens with an identifiable ideology or programme that is constituted for the purpose of influencing public policy of nominating candidates to contest elections; and

(b) includes a coalition political party;

"public officer" has the meaning assigned to it under Article 260 of the Constitution;

"Registrar" means the Registrar of political parties appointed under section 33;

"special interest groups" includes —

(a) women;

(b) persons with disabilities;

(c) youth;

(d) ethnic minorities; and

(e) marginalized communities.

"State" when used as a noun, means the collectivity of offices, organs and other entities comprising the government of the Republic under the Constitution;

"statement of ideology" means a statement setting out the doctrine, ethical ideals, and principles of the party;

"Tribunal" means the Political Parties Disputes Tribunal established under section 39; and

"youth" has the meaning assigned to it under Article 260 of the Constitution.

*Section 14A of Cap. 7D which it is proposed to amend—*

14A. When a member may be deemed to have resigned from a political party

(1) A person who, while being a member of a political party shall be deemed to have resigned from that party if that person—

- (a) forms another political party;
- (b) joins in the formation of another political party;
- (c) another political party;
- (d) in any way or manner, publicly advocates for the formation of another political party; or
- (e) promotes the ideology, interests or policies of another political party.

(2) A political party shall, before deeming a member to have resigned under subsection (1)—

- (a) notify the member that he or she has been deemed to have resigned from the political party and that the political party intends to remove his or her name from the list of its members; and
- (b) afford the member a fair opportunity to be heard in accordance with the procedure set out in the constitution of the political party.

(3) A political party which deems a member to have resigned from the political party shall notify the Registrar in writing of the member's resignation and request the Registrar to remove that person's name from the register of members of that political party.

(4) Upon the notification under subsection (3), the Registry may, where the Registrar is satisfied that the political party has complied with the procedure under subsection (2), remove the member's name from the register of members of the political party within seven days of the notification and notify the member in writing that he or she has ceased to be a member of that political party.

(5) Where the Registrar is not satisfied in accordance with subsection (4), the Registrar shall refer the matter back to the concerned political party for reconsideration.

(6) Subsection (1) (c), (d) and (e) shall not apply to a member of a political party which enters or proposes to enter a merger or a coalition with another political party.

*Section 33 of Cap. 7D which it is proposed to repeal and replace—*

### **33. Establishment of the Office of Registrar**

(1) There is established the Office of the Registrar of Political Parties which shall be a body corporate with perpetual succession and a seal and which shall be capable of suing and being sued in its corporate name.

(2) The Registrar shall be deputised by three Assistant Registrars, not more than two of whom shall be of the same gender.

(3) The Office of the Registrar shall be a State office within the meaning of Article 260 of the Constitution

4) The Office of the Registrar may engage such staff, experts or consultants as are necessary for the proper and effective discharge of its functions under this Act and any other written law.

(5) The Office of Registrar shall be independent and shall not be subject to direction or control of any person or authority.

(6) A person shall be qualified for appointment as Registrar or as an Assistant Registrar if the person—

(a) holds a degree from a university recognised in Kenya;

(b) has proven knowledge and experience in any of the following fields—

(i) finance;

(ii) management;

(iii) political science;

(iv) law;

(v) governance; or

(vi) public administration;

(c) has, in the case of the Registrar, at least fifteen years post qualification experience in the relevant areas of expertise and, in the case of an Assistant Registrar, has at least ten years post qualification experience in the relevant area of expertise; and

(d) is a person of high moral character and integrity and has satisfied the requirements of Chapter Six of the Constitution.

(7) A person shall not be qualified for appointment as a Registrar or Assistant Registrar if the person has, at any time within the preceding five years, held office or stood for election as a member of Parliament or a county assembly or as a member of a governing body of a political party.

(8) The Registrar and Assistant Registrars shall, before assuming office, take and subscribe to the oath or affirmation prescribed in the Fourth Schedule.

(9) The Registrar and Assistant Registrars shall serve for a non-renewable term of six years and shall not be eligible for re-appointment.

(10) A person who serves as a Registrar or Assistant Registrar shall not be eligible to contest for election as a member of Parliament or a county assembly, or as a member of a governing body of a political party within five years of the person ceasing to be Registrar or Assistant Registrar.

*Section 34 of Cap. 7D which it is proposed to amend—*

#### 34. Functions of the Registrar

The functions of the Registrar shall be to—

- (a) register, regulate, monitor, investigate and supervise political parties to ensure compliance with this Act;
- (b) administer the Fund;
- (c) ensure publication of audited annual accounts of political parties;
- (d) verify and make publicly available the list of all members of political parties;
- (da) keep and maintain a register of members of registered political parties;
- (e) maintain a register of political parties and the symbols of the political parties;
- (f) ensure and verify that no person is a member of more than one political party and notify the Commission of the findings;
- (fa) certify that an independent candidate in an election is not a member of any registered political party;
- (fb) certify that the symbol intended to be used by an independent candidate in an election does not resemble the symbol of a registered political party;
- (fc) certify that the names appearing in a party list are the names of members of the political party presenting the party list;
- (fd) regulate political party nominations in accordance with this Act;
- (fe) train political party election agents upon the request and financing by the political party;
- (g) investigate complaints received under this Act; and
- (h) perform such other functions as may be conferred by this Act or any other written law.

*Section 34C of Cap. 7D which it is proposed to amend—*

#### **34C. Powers of the Registrar in respect of political party Records**

(1) The Registrar may make changes to the records of political parties submitted to the Registrar under this Act where—

- (a) the application by a provisionally registered political party for full registration has not been granted;
- (b) a political party has been deregistered;
- (c) a member of a political party resigns or is deemed to have resigned from the political party and the Registrar has been notified of the resignation;
- (d) a member of a political party has been expelled from the political party and the Registrar has been notified of the expulsion;
- (e) a member of a political party dies;
- (f) a member of a political party has ceased to be a citizen of Kenya;
- (g) a political party has merged with another political party;
- (h) the constitution of a political party has been amended, changed or altered; or
- (i) any other event that justifies the changes occurs.

(2) The changes contemplated under subsection (1) may include—

- (a) amendment of the register of members of a political party;
- (b) amendment, change or alteration of the constitution of a political party;
- (c) addition or deletion of records;
- (d) addition, deletion or alteration of names; and
- (e) any other change that is consistent with the provisions of this Act.

(3) The Registrar shall notify the political party of any change made to its records under subsection (1).

(4) A political party that is dissatisfied by the decision of the Registrar under subsection (1) may appeal to the Tribunal.