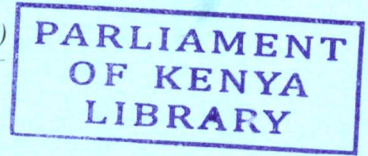


SPECIAL ISSUE

Kenya Gazette Supplement No. 55 (Senate Bills No. 13)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2024

NAIROBI, 7th March, 2024

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**THE POLITICAL PARTIES (AMENDMENT) BILL,
2024**

A Bill for

**AN ACT of Parliament to amend the Political Parties
Act, 2011, 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 No. 11 of 2011.

- (a) deleting the definition of the expression “coalition political party”;
- (b) in the definition of the expression “political party” be deleting paragraph (b);
- (c) inserting the following new definition in its proper alphabetical sequence—

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

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

3. The principal Act is amended by deleting the word “Registrar” wherever it appears and substituting therefor the word “Regulatory Commission”.

Amendment of No. 11 of 2011.

4. Section 7 of the principal Act is amended-

Amendment of section 7 of No. 11 of 2011.

- (a) by deleting sub-section (6).
- (b) by deleting sub-section (7).
- (c) by deleting sub-section (8).

5. Section 10 of the principal Act is amended-

Amendment of section 10 of No. 11 of 2011.

- (a) in sub-section (1) by deleting the words “or a coalition political party” appearing immediately after the word “coalition”;
- (b) in sub-section (2) by deleting the proviso.

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

Repeal of section 14A of No. 2 of 2011.

7. Section 26 of the principal Act is amended by deleting sub-section (1A).

Amendment of section 26 of No. 11 of 2011.

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

Repeal and replacement of section 33 of No.11 of 2011.

Establishment of the Independent Political Parties Regulatory Commission.

33A. (1) There is established the Independent Political Parties Regulatory Commission.

(2) The Regulatory Commission shall be responsible for —

- (a) the registration of political parties and their office holders;
- (b) the management of the Fund established under this Act;
- (c) ensuring the publication of audited annual accounts of political parties;
- (d) the verification and make 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; and
- (n) such other functions as may be conferred on the Commission by national legislation.

(3) The Regulatory 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.

33B. (1) The Regulatory Commission shall be comprised of five commissioners appointed by the President with the approval of Parliament.

Appointment of members of the Commission.

- (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.

9. The principal Act is amended by repealing section 34.

Repeal of section 34 of No. 11 of 2011.

10. 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 No. 11 of 2011.

11. Section 38C of the principal Act is amended by deleting sub-section (6).

Amendment of section 38C of No. 11 of 2011.

MEMORANDUM OF OBJECTS AND REASONS

Statement of objects and reasons for the Bill

The principal object of the Bill is to amend the Political Parties Act, No. 11 of 2011 in order to replace the Office of Registrar of Political Parties with the Independent Political Parties Regulatory Commission. The Bill also seeks to delete any reference to a coalition political party in the Act.

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.

Dated the 6th March, 2024.

AARON CHERUIYOT,
Senate Majority Leader.

STEWARTS MADZAYO,
Senate Minority Leader.

Section 2 of No. 11 of 2011 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, elect sits 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 7 of No. 11 of 2011 which it is proposed to amend—

Conditions of full registration

(1) An application for full registration of a political party shall be in writing and shall be signed by an authorized official of the political party.

(2) A provisionally registered political party shall be qualified to be fully registered if—

- (a) it has recruited as members, not fewer than one thousand registered voters from each of more than half of the counties;
 - (b) the members referred to in paragraph (a) reflect regional and ethnic diversity, gender balance and representation of special interest groups;
 - (c) the composition of its governing body reflects regional and ethnic diversity, gender balance and representation of special interest groups;
 - (d) not more than two-thirds of the members of its governing body are of the same gender;
 - (e) it has demonstrated that members of its governing body meet the requirements of Chapter Six of the Constitution and the laws relating to ethics;
 - (f) it has submitted to the Registrar—
 - (i) a list of the names, addresses and identification particulars of all its members;
 - (ii) the location of its head office, which shall be a registered office within Kenya and a postal address to which notices and other communication may be sent
 - (iii) the location and addresses of the branch offices of the political party, which shall be in more than half of the counties;
 - (iv) the disaggregated data of its membership based on each of the components of the special interest groups; and
 - (v) the address of the official website of the political party.
 - (g) it has undertaken to be bound by this Act and the Code of Conduct set out in the First Schedule.
- (3) A person is disqualified from being a member of the governing body if that person—
- (a) is an undischarged bankrupt;
 - (b) has been convicted of a criminal offence and sentenced to imprisonment for a period of not less than six months;
 - (c) has been suspended for a period of six months for violating the code of conduct of the political party; or
 - (d) has contravened the provisions of Chapter Six of the Constitution.

(4) The Registrar shall, within thirty days of an application under subsection (2), issue a certificate of full registration to a provisionally registered political party which has fulfilled the conditions of full registration.

(5) A person who is not a citizen of Kenya shall not be appointed to any office or be a member of a political party in Kenya.

(6) A coalition political party shall not be required to comply with the provisions of sections 5 and 6.

(7) The Registrar shall, upon the deposit of a coalition agreement for the formation of a coalition political party, issue the coalition political party with a certificate of full registration.

(8) The governance of a coalition political party shall be in accordance with the provisions of the Act relating to the governance of a coalition and the Regulations made in that regard.

(9) A member of a coalition shall not be a member of another coalition.

Section 10 of No. 11 of 2011 which it is proposed to amend—

Coalitions

(1) Two or more political parties may form a coalition or a coalition political party before or after an election and shall deposit the coalition agreement with the Registrar.

(2) A coalition agreement entered into before an election shall be deposited with the Registrar at least three months before that election.

Provided that in the case of a coalition political party, the coalition political party shall submit the coalition agreement at least one hundred and twenty days before a general election.

(3) A coalition agreement entered into after an election shall be deposited with the Registrar within twenty-one days of the signing of the coalition agreement.

(4) A coalition agreement shall set out the matters specified in the Third Schedule.

Section 14A of No. 11 of 2011 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 26 of No. 11 of 2011 which it is proposed to amend—

Purposes of the Fund

(1) Moneys allocated to a registered political party from the Fund shall be used for purposes compatible with democracy including—

- (a) promoting the representation in Parliament and in the county assemblies of women, persons with disabilities, youth, ethnic and other minorities and marginalised communities;
- (b) promoting active participation by individual citizens in political life;
- (c) covering the election expenses of the political party and the broadcasting of the policies of the political party
- (d) the organisation by the political party of civic education in democracy and other electoral processes;
- (e) bringing the political party's influence to bear on the shaping of public opinion; and
- (f) administrative and staff expenses of the political party which shall not be more than thirty per cent of the moneys allocated to the political party:

Provided that not less than thirty per cent of the moneys allocated to a political party under section 25 shall be used for the purposes referred to in subsection (1) (a).

(1A) The monies allocated to a coalition political party shall be distributed by the Registrar in accordance with the coalition agreement;

(2) The moneys allocated to a political party shall not be used for any other purposes other than those specified in this Act.

(3) Moneys allocated to a political party from the Fund shall not be used—

- (a) for paying directly or indirectly remuneration, fees, rewards, allowances or any other benefit to a member or supporter of the political party, other than a party election agent or a contracted person in furtherance of the objectives under sub section (1) or an employee of the political party;
- (b) to finance or as a contribution to any matter, cause, event or occasion directly or indirectly in contravention of any code of ethics binding on public officers;
- (c) directly or indirectly for the purposes of establishing any business or acquiring or maintaining any right or financial interest whatsoever in any business or in any immovable property; or

(d) for any other purpose incompatible with the promotion of a multiparty democracy and the electoral processes, or with the Constitution.

(4) A political party shall ensure accountability and transparency in its procurement processes.

(5) A person who contravenes the provisions of this section commits an offence.

Section 33 of No. 11 of 2011 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 34C of No. 11 of 2011 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.

[Act No. 2 of 2022, s. 23.]

Section 38C of No. 11 of 2011 which it is proposed to amend—

Registered members to participate in party nominations

(1) A registered member of a political party shall be entitled to participate in the nominations conducted by the political party.

(2) A political party that intends to conduct political party nominations under this Act shall use a certified register of members for the nominations.

(3) A political party that intends to conduct political party nominations under this Act shall apply in writing to the Registrar for a certified copy of the register of members at least twenty-one days before the date of the nominations.

(4) The Registrar shall issue the political party with a certified copy of the register of the political party's members within seven days after the application under subsection (3).

(5) A political party shall not allow any person who is not a registered member of the political party to participate in the party nominations.

(6) Notwithstanding the provisions of subsection (5), a person may only participate in the nominations of a coalition political party if such person is a registered member of a party forming the coalition political party.