



## COMMUNIQUE ON THE POLITICAL PARTIES ACT, 2011 AS AMENDED BY THE POLITICAL PARTIES (AMENDMENT) ACT, 2022 WITH RESPECT TO THE 9<sup>TH</sup> AUGUST 2022 GENERAL ELECTION

### I. INTRODUCTION

1. The Political Parties Act, 2011 is an Act of Parliament that provides for the registration, regulation and funding of political parties, and for connected purposes.
2. The Office of the Registrar of Political Parties (ORPP) wishes to draw the attention of Kenyans to various elements of the Act and related issues as highlighted herein below;

### II. ELEMENTS OF THE ACT

#### A coalition political party and related elements

3. Pursuant to Section 10(2) of the PPA, a coalition agreement for registration of coalition political party has to be submitted to the ORPP at least 120 days before a general election.
4. The deadline for submission of coalition agreements for registration of a coalition political party is **9<sup>th</sup> April, 2022**.
5. The basic requirements of a coalition agreement are provided under the Third Schedule to the Political Parties Act, 2011; they include parties in the coalition political party, overall and general organizational structure, nomination rules including electoral positions and electoral areas where a coalition political party intend to filed candidates, sharing of funds, and dispute resolution. (Refer to the Third Schedule).
6. Section (76) of the PPA exempts a coalition political party from the provisions of Sections 5 and 6 of the PPA. This includes the requirement the publication of the notice of intention for provisional registration in the Gazette and two newspapers with nationwide circulation for purposes of inviting objections.
7. A coalition political party, being a political party, is qualified to participate in all the six elections and all electoral areas. Registered members of political parties in a coalition political party subject to nomination rules in coalition agreement are the only ones eligible to participate in the nomination of candidates of a coalition political party.

8. UPON the submission of a coalition agreement and subject to fulfilling other requirements under the PPA, the ORPP is required to issue a coalition political party with a certificate of full registration.
9. The coalition agreement as read with nomination rules shall determine development of party lists for allocation of special seats.
10. The coalition agreement as read with nomination rules shall determine the elective seats and electoral areas in which the coalition political party shall field candidates.

### **Party Membership Registers and Party Nominations**

11. Section 28A of the Elections Act, 2011 requires political parties to submit party membership lists to the ORPP on **26<sup>th</sup> March, 2022**, being at least 14 days to the date of submission of party membership lists to IEBC under Section 28(1) of the Elections Act, 2011.
12. To participate in party nominations, a person is therefore required to be a member of a political party by 26<sup>th</sup> March, 2022.
13. The purpose of submission of the lists is to enable the ORPP to certify the party membership list which will be used as a certified party register for purposes of nominations: only party members are eligible to participate in party nominations.
14. A political party is at liberty to use either direct nomination (where all party members participate in choosing a candidate) or indirect nomination where members such as use of delegates drawn from registered members choose candidates.
15. Political parties' nomination rules that were approved by the IEBC pursuant to Section 28 of the Elections Act, 2011 provide for either direct or indirect nomination methods.
16. A political party is required to request the Registrar for a certified party register at least 21 days before the date of its party nominations. It is to be noted that the General election notice sets 22<sup>nd</sup> April 2022 as the deadline for direct party nominations.
17. The Registrar is required to issue the requesting party a certified party register within 7 days of the request.
18. The Registrar shall prepare the party registers in the same format that parties would have used to submit membership lists on 26<sup>th</sup> March 2022.

### **Lifespan of a provisionally registered party**

19. Section 5(5) of the PPA stipulates that a provisionally registered party has 270 days within which to apply for a certificate of full registration.

### **Pre-election and post-election Coalitions**

20. In line with Section 10(2) of the PPA, political parties that wish to form a pre-election coalition are required to submit a coalition agreement to the ORPP at least 3 months before a general election.

21. The deadline for submission of a pre-election coalition agreement is therefore **8<sup>th</sup> May, 2022**.
22. The basic requirements of a coalition agreement are provided under the Third Schedule to the Political Parties Act, 2011; they include parties in the coalition political party, nomination rules, sharing of funds, and dispute resolution.
23. A coalition cannot field candidates in an election but only through coalescing political parties.
24. Section 10(3) of the PPA stipulates that 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.
25. In line with Section 7(9) of the PPA, a member of a coalition shall not be a member of another coalition.

#### **Party nomination disputes**

26. In line with Section 38I of the PPA, political parties are required to submit disputes arising out of party nomination disputes **WITHIN** 30 days after the date of party nominations.
27. Disputes arising out of party nominations shall be determined by the respective party's internal dispute resolution mechanism.
28. In terms with the Gazette Notice on the 9<sup>th</sup> August 2022 elections, the deadline for resolution of intra-party disputes arising out of party nominations is 22<sup>nd</sup> April, 2022.
29. In line with Section 40(2) of the PPA, Political Parties Disputes Tribunal shall only entertain a party nomination dispute where there is evidence of the having been an attempt to subject the dispute to IDRM.
30. The final appellate stage for party nomination disputes is the Court of Appeal in line with Section 41(2)

#### **Party lists for allocation of special seats under Article 90 of the Constitution**

31. Political parties are required to submit party lists to ORPP to certify that the nominees on the party lists are members of the nominating political parties.
32. The deadline for submission of party lists to the ORPP is **11<sup>th</sup> June 2022** being 14 days before submission of party lists to the IEBC under Section 35 of the Elections Act, 2011.
33. Disputes arising from the process of certifying party lists shall be heard and determined by the Political Parties Disputes Tribunal.

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## Political Parties Fund

34. The Political Parties Fund shall be distributed after the 9<sup>th</sup> August 2022 general election.
35. For a political party to benefit from the PPF it must have at least an elected representative, a two-third gender principle compliant composition of office bearers, and representation of special interest groups in its governing body.
36. The Political Parties Fund (PPF) shall be allocated in terms of 95% to political parties and 5% to the ORPP for purposes of administration of the PPF.
37. 70% of the Fund will be allocated to political parties on the basis of all votes garnered in the 9<sup>th</sup> August 2022 general election.
38. 15% of the PPF will be allocated to parties on the basis of on the number of candidates of the political party from special interest groups elected in the 9<sup>th</sup> August 2022 general election.
39. 10% of the PPF will be allocated to parties on the basis of the number of elected representatives elected in the 9<sup>th</sup> August 2022 general election.

