



**THE REPUBLIC OF KENYA**

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**THE POLITICAL PARTIES ACT**

NO. 11 OF 2011

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**NO. 11 OF 2011**

**POLITICAL PARTIES ACT**

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**NO. 11 OF 2011**

**POLITICAL PARTIES ACT**

[Date of assent: 27th August, 2011.]

[Date of commencement: 1st November, 2011.]

**An Act of Parliament to provide for the registration, regulation and funding of political parties, and for connected purposes**

[Act No. 11 of 2011, Legal Notice 160 of 2011, Corrigendum 18 of 2012, Legal Notice 19 of 2012, Act No. 12 of 2012, Act No. 47 of 2012, Act No. 50 of 2012, Act No. 18 of 2014, Act No. 14 of 2016, Act No. 21 of 2016, Act No. 36 of 2016, Act No. 2 of 2022.]

**PART I – PRELIMINARY**

**1. Short title**

This Act may be cited as the Political Parties Act, 2011.

**2. 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;

**"party primary"** *deleted by Act No. 2 of 2022, s. 2 (b)*;

**"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.

[Act No. 21 of 2016, s. 2, Act No. 2 of 2022, s. 2.]

## PART II – REGISTRATION AND REGULATION OF POLITICAL PARTIES

### 3. Formation of political parties

(1) Political parties may, subject to the provisions of the Constitution and this Act, be formed in Kenya to further purposes which are not contrary to the Constitution or any written law.

(1A) A political party shall promote inclusiveness, democracy and participation of the people in the—

- (a) formulation of its policies; and

(b) nomination of candidates for elections.

(2) A citizen of Kenya who has attained the age of eighteen years may, subject to the provisions of this Act and any other law—

- (a) form or participate in the formation of a political party; or
- (b) contest for an elective position in a political party in which the person is a member.

(2A) A citizen of Kenya who has attained the age of eighteen years may, subject to the provisions of this Act and any other law join a political party—

- (a) upon the payment of the party's membership fees; and
- (b) complying with any other requirements as prescribed by the party"

[Act No. 21 of 2016, s. 3, Act No. 2 of 2022, s. 3.]

#### **4. Requirements of a political party**

(1) An association of persons or an organisation shall not operate or function as a political party unless it has been registered in accordance with the provisions of this Act.

(2) The Registrar shall not register an association of persons or an organisation as a political party if such association or organisation does not meet the requirements set out in Article 91 of the Constitution.

#### **4A. Roles and functions of a political party**

A political party may—

- (a) recruit and enlist members;
- (b) nominate candidates for elections;
- (c) promote representation in Parliament and county assemblies of women, persons with disabilities, youth, ethnic and other minorities and marginalised communities;
- (d) sensitize the public on the functioning of the political and electoral system;
- (e) promote and enhance national unity;
- (f) mobilize citizens into participating in political decisions;
- (g) solicit and articulate public policy priorities as identified by its members; and
- (h) shape and influence public policy.

[Act No. 2 of 2022, s. 4.]

#### **4B. Reservation of name, symbol and slogan**

(1) An association of persons or organisation may apply in writing to the Registrar for the reservation of a name, symbol and slogan for a proposed political party.

(2) Where a name, symbol or slogan has not been reserved for a proposed or registered political party by any other association of persons or organisation, the Registrar shall reserve the name, symbol or slogan in respect of the applicant under subsection (1) for ninety days.

(3) The Registrar shall notify the applicant in writing of the availability of the name, symbol or slogan within fourteen days of the application under subsection (1).

[Act No. 2 of 2022, s. 4.]

## **5. Provisional registration of a political party**

(1) An association of persons or organisation applying to be registered as a political party may apply to the Registrar for provisional registration.

(1A) An application for provisional registration under subsection (1) may be made after the notification by the Registrar under section 4B (3):

Provided that if the application is not made within the period specified in section 4B (2), the reservation of the name, symbol or slogan of the proposed political party shall lapse.

(2) Upon receipt of an application for registration under subsection (1), the Registrar shall—

- (a) within fourteen days, publish a notice in the *Gazette* and in at least two newspapers with nationwide circulation, inviting objections from any person or any other political party concerning the registration of the name, symbol, colour of the political party, or any other issue relating to the registration of the political party;
- (b) within thirty days of the association or organisation fulfilling the conditions prescribed in section 6, issue that association or organisation with a certificate of provisional registration.

(3) A political party that has been provisionally registered under subsection (2) shall, not later than one hundred and eighty days from the date of provisional registration, apply to the Registrar for full registration.

(4) *Deleted by Act No. 21 of 2016, s. 4(b).*

(5) The provisional registration of a political party which has not applied for full registration shall lapse at the expiry of two hundred and seventy days from the date of issue of the certificate of the provisional registration.

(6) The provisional registration of a political party which has applied for full registration shall be valid until the political party is issued with a certificate of full registration, or until the application of the political party to be registered has been rejected.

(7) A political party that has been provisionally registered under subsection (2) shall not be entitled to participate in an election.

[Act No. 21 of 2016, s. 4, Act No. 2 of 2022, s. 5.]

## **6. Application for provisional registration**

(1) An application for the provisional registration of a proposed political party shall be in writing and be signed by the applicants, of whom not more than two-thirds shall be of the same gender.

(2) An application for provisional registration shall—

- (a) include signed minutes of the first meeting of the founding members of the political party;
- (b) set out the name of the political party;
- (c) if the political party wishes to use an abbreviation of its name for the purposes of this Act, set out that abbreviation;



- (d) be accompanied by a copy of the Constitution of the proposed political party which shall comply with the provisions of section 9;
- (da) be accompanied by a statement of the ideology of the proposed political party;
- (e) include an undertaking to be bound by this Act and the Code of Conduct set out in the First Schedule; and
- (f) be accompanied by the prescribed fee.

(3) An application for provisional registration shall include a request for the registration of the symbol and slogan of the political party.

[Act No. 21 of 2016, s. 5, Act No. 2 of 2022, s. 6.]

## **7. 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.

[Act No. 21 of 2016, s. 6, Act No. 2 of 2022, s. 7.]

#### **8. Parties with certain names not to be registered**

The Registrar may refuse an application for the registration of a political party if the name of the political party, the abbreviation of the name, the slogan or the symbol that it wishes to use for the purposes of this Act—

(a) is obscene or offensive;

(b) is the name or is an abbreviation of another political party that is registered under this Act;

(c) so nearly resembles the name, slogan or symbol, or an abbreviation of the name of another political party registered under this Act or any other legal entity registered under any other written law;

(d) is similar to, or associated with, a group or association that has been proscribed under any written law; or

(e) is against the public interest.

[Act No. 2 of 2022, s. 8.]

#### **9. Contents of constitution or rules of a political party**

(1) The constitution or rules of every political party shall provide for all the matters specified in the Second Schedule to this Act.

(1A) The constitution or rules of every political party shall ensure that not more than two-thirds of the membership of all party organs, bodies and committees, in aggregate, are of the same gender.

(2) The Registrar may, by notice in writing, require a political party to amend its name, constitution or rules within three months after the date of the notice to comply with the Constitution, this Act and any other written law.

(3) The notice referred to in subsection (2) shall specify the areas of non-compliance, the nature of the amendment and the reason for such amendment.

(4) If a political party does not comply with a notice issued under subsection (2), that political party shall be deregistered.

[Act No. 21 of 2016, s. 7.]

## **10. 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.

[Act No. 2 of 2022, s. 9.]

## **11. Mergers**

(1) A political party may merge with another political party by—

- (a) forming a new political party; or
- (b) merging into an already registered political party.

(2) A political party shall not merge with another political party unless the merger is in accordance with the constitution, rules and procedures of the political parties.

(3) The decision to merge shall be in writing and shall be duly executed by the political party officials authorized to execute agreements on behalf of the political parties.

(4) The governing body of each political party that intends to merge under subsection (2) shall—

- (a) determine the constitution, rules, regulations and the principles which shall form the basis of the merger in accordance with the constitutions of the respective political parties; and
- (b) sign the merger agreement.

(5) The merger agreement signed under subsection (4)(b) shall be deposited with the Registrar within twenty-one days of the signing of the agreement.

(5A) Upon receipt of the merger instrument under subsection (1)(a), the Registrar shall immediately withdraw and cancel the certificates of registration of all the political parties that have merged and shall gazette the dissolution of the merged parties within seven days and a certificate of full registration issued to the new political party.

(6) Upon receipt of the merger instrument under subsection (1)(b), the Registrar shall gazette within seven days the dissolution of the parties that have resolved to dissolve and the registered party the parties have merged into;

(7) Where a party merges under this section, a member of the political party that has merged with another political party shall be deemed to be a member of the new political party.

(8) Despite subsection (7), a member who is a President, Deputy President, Governor or Deputy Governor, Member of Parliament or member of a County Assembly, and who does not desire to be a member of the new political party registered after the merger shall continue to serve in such elected office for the remainder of the term, and may join another political party or choose to be an independent member within thirty days of the registration of the new party.

(9) Where political parties have merged and dissolved the particulars including their names, symbol, logo, slogan and colours shall be removed from the register of political parties and such names, symbols, logos, slogans and colours shall not be available for registration by any person as a political party in the subsequent election following the merger.

(10) Despite subsection (9), where the merging parties wish to register and use any of the merging parties' names, symbols, logos, slogans and colours, such registration shall be permitted.

(11) The records, assets and liabilities, rights and obligations of all the dissolved political parties shall be the records, assets and liabilities, rights and obligations of the new political party including their entitlement to the Political Parties Fund under section 25 of the Act.

[Act No. 21 of 2016, s. 8.]

## **12. Restrictions on public officers in a political party**

(1) A public officer shall not—

- (a) be eligible to be a founding member of a political party;
- (b) be eligible to hold office in a political party;
- (c) engage in political activity that may compromise or be seen to compromise the political neutrality of that person's office; or
- (d) publicly indicate support for or opposition to any political party or candidate in an election.

(2) Subsection (1) shall not apply to the President, Deputy President, a Member of Parliament, Governor, Deputy Governor or a member of a county assembly.

(3) Until after the first elections under the Constitution, subsection (2) shall apply to the Prime Minister.

## **13. Disqualification from holding office in a political party**

A person disqualified from holding public office under the Constitution, this Act or any other written law shall not hold office in the governing body of a political party or be its founding member.

## **14. Resignation from political party**

(1) A member of a political party who intends to resign from the political party shall give a written notice prior to his resignation to—

- (a) the political party;
- (b) the clerk of the relevant House of Parliament, if the member is a member of Parliament; or
- (c) the clerk of a county assembly, if the member is a member of a county assembly.

(2) The resignation of the member of the political party shall take effect upon receipt of such notice by the political party or clerk of the relevant House or county assembly.

(3) The political party of which the person is a member, the member, or the clerk of the relevant House of Parliament or of a county assembly of which the person is a member shall notify the Registrar of such resignation within seven days of the resignation.

(3A) Upon receiving the notification under subsection (3), the Registrar shall cause the name of such member to be removed from the membership list of that political party.

(4) A person shall not be a member of more than one political party at the same time.

(5) *Deleted by Act No. 2 of 2022, s. 10 (a).*

(5A) *Deleted by Act No. 2 of 2022, s. 10 (b).*

(6) *Deleted by Act No. 2 of 2022, s. 10 (c).*

(7) *Deleted by Act No. 2 of 2022, s. 10 (d).*

(8) A person who suppresses or attempts to suppress any lawful political activity of another person commits an offence and shall, on conviction be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years or to both.

[L.N. 9/2012, Sch., Act No. 12 of 2012, Sch., Act No. 21 of 2016, s. 9, Act No. 2 of 2022, s. 10.]

#### **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) joins 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 into a merger or a coalition with another political party.

[Act No. 2 of 2022, s. 11.]

#### **14B. Expulsion of a member from a political party**

(1) A person may be expelled from a political party if that person contravenes any of the provisions of the constitution of the political party.

(2) A political party shall before expelling a member under subsection (1), afford such member a fair opportunity to be heard in accordance with the internal party disputes resolution mechanism prescribed in the constitution of the political party.

[Act No. 2 of 2022, s. 11.]

#### **15. Rights and privileges of a provisionally registered political party**

(1) A political party which has been provisionally registered shall be entitled—

- (a) to hold and address public meetings in any area in Kenya for the purposes of publicising the political party and recruiting members;
- (b) to the protection and assistance of the State security agencies for the purposes of facilitating peaceful and orderly meetings; and
- (c) to the provision by the State, of fair opportunity to present the political party's programmes to the public by ensuring equitable access to the State owned media.

(2) Provisional registration shall not entitle any political party to organise or hold public meetings in connection with any election, or to propose or campaign for any candidate in any election.

(3) A political party which contravenes the provision of subsection (2) shall not qualify for full registration.

[Act No. 21 of 2016, s. 10.]

#### **16. Corporate status of political party and declaration of assets, etc.**

(1) A political party which has been fully registered under this Act shall be a body corporate with perpetual succession and a common seal and shall be capable, in its own name of—

- (a) acquiring and disposing of property;
- (b) suing and being sued; and
- (c) doing or performing all such acts and things as a body corporate may by law do or perform.

(2) A political party shall, within sixty days after being issued with a certificate of full registration under section 7, submit to the Registrar a written declaration giving details of all assets and expenditure including, all contributions, donations or pledges of contributions or donations, whether in cash or in kind, made or to be made to the initial assets of the political party by its founding members in respect of the first year of its existence.

(3) A declaration submitted to the Registrar under subsection (2) shall—

- (a) state the sources of all funds and other assets of the political party;
- (b) contain such other relevant particulars as the Registrar may prescribe; and

- (c) be supported by a statutory declaration made by the person designated to issue such a declaration by the governing body of the political party.

(4) The Registrar shall, within thirty days after the receipt of the declaration required under subsection (2), cause the declaration to be published in the *Gazette* and in at least one daily newspaper having nationwide circulation and in the political party's official website.

(5) Notwithstanding any other penalty prescribed by this Act or any other written law, the Registrar shall, subject to section 21(2), deregister a political party which—

- (a) fails to comply with this section; or
- (b) submits a declaration, which is false in any material particular.

(5A) A fully registered political party shall be deregistered if it has not presented a candidate in two consecutive general elections.

(5B) Upon deregistration under subsection (5A), the Registrar shall publish a notice in the *Gazette* and notify the Attorney-General in accordance with section 48, for purposes of winding up of the political party.

[Act No. 21 of 2016, s. 11, Act No. 2 of 2022, s. 12.]

## **17. Records of political party**

(1) A political party shall maintain at its head office and at each of its county office in the prescribed form, an accurate and authentic record of—

- (a) a register of its members in a form prescribed in the Second Schedule.
- (b) a copy of the constitution of the political party;
- (c) a copy of the policies and plans of the political party;
- (d) particulars of any contribution, donation or pledge of a contribution or donation, whether in cash or in kind, made by the founding members of the political party;
- (e) estimates of the expenditure of the political party in accordance with the laws relating to public finance management;
- (f) particulars of any property that belongs to the political party and the time and mode of acquisition of the property;
- (g) the latest audited books of accounts of the political party which shall be in accordance with the principles of accounting having regard to the purpose of this Act, showing—
  - (i) the sources of the funds of the political party and names, addresses and such other contact details as the Registrar may require of any persons who have contributed thereto;
  - (ii) membership dues paid;
  - (iii) donations in cash or in kind;
  - (iv) indirect contributions to the party and all receipts and disbursements, including income and expenditure transactions of the political party;
  - (v) all the financial transactions and records of assets and liabilities of the political party; and
- (h) such other relevant particulars as the Registrar may prescribe.

(2) A person, who interferes with, damages or destroys the records of a registered political party commits an offence.

(3) A member of a political party may, during working hours and on payment of the prescribed fee, inspect and obtain copies of the records of a political party maintained at its head office or county office.

#### **18. Inspection of records of political parties**

(1) The Registrar may, issue a written notice, in the prescribed form, to the chairperson or secretary-general of a political party to furnish for inspection by the Registrar, the records required to be maintained under section 17, or such other information as is reasonably required by the Registrar to ensure compliance with the provisions of this Act.

(2) The Registrar may make copies of or take extracts from any records or other information furnished to the Registrar under this section.

(3) The chairperson or secretary-general of a political party shall comply with a notice issued by the Registrar under subsection (1).

(4) A chairperson or secretary-general of a political party who fails to comply with the notice under this section commits an offence.

[Act No. 21 of 2016, s. 12.]

#### **19. Public meetings of political party**

(1) A fully registered political party shall hold meetings of the party organs at national and county level in accordance with the party constitution.

(2) A political party intending to hold a public meeting shall comply with the provisions of the laws relating to public meetings.

[Act No. 21 of 2016, s. 13.]

#### **20. Notification of changes, alterations in constitution, etc., of political party**

(1) Where a fully registered political party intends to change or amend—

- (a) its constitution;
- (b) its rules and regulations;
- (c) the title, name or address of any party official;
- (d) its name, symbol, slogan or colour; or
- (e) the address and physical location of the head office or county office,

it shall notify the Registrar of its intention and the Registrar shall, within fourteen days after the receipt of the notification, cause a notice of the intended change or alteration to be published in the *Gazette*.

(2) The political party giving notification under subsection (1) shall publish such notification in at least one daily newspapers having nationwide circulation and in the political party's official website.

(3) Upon the expiry of fourteen days from the date of publication of the notice in subsection (2), the political party may, after taking into account any representations received from the public, effect the change or alteration in accordance with its constitution and rules.

(3A) The political party shall after the expiry of the period specified under subsection (3), notify the Registrar of the decision taken and the actual changes given effect.

(4) An objection to the proposed change, amendment or alteration contemplated under subsection (1) shall be dealt with in accordance with the



constitution of the political party and the political party shall inform the Registrar of the manner in which the objection was dealt with.

(5) Where the Registrar is satisfied that the political party has complied with the provisions of this section, the Registrar shall, within fourteen days after the notification under section (3A), notify the political party in writing that the change, amendment or alteration has been made to the constitution of the political party.

[Act No. 47 of 2012, Sch., Act No. 21 of 2016, s. 14, Act No. 2 of 2022, s. 13.]

## 21. Suspension and deregistration of a political party

(1) The Registrar may suspend or deregister a political party if the political party

- (a) has contravened the provisions of Article 91 of the Constitution;
- (b) does not promote free and fair nomination of candidates;
- (c) does not adhere to the law relating to the nomination of candidates;
- (d) does not respect the national values and principles of the Constitution;
- (e) obtained its registration in a fraudulent manner;
- (f) has instigated or participated in the commission of an election offence;  
or
- (g) has acted contrary to the provisions of section 26;
- (h) does not have representation of special interest groups;
- (i) does not maintain the requirements set out under section 7;
- (j) has contravened the provisions of Article 81(b) of the Constitution.

(1A) Where a registered political party contravenes the provisions of subsection (1), the Registrar may—

- (a) serve the party with a notice in writing specifying the nature of the contravention, requiring the political party to redress the contravention within the period specified in the notice:

Provided that the period of the notice shall not exceed three months;

- (b) where the political party fails to comply with the notice under paragraph (a) within the specified period, suspend the registration of the political party for a period not exceeding one year; and
- (c) where, after the expiry of the period specified in paragraph (b), the party fails to remedy the contravention and persists in contravening the provisions of this Act, deregister the party.

(2) The Registrar shall, before suspending and deregistering a political party—

- (a) inform the political party, in writing, of the particulars of the breach or contravention;
- (b) inform the political party, in writing, of the intention to deregister the political party; and
- (c) direct the political party to remedy the breach or contravention within ninety days or otherwise show cause why the party should not be deregistered.

(3) *Deleted by Act No. 2 of 2022, s. 14 (d).*

(4) A political party that has been suspended under subsection (3) shall not be entitled to any of the rights and privileges specified in section 15.

(4A) A political party that is dissatisfied with the decision to suspend it under this section may, within thirty days of receiving the notice of suspension, apply to the Registrar for a review of the decision.

(5) The Registrar shall deregister a political party which has not remedied the breach or complied with the Act as required by the Registrar under subsection (2).

(6) The Registrar shall deregister a political party which has been declared to be a prohibited organisation under the provisions of any written law.

(6A) The Registrar shall, within fourteen days after deregistration of a political party under subsection (5), cause a notice of the deregistration to be published in the *Gazette*.

(7) A political party which is dissatisfied with the decision of the Registrar under subsections (1) or (2) may appeal to the Tribunal against the decision.

[Act No. 21 of 2016, s. 15, Act No. 2 of 2022, s. 14.]

## **22. Effect of deregistration**

(1) Where a political party is de-registered under this Act, no person shall—

- (a) summon a meeting of members or officers of the political party other than for purposes of winding up the political party or for purposes of challenging the deregistration of the political party;
- (b) attend or make a person attend a meeting in the capacity of a member or officer of the political party;
- (c) publish a notice or advertisement relating to a meeting of the political party except for purposes of a meeting under paragraph (a);
- (d) invite persons to support the political party;
- (e) make a contribution or loan to funds held or to be held by or for the benefit of the political party or accept a contribution or loan; or
- (f) give a guarantee in respect of such funds.

(2) A member of a deregistered political party holding an elective office established by the Constitution at the time of the political party's deregistration shall continue to hold office for the remainder of the elective term as member of another political party or independent of any political party.

(3) *Deleted by Act No. 2 of 2022, s. 15 (b).*

[Act No. 2 of 2022, s. 15.]

## **PART III – FUNDING AND ACCOUNTS OF POLITICAL PARTIES**

### **23. Political Parties Fund**

There is established a Fund to be known as the Political Parties Fund, which shall be administered by the Registrar.

### **24. Sources of moneys in the Fund**

(1) The sources of the Fund are—

- (a) such funds not being less than zero point three per cent of all the national government's share of revenue as divided by the annual Division of Revenue Act enacted pursuant to Article 218 of the Constitution as may be determined by the National Assembly; and
- (b) contributions and donations to the Fund from any other lawful source.

(2) The balance of the Fund at the end of the financial year shall be retained for the purposes for which the Fund is established, subject to any law relating to public finance.

[Act No. 2 of 2022, s. 16.]

## **25. Distribution of the Fund**

(1) The Fund shall be distributed as follows—

- (a) seventy per cent of the Fund proportionately by reference to the total number of votes secured by each political party in the preceding general election;
- (b) fifteen per cent of the Fund proportionately to political parties based on the number of candidates of the political party from special interest groups elected in the preceding general election;
- (c) ten per cent of the Fund proportionately to political parties based on the total number of representatives from the political party elected in the preceding general election; and
- (d) five per cent for the administration expenses of the Fund.

(2) Notwithstanding subsection (1), a political party shall not be entitled to receive funding from the Fund under subsection (1) if—

- (a) more than two-thirds of its registered office bearers are of the same gender;
- (b) the party does not have, in its governing body, representation of special interest groups;
- (c) the party does not have—
  - (i) an elected member of the National Assembly;
  - (ii) an elected member of the Senate;
  - (iii) an elected Governor; or
  - (iv) an elected member of a county assembly.

(2A) For purposes of this section, "office bearers" means national and county officials elected or nominated by a political party in accordance with the party constitution.

(3) For purposes of subsections (1)(a) and (2) (a), the total number of votes secured by a political party shall be computed by adding the total number of votes obtained in the preceding general election by a political party in the election for the President, members of Parliament, county governors and members of county assemblies.

[Act No. 14 of 2016, s. 2, Act No. 21 of 2016, s. 16, Act No. 36 of 2016, s. 28, Act No. 2 of 2022, s. 17.]

## **26. 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).

(IA) 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.

[Act No. 2 of 2022, s. 18.]

## **27. Other sources of funds**

(1) The sources of other funds for a political party are—

- (a) membership fees;
- (b) voluntary contributions from a lawful source;
- (c) donations, bequests and grants from any other lawful source, not being from a non-citizen, foreign government, inter-governmental or non-governmental organisation; and
- (d) the proceeds of any investment, project or undertaking in which the political party has an interest.

(2) A foreign agency, or a foreign political party which shares an ideology with a political party registered in Kenya, may provide technical assistance to that political party.

(3) Technical assistance under subsection (2) shall not include provision of any assets to the political party.

(4) A political party shall disclose to the Registrar full particulars of all funds or other resources obtained by it from any source.

#### **28. Offences related to sources of funds**

(1) A political party which receives funds from a non-citizen contrary to section 27(1)(c), commits an offence.

(2) Subject to subsection (6), no person or organisation shall, in any one year, contribute to a political party an amount, whether in cash or in kind exceeding five percent of the total expenditure of the political party.

(3) The total expenditure referred to in subsection (2) shall be in relation to the audited accounts of the political party, of previous year.

(4) A person who or an organisation which contravenes subsection (2) commits an offence.

(5) A political party that receives an amount exceeding the amount specified in subsection (2) commits an offence and shall, in addition to the penalty imposed by this Act, forfeit that amount to the State.

(6) Subsections (2) and (5) shall not apply to any contribution or donation whether in cash or kind, made by any founding member of the political party as his contribution to the initial assets of the party within the first year of its existence.

(7) An official of a political party or other person required to disclose to the Registrar, on behalf of a political party, the funds or other resources of that political party, who fails to disclose, or gives false information in relation to the funds or resources obtained by the political party, commits an offence and shall on conviction be liable to a fine equal to the amount or the value of the resources not disclosed or in relation to which false information was given, or to imprisonment for a term not exceeding two years or to both.

#### **29. Publishing sources of funds**

(1) A political party shall, within ninety days of the end of its financial year, publish—

(a) the sources of its funds stating—

(i) the amount of money received from the Fund;

(ii) the amount of money received from its members and supporters; and

(iii) the amount and sources of the donations given to the party;

(b) the income and expenditure of the political party; and

(c) the assets and liabilities of the political party.

(2) The publication referred to in subsection (1) shall be in at least one newspapers having nationwide circulation and in the political party's official website.

(3) A political party which contravenes this section commits an offence.

(4) Notwithstanding the provisions of subsection (3), a political party that fails to comply with this section shall, during the period of non-compliance, be disqualified from receiving moneys from the Fund.

[Act No. 2 of 2022, s. 19.]

**30. Declaration of assets, liabilities and expenditure in relation to elections**

(1) A political party shall, at least ninety days before a general election, submit to the Registrar a register of its members and a statement of its assets and liabilities in the prescribed form.

(2) Notwithstanding any other penalty provided in this Act or in any other written law, the Registrar shall deregister a political party which—

- (a) fails to comply with this section; or
- (b) submits a statement which is false in any material particulars.

[Act No. 47 of 2012, Sch., Act No. 2 of 2022, s. 20.]

**31. Audit of political parties accounts**

(1) A political party shall keep proper books and records of account of the income, expenditure, assets and liabilities of the political party.

(2) A political party shall, within three months after the end of each financial year submit to the Auditor-General the accounts of the political party in respect of that year.

(3) *Deleted by Act No. 2 of 2022, s. 31.*

(4) The Registrar may at any time request the Auditor-General to carry out an audit of the accounts of a political party.

(5) Any person shall be entitled, to inspect the audited accounts filed by a political party and, upon payment of a fee prescribed by the Registrar be issued copies of the audited accounts.

[Act No. 2 of 2022, s. 21.]

**32. Accounts and audit of the Office of Registrar**

(1) The Office of Registrar of Political Parties shall keep proper books of account of the income, expenditure and assets of the Office.

(2) Within a period of three months after the end of a financial year, the Office of Registrar of Political Parties shall submit to the Auditor-General, the accounts of the Office together with—

- (a) a statement of the income and expenditure of the Office during that year; and
- (b) a statement of the assets and liabilities of the Office during that year.

(3) All accounts kept under this Act shall be audited by the Auditor-General at least once in every financial year.

**PART IV – OFFICE OF THE REGISTRAR OF POLITICAL PARTIES****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 deputed 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.

#### **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.

[Act No. 2 of 2022, s. 22.]

#### **34A. Vacancy in the Office of the Registrar of Political Parties or the Assistant Registrar**

Whenever a vacancy arises in the Registrar Political Office of the Parties or the Assistant Registrar, the President shall, with the approval of the National Assembly, appoint the Registrar of Political Parties or the Assistant Registrar from the names of nominees forwarded by the Public Service Commission in accordance with the Sixth Schedule to this Act.

[Act No. 50 of 2012, s. 2, Act No. 18 of 2014, Sch., Act No. 21 of 2016, s. 17.]

#### **34B. Use of technology**

(1) Subject to this section, the Registrar shall establish a political parties management information system.

(2) The Registrar shall use the system established under subsection (1) for processing political parties' data and records for the purposes of this Act.

(3) The Registrar shall ensure that the technology established under subsection (1) is simple, accurate, verifiable, secure, accountable and transparent.

(4) The Registrar shall make Regulations for the better carrying into effect of the provisions of this section.

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

#### **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.]

**35. Deleted by Act No. 12 of 2012, Sch.**

**36. Procedure for appointment of the Registrar and Assistant Registrars**

The Sixth Schedule shall apply to the procedure for the appointment of the Registrar and Assistant Registrars.

**37. Removal of Registrar or Assistant Registrar**

(1) The Registrar or an Assistant Registrar may be removed from office only on grounds of—

- (a) serious violation of the Constitution or of this Act;
- (b) non-compliance with Chapter Six of the Constitution;
- (c) inability to perform the functions of office arising from mental or physical incapacity;
- (d) bankruptcy;
- (e) incompetence; or
- (f) gross misconduct.

(2) A person desiring the removal of the Registrar or an Assistant Registrar shall present a petition to the Public Service Commission which shall be in writing, setting out the alleged facts constituting the grounds for the removal of the Registrar or of the Assistant Registrar.

(3) The Public Service Commission shall consider the petition and, if it is satisfied that it discloses the existence of a ground under subsection (1), it shall send the petition to the President.

(4) On receipt and examination of the petition, the President shall—

- (a) suspend the Registrar or Assistant Registrar pending the outcome of the petition; and
- (b) appoint a Tribunal in accordance with subsection (5).

(5) The President shall appoint a Tribunal consisting of—

- (a) a chairperson who shall be nominated by the Judicial Service Commission and who shall be a person who is qualified to hold office as a judge of a superior court;
- (b) two other persons, a man and a woman, who shall be nominated by the Law Society of Kenya and who shall be qualified to hold office as a judge of a superior court;
- (c) two persons, a man and a woman, who shall be nominated by the Association of Professional Societies in East Africa and who have knowledge and experience in public affairs and are competent to assess the facts in respect of the particular ground for removal.

(6) The Tribunal shall investigate the matter expeditiously, report on the facts and make a binding recommendation to the President who shall act in accordance with the recommendation within thirty days.

(7) A person who is suspended under this section shall continue, while on suspension, to receive one-half of the remuneration and benefits of the office.

### **38. Establishment of Political Parties Liaison Committee**

(1) There is established a Political Parties Liaison Committee.

(2) The Political Parties Liaison Committee shall be established at the national and county levels.

(3) The principal function of the Political Parties Liaison Committee is to provide a platform for dialogue between the Registrar, Commission and political parties.

(4) The Political Parties Liaison Committee shall perform such other functions as may be prescribed by the Registrar.

## PART IVA – PARTY NOMINATIONS

[Act No. 2 of 2022, s. 24.]

### **38A. Methods of conducting party nominations**

A political party may conduct party nominations using any of the following methods—

- (a) direct party nomination method; or
- (b) indirect party nomination method.

[Act No. 2 of 2022, s. 24.]

### **38B. Establishment of party structures**

(1) When conducting party nominations, a political party shall—

- (a) establish mechanisms for the resolution of disputes arising out of the nominations;
- (b) designate the person who shall issue nomination certificates to candidates after political party nominations; and
- (c) prescribe the functions of the body within the political party that shall be responsible for conducting the nominations.

[Act No. 2 of 2022, s. 24.]

### **38C. 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.

[Act No. 2 of 2022, s. 24.]

### **38D. Access to register**

A political party shall ensure that the register of members used in party nominations is accessible to the registered members of the party.

[Act No. 2 of 2022, s. 24.]

### **38E. Notification of party nominations**

(1) A political party shall, not less than ten days before the date of party nominations, notify the Registrar in writing of—

- (a) the method it intends to use in conducting party nominations, which method shall be in accordance with the nomination rules of the political party;
- (b) the date of the party nominations;
- (c) the venue or venues for the party nominations; and
- (d) the list of members of the party who wish to be nominated by the party.

(2) At least seven days before the date of the nominations, the—

- (a) political party shall publish in the official website of the political party the dates and venues of the nominations; and
- (b) Registrar shall publish in the Registrar's website the dates and venues of the political party's nominations.

[Act No. 2 of 2022, s. 24.]

### **38F. Conduct of direct party nominations**

(1) A political party that intends to conduct direct party nominations shall—

- (a) post in a conspicuous place within each venue where the nominations will be held the list of members of the party who are eligible to participate in the nominations at that venue; and
- (b) provide at each polling venue essential election materials including—
  - (i) ballot papers;
  - (ii) ballot boxes;
  - (iii) a copy of the register of the members of the party;
  - (iv) pens; and
  - (v) nomination results slips.

(2) A political party that intends to use direct nomination method shall submit to the Registrar and publish in the party's official website the—

- (a) particulars of the body within the party that shall conduct the nominations; and
- (b) procedure intended to be used in direct nomination.

[Act No. 2 of 2022, s. 24.]

### **38G. Conduct of indirect party nominations**

(1) A political party that intends to conduct indirect party nominations shall—

- (a) select delegates who shall participate in the party nominations from among the registered members of the party;
- (b) submit the list of delegates to the Registrar at least seven days before the date of the party nominations;
- (c) specify the date and venue of the delegates' meeting;
- (d) specify the polling process used by the delegates during the nominations;
- (e) specify the mode of interviews; and
- (f) specify the body within the party that shall conduct the interviews of potential candidates.

(2) The procedure for the selection of delegates to participate in the indirect party nominations shall be provided for in the party nomination rules of the political party.

(3) The list of delegates shall contain the names, addresses and identifying particulars of the delegates.

[Act No. 2 of 2022, s. 24.]

### **38H. Vetting of candidates**

A political party conducting party nominations shall ensure that each candidate who is nominated—

- (a) makes and deposits a self declaration form in the prescribed form under the Leadership and Integrity Act, 2012;
- (b) possesses the qualifications to hold the elective office as specified in the Constitution and any other relevant written law; and
- (c) meets such other requirements as may be prescribed by the constitution and nomination rules of the political party.

[Act No. 2 of 2022, s. 24.]

### **38I. Resolution of party nominations disputes**

A political party shall resolve any disputes arising out of the party nominations within thirty days after the date of the party nominations.

[Act No. 2 of 2022, s. 24.]

## **PART V – POLITICAL PARTIES DISPUTES TRIBUNAL**

### **39. Establishment of Tribunal**

(1) There is established a Tribunal to be known as the Political Parties Disputes Tribunal.

(2) The Tribunal shall consist of the following members, appointed by the Judicial Service Commission—

- (a) a chairperson who shall be a person qualified to be appointed a judge of the High Court; and
- (b) six other members, three of whom shall be Advocates of the High Court of seven years standing and three other professionals with outstanding governance, administrative, social, political, economic and other record;
- (c) The members of the Tribunal shall elect a vice chairperson from among the members who are Advocates of the High Court of Kenya under paragraph (b).

(3) The Chairperson and members of the Tribunal shall serve on part-time basis.

(4) The Chairperson and the members shall hold office for a non-renewable term of six years.

(5) A person shall not be qualified to be appointed as a member of the Tribunal if that person is a member of the public service or takes an active part in the activities of a political party.

(6) A person shall not qualify for appointment under this section unless the person has met the requirement of Chapter Six of the Constitution.

(7) The quorum of the Tribunal shall be three members one of whom shall be an advocate.

[Act No. 21 of 2016, s. 18, Act No. 2 of 2022, s. 25.]

### **39A. Appointment of *ad hoc* members of the Tribunal**

(1) At least six months to the date of a general election, the Judicial Service Commission shall appoint not more than eighteen *ad hoc* members of the Tribunal of whom—

- (a) nine shall be Advocates of the High Court of Kenya of at least seven years standing; and
- (b) nine shall be professionals with outstanding governance, administrative, social, political, economic and other record.

(2) The *ad hoc* members of the Tribunal shall hold office for a term not exceeding one year.

(3) The *ad hoc* members of the Tribunal shall serve together with the members of the Tribunal appointed under section 39 and they shall be responsible to the Chairperson of the Tribunal.

(4) A person shall not be qualified to be appointed as an *ad hoc* member of the Tribunal if that person is a public officer or holds office in a political party.

(5) A person shall not be qualified for appointment under this section unless the person meets the requirements of chapter six of the Constitution.

[Act No. 2 of 2022, s. 26.]

### **40. Jurisdiction of Tribunal**

(1) The Tribunal shall determine—

- (a) disputes between the members of a political party;
- (b) disputes between a member of a political party and the political party;

- (c) disputes between political parties;
- (d) disputes between an independent candidate and a political party;
- (e) disputes between coalition partners;
- (f) appeals from decisions of the Registrar under this Act; and
- (fa) disputes arising out of party nominations.

(2) Notwithstanding subsection (1), the Tribunal shall not hear or determine a dispute under paragraphs (a), (b), (c), (e) or (fa) unless a party to the dispute adduces evidence of an attempt to subject the dispute to the internal political party dispute resolution mechanisms.

(3) A coalition agreement shall provide for internal dispute resolution mechanisms.

[Act No. 21 of 2016, s. 19, Act No. 2 of 2022, s. 27.]

#### **41. Determination of disputes**

(1) The Tribunal shall determine any dispute before it expeditiously, but in any case shall determine a dispute within a period of three months from the date the dispute is lodged.

(2) An Appeal shall lie from the decision of the Tribunal to the High Court on points of law and facts and on points of law to the Court of Appeal and the decision of the Court of Appeal shall be final.

(3) A decision of the Tribunal shall be enforced in the same manner as a decision of a Magistrates Court but the Tribunal shall have the powers of the High Court to punish for any acts or omissions amounting to contempt of the Tribunal.

(3A) The Chief Justice may, in consultation with the Tribunal, prescribe regulations for determination of disputes under this section.

(4) The Tribunal shall apply the rules of evidence and procedure under the Evidence Act (Cap. 80) and the Civil Procedure Act (Cap. 75), with the necessary modifications, while ensuring that its proceedings do not give undue regard to procedural technicalities.

[Act No. 12 of 2012, Sch., Act No. 47 of 2012, Sch.,  
Act No. 21 of 2016, s. 20, Act No. 2 of 2022, s. 28.]

#### **42. Removal of member of Tribunal**

The Judicial Service Commission may remove a member of the Tribunal if the member—

- (a) becomes an undischarged bankrupt;
- (b) is convicted of a criminal offence;
- (c) is incapacitated by reason of prolonged physical or mental illness from performing the duties of the office;
- (d) violates the Constitution; or
- (e) is otherwise unable or unfit to discharge the functions of the office.

#### **43. Staff of the Tribunal**

The Judicial Service Commission shall appoint the Secretary and such other staff of the Tribunal necessary for the proper functioning of the Tribunal.

**44. Expenses of the Tribunal**

(1) The remuneration of the staff of the Tribunal and the expenses of the Tribunal shall be paid out of monies allocated by the National Assembly to the Judiciary Fund.

(2) The Chairperson and members of the Tribunal shall be paid such allowances and be reimbursed such expenses as shall be determined by the Judicial Service Commission on the recommendation of the Salaries and Remuneration Commission.

(3) Pending the establishment of the Salaries and Remuneration Commission, the Chairperson and members of the Tribunal shall be paid such allowances and be reimbursed such expenses as shall be determined by the Judicial Service Commission in consultation with Treasury.

**PART VI – GENERAL PROVISIONS****45. Offences**

(1) A person who—

- (a) fails to furnish particulars or information required to be furnished by a political party or by him under this Act;
- (b) makes a statement which he knows to be false or which he has no reason to believe to be true; or
- (c) recklessly makes a false statement under this Act,

commits an offence.

(1A) A person who enlists another person to be a member of a political party without obtaining the consent of that other person commits an offence.

(2) Where a political party commits an offence under this Act, every office holder of that political party shall also be deemed to have committed the offence.

(3) Where an offence under this Act is committed by a body of persons other than a political party—

- (a) in the case of a body corporate other than a partnership, every director and the secretary of the body corporate shall also be deemed to have committed the offence; and
- (b) in the case of a partnership, every partner shall be deemed to have committed the offence.

(4) A person does not commit an offence under subsection (1) or (2) if that person proves to the satisfaction of the court or tribunal that the act in respect of which such person is charged was committed without his consent or connivance, and that he exercised all diligence to prevent the commission of that act as he ought to have exercised, having regard to all the circumstances.

(5) Where a political party commits an offence under this Act, the Registrar shall have the power to—

- (a) issue a warning and require the political party to conform to this Act within a specified period;
- (b) suspend the registration of the political party for a period not exceeding twelve months;
- (c) withhold funds to the political party for a period not exceeding twelve months; or

(d) subject to section 21, deregister a political party.

(6) Despite subsection (5), an elected person who is a member of a political party whose registration has been suspended, shall continue in office for the unexpired term.

(7) The Registrar or an employee of the Office of the Registrar commits an offence where the Registrar or the employee of the Office of the Registrar of Political Parties knowingly subverts the objectives of the Constitution and of this Act.

[Act No. 47 of 2012, Sch., Act No. 21 of 2016, s. 21, Act No. 2 of 2022, s. 29.]

#### **46. General penalty**

A person convicted of an offence under this Act for which no penalty is prescribed shall be liable, on conviction, to a fine of not less than one million shillings or to imprisonment for a term of not less than two years, or to both.

#### **47. Cognizable offence**

An offence under this Act shall be cognizable by the police.

#### **48. Winding up political party**

(1) The Registrar shall, upon the deregistration of a political party or its declaration as a prohibited organisation under any law, notify the Attorney-General.

(2) The Attorney-General shall, upon receipt of such notice, make an application for the winding up and dissolution of that political party, and the disposition of the property, assets, rights and liabilities of the political party.

(3) The High Court shall make such orders as appears to it to be just and equitable in the circumstances of the case.

#### **49. Regulations**

(1) The Registrar may make regulations generally for the better carrying out of provisions of this Act.

(2) In particular and without prejudice to the generality of the power conferred by subsection (1), the Registrar may make regulations—

- (a) prescribing the manner of registration of political parties;
- (b) regulating the activities of political parties that are registered under this Act as provided under this Act;
- (c) regulating or restricting the use or changes of names, symbols or colours of political parties;
- (d) prescribing the forms, which may be used for carrying out the provisions of this Act;
- (e) for securing the submission, to the Registrar, of the audited accounts and financial accounts relating to the assets and liabilities, income and expenditure of political parties;
- (f) prescribing the fees in respect of anything to be done under this Act; or
- (g) requiring the submission, to the Registrar, of annual or other periodical returns relating to the constitution, objects and membership of political parties.

#### **50. Repeal of Act No. 10 of 2007**

The Political Parties Act, 2007 is repealed.



**51. Transitional provisions**

(1) Notwithstanding the provisions of this Act—

- (a) a political party existing immediately before the commencement of this Act shall be required to comply with the provisions of this Act, within one hundred and eighty days from the commencement date; but shall be exempt from payment of the initial registration fees;
- (b) section 8 shall not apply to a political party existing immediately before the commencement of this Act;
- (c) the register of Political Parties and the Register of members of the Political parties maintained under the repealed Political Parties Act shall be deemed to have been prepared under this Act;
- (d) the Registrar of Political Parties holding office immediately before the commencement of this Act, shall continue to hold office until a Registrar is appointed under this Act;
- (e) the chairperson and members of the Tribunal appointed under the repealed Act shall continue to hold office for their unexpired term;
- (f) all records, assets and liabilities of the former office of the Registrar and the Tribunal shall be records, assets and liabilities for the respective offices established under this Act;
- (g) all proceedings that were pending before the Tribunal under the repealed Act shall continue as proceedings before the Tribunal established under this Act;
- (h) the provisions of section 9(4) shall not apply until after the first elections after the commencement of this Act;
- (i) the criteria for distribution of the Fund provided under section 30(3) of the Political Parties Act, 2007, shall apply until after the first general elections under the Constitution; and
- (j) until after the first elections under the Constitution, references in this Act to the expression "Cabinet Secretary" shall be construed to mean "Minister".

(2) Where this Act requires a nomination or appointment to be made by the President, until after the first general elections held under the Constitution, the President shall, as provided in the Constitution, nominate or appoint a person after consultation with the Prime Minister.

[Corr. No. 18/2012.]

### FIRST SCHEDULE

[Section 6(2)(e), Act No. 21 of 2016, s. 22.]

#### CODE OF CONDUCT FOR POLITICAL PARTIES

1. Political parties shall, pursuant to Articles 91 and 92 of the Constitution and section 8 of this Act, subscribe and observe this code of conduct.
2. This code of conduct shall regulate the behaviour of members and office holders of political parties, aspiring candidates, candidates and their supporters, promote good governance and eradicate political malpractices.
3. Political competition and co-operation shall be regulated under this code of conduct on the basis of rule of law and universally accepted best practices.

**4. Political parties shall—**

- (a) promote policy alternatives responding to the interests, concerns and needs of the citizens of Kenya;
- (b) respect and uphold the democratic process as they compete for political power so as to implement their policies;
- (c) promote consensus building in policy decision making on issues of national importance;
- (d) develop and implement measures for the progressive realisation of representation and participation of the special interest groups in decision-making organs; and
- (e) implement the affirmative action programmes, policies and strategies relating to political representation contemplated under Article 27(6) of the Constitution.

**5. Every political party shall—**

- (a) respect the right of all persons to participate in the political process including special interest groups;
- (b) respect and promote gender equity and equality, human rights and fundamental freedoms; and
- (c) be tolerant and inclusive in all their political activities.

**6. Every political party shall—**

- (a) respect, uphold and defend the Constitution of Kenya;
- (b) respect and uphold this Act and any other written law relating to elections and political parties;
- (c) respect, uphold and defend their respective political party Constitutions, political party election rules, political party nomination rules and any other political party rules and regulations developed and agreed upon in accordance with this code of conduct;
- (d) respect, uphold and promote human dignity, equity, social justice, inclusiveness and non-discrimination and protection of the marginalized;
- (e) respect, uphold and promote human rights and the rule of law;
- (f) promote national patriotism and national unity;
- (g) respect, uphold and promote democratic values and principles, performing inclusive participation of party members and accountable representation in governance for the development of the country;
- (h) respect, uphold and promote good governance, integrity, respect, tolerance, transparency and accountability;
- (i) promote co-operation in the political competition;
- (j) promote sharing and devolution of power and resources;
- (k) respect, uphold and promote democratic practices through regular free, fair and credible elections within the political party and among others have a democratically elected governing body and political party organs;
- (l) respect, uphold and promote democratic practices through free, fair and credible political party nominations;

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- (m) respect, uphold and promote leadership and integrity as prescribed in the Constitution of Kenya; and
- (n) perform transparency and accountability in all its legislation and regulations, structures, procedures and performance.

**7. A political party shall not—**

- (a) engage in or encourage violence by its members or supporters;
- (b) engage in or encourage any kind of intimidation of opponents, any other person or any other political party;
- (c) engage in influence peddling, bribery or any other form of corruption;
- (d) accept or use illicit or illegal money;
- (e) accept or use public resources other than those allocated to the political party through the political party fund;
- (f) advocate hatred that constitutes ethnic incitement, vilification of others or incitement to cause harm;
- (g) obstruct, disrupt, break-up or in any other way whatsoever interfere with a meeting, rally or demonstration of another political party or its leadership;
- (h) establish or maintain a para-military force, militia or similar organisation or having any links with such organisations; and
- (i) use State resources for partisan campaigns.

**8. A political party shall promote inter-party relations by—**

- (a) ensuring free competition among political parties in respect of different political views and principles;
- (b) fostering trust and confidence through mechanisms for co-operation;
- (c) managing and mitigating political differences through constructive dialogue enhancing harmony among the parties; and
- (d) promoting national reconciliation and building national unity.

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**SECOND SCHEDULE**

[Section 9(1), Act No. 21 of 2016, s. 23, Act No. 2 of 2022, s. 30.]

**CONTENTS OF THE CONSTITUTION OR RULES OF A POLITICAL PARTY**

- 1.** The name of the political party and any abbreviation.
- 2.** The logo and symbol of the political party and party colours.
- 3.** The objects of the political party.
- 4.** Clearly defined vision, mission, guiding principles and values.
- 5.** The physical and postal address of the registered office.
- 5A.** The address of the official website of the political party.
- 6.** Membership requirements including—
  - (a) the eligibility criteria;
  - (b) subscription fees for joining the party and for being a member of the party;

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- (c) the criteria for resignation from party membership or ceasing to be a member; and
- (d) the rights and duties of members of the party;
- (e) membership details to be contained in the register including identification details, region, ethnicity, disability, gender and county; and
- (f) the procedure for conducting the annual general meeting or the other general meetings of the political party, including matters which may only be decided upon by a meeting of the party members or, as the case may be, of the county representatives of the party;
- (fa) the requirement for continuous updating of the membership register.

**7. Governing body requirements—**

- (a) the name of the governing body;
- (b) the eligibility criteria for election to the governing body;
- (c) the positions, titles and term of office;
- (d) the rights and duties of members of the governing body;
- (e) the procedure for the election of members of the governing body and other political party organs, including committees;
- (f) guidelines for the operations of the governing body and its committees;
- (g) quorum;
- (h) frequency of meetings;
- (i) decision making powers; and
- (j) guidelines for meetings; procedures of convening meetings; procedure of meetings and the official recording of resolutions passed at meetings.

**8. A list of political party management structure of the political party and systems to be documented at the political party offices including—**

- (a) the employee details and terms of employment;
- (b) the party human resource, financial and audit and administration and management policies and procedures; and
- (c) the party sub-branches within each county.

**9. The forming of political party branches, including in the diaspora, and their roles and responsibilities.****10. The financial structure and system including—**

- (a) the roles and responsibilities of individual political party officials, organs and governing bodies with regard to the finances of the political party;
- (b) the annual statutory and other audits of accounts of the political party; and
- (c) the purposes for which the funds may be used, and in particular the prohibition against the distribution of funds among members.

**11. The general organisation structure and management of the political party, including the county structures and systems and county governing bodies.**

- 12.** The establishment and management of National Assembly, Senate and County Assemblies Caucuses.
- 13.** The disciplinary measures against a member or official of a political party including—
- (a) the methods and procedure of disciplinary action in accordance with Articles 47 and 50 of the Constitution;
  - (b) possible disciplinary actions and reasons;
  - (c) criteria for various disciplinary actions; and
  - (d) consequences of each action for the national and county levels.
- 14.** The right to inspect the books or list of members of the political party by a member of the party or a member of the public.
- 15.** The authorized officials of a political party shall sign on behalf of the political party—
- (a) documents presented to the Registrar including membership register, mergers, and other reports to the Registrar;
  - (b) the accounts and bank accounts of the political party;
  - (c) the audited annual accounts and financial statements of the political party;
  - (d) any report or document of the political party required under this Act or any other written law; and
  - (e) the nomination certificates for any nomination or election of a member of the political party.
- 16.** The policy documents which the political party will develop and on which the political party will perform including the manner and procedures in which they will be developed, approved and implemented.
- 17.** The policy reporting documents and their regularity which the political party will produce including the manner and the procedures in which they will be developed, approved and publicized.
- 18.** Asset management policies and procedures, the custody and investment of the funds and property of the political party, and the designation of the persons responsible for them.
- 19.** The political party rules and regulations with respect to—
- (a) elections of the party officials;
  - (b) nomination of candidates for elections; and
  - (c) nomination of candidates to political party lists.
- 20.** Provisions for the amendment of the name, symbol, party colours, constitution, and rules of the political party.
- 21.** Rules for mergers including—
- (a) the circumstances and criteria for mergers; and
  - (b) the procedure and guidelines for such mergers as approved by an annual general meeting of the political party.
- 21A.** Rules for entering into coalitions.
- 22.** Provisions on dissolution of the political party, including—

- (a) provisions on the disposal of the property of the political party; and
- (b) the manner of and procedures to be followed for the dissolution of the political party or any branch of the party.

**23.** Internal party dispute resolution mechanism in accordance with Article 47 and 50 of the Constitution.

**24.** Democratic practices that cover gender, affirmative action for minorities and marginalized groups.

**25.** Reflect democratic practices covering human rights and gender.

**26.** The manner of implementing national values and principles of governance as provided in the Constitution.

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### THIRD SCHEDULE

[Section 10(4), Act No. 21 of 2016, s. 24.]

#### BASIC REQUIREMENTS FOR COALITION AGREEMENT

**1.** A Coalition agreement shall adhere to the rules and procedures of the political parties relating to the formation of coalitions.

**2.** A coalition agreement shall be sanctioned by the governing body of the political parties entering into the coalition and shall—

- (a) be in writing and duly executed by authorized national party officials; and
- (b) be commissioned by a Commissioner of Oaths.

**3.** Coalition agreement shall state—

- (a) the parties which are members of the coalition;
- (b) the policies and objectives of the coalition;
- (c) the overall structure of the coalition;
- (d) the general organisation structure and management of the coalition, including the county structures and systems and county governing bodies;
- (e) the criteria or formula for sharing of positions in the coalition structure, roles and responsibilities within the coalition;
- (f) the coalition election rules;
- (g) the coalition nomination rules;
- (h) the decision making structure, rules and procedures;
- (ha) the process and mechanisms upon which the coalition agreement may be amended;
- (i) the policy initiation, policy consultation and policy decision making structure, rules and procedures;
- (j) the Code of Conduct of the coalition including the values and the principles guiding the performance of the individuals and the members parties within the coalition;
- (k) the dispute resolution mechanisms and procedures;

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- (l) the enforcement and sanction mechanisms and procedures for breach of any of the provisions of the agreement;
- (m) procedures for appeal to the Tribunal;
- (n) the role of the governing body and political party organs of the individual member parties of the coalition in the running of the affairs of the coalition including the links and the mechanisms and procedures accordingly;
- (o) the formula and the mechanisms for sharing of funds from the Political Party Fund to the respective member of the coalition; and
- (p) the grounds upon which the coalition may be dissolved including the mechanisms and procedures to be followed.

FOURTH SCHEDULE

[Section 33(8), Act No. 21 of 2016, s. 25.]

OATH OF OFFICE/SOLEMN AFFIRMATION OF REGISTRAR OF POLITICAL PARTIES/ASSISTANT REGISTRAR OF POLITICAL PARTIES/CHAIRPERSON AND MEMBERS OF THE POLITICAL PARTIES DISPUTES TRIBUNAL

I..... having been appointed as..... do solemnly (swear/declare and affirm) that I will at all times obey, respect and uphold the Constitution of Kenya and all other laws of the Republic of Kenya, and that I will faithfully and fully, impartially and to the best of my ability, discharge the trust and perform the functions and exercise the powers devolving upon me by virtue of this appointment without fear, favour, bias, affection, ill-will or prejudice.

(So help me God).

Sworn/declared by the said.....

Before me this..... day of.....

.....

Chief Justice

FIFTH SCHEDULE

[Section 35(4), Act No. 12 of 2012, Sch., Act No. 21 of 2016, s. 26.]

*Deleted by Act No. 12 of 2012, Sch.*

*Deleted by Act No. 21 of 2016, s. 26.*

SIXTH SCHEDULE

[Section 36, Act No. 12 of 2012, Sch., Act No. 50 of 2012, s. 3, Act No. 21 of 2016, s. 27.]

PROCEDURES FOR APPOINTMENT OF THE REGISTRAR AND ASSISTANT REGISTRARS

1. The Public Service Commission shall, within seven days of its appointment and whenever a vacancy arises, by notice in the *Gazette*, in at least two newspapers

of national circulation and in at least two radio and television stations with national coverage, invite applications for the positions of the Registrar and the Assistant Registrar.

**2.** The Public Service Commission shall, within seven days of the end of the period prescribed for receipt of applications under paragraph 1, consider the applications, shortlist qualified applicants and interview the shortlisted applicants.

**3.** The Public Service Commission shall conduct the interviews under paragraph 2 in public.

**4.** The Public Service Commission shall, following the conclusion of the interviews under paragraph 2, nominate and forward to the President the names of three nominees for appointment to the Office of Registrar of Political Parties and the names of nine nominees for appointment to the office of Assistant Registrar.

**5.** The President shall, within fourteen days of receipt of the names of the nominees under paragraph 4, nominate one of the three persons for appointment to the Office of Registrar of Political Parties and three persons for appointment as Assistant Registrar of Political Parties and forward the names of the nominees to the National Assembly for approval.

**6.** The National Assembly shall, within twenty one days of the receipt of the names of the nominees under paragraph 5, consider the nominees and approve or reject the nominations.

**7.** Where the National Assembly approves the nominations, the Clerk of the National Assembly shall, within three days of the approval, forward the name of the approved persons to the President for appointment.

**8.** Where a name is forwarded to the President under paragraph 7, the President shall, within seven days of receipt of the name, by notice in the *Gazette*, appoint the person as Registrar of Political Parties or as Assistant Registrar of Political Parties.

**9.** Where the National Assembly rejects the name of a nominee, the Clerk of the National Assembly shall, within three days of the rejection, communicate the decision of the National Assembly to the President who shall submit a fresh nomination from among the persons nominated under paragraph 4.

**10.** If the National Assembly rejects a subsequent nomination under paragraph 9, the provisions of paragraphs 1 to 9 shall, with necessary modifications, apply to the process of nomination and approval of a new nominee.

**11.** In shortlisting, nominating, approving or appointing the Registrar or the Assistant Registrars, the Public Service Commission, the National Assembly, and the President shall ensure that the appointments reflect the regional and ethnic diversity of the people of Kenya and that not more than two-thirds of the appointees are of the same gender.

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## SEVENTH SCHEDULE

[Section 34A (4), Act No. 50 of 2012, s. 4, Act No. 21 of 2016, s. 28.]

*Deleted by Act No. 21 of 2016, s. 28.*

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