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REPUBLIC OF KENYA

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***KENYA GAZETTE SUPPLEMENT***

**SENATE BILLS, 2020**

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#### **FIRST SCHEDULE —SELF-DECLARATION FORM**

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**THE POLITICAL PARTY PRIMARIES BILL, 2020**

**A Bill for**

**AN ACT of Parliament to provide for the conduct of political party primaries nomination of party list members; and for connected purposes.**

ENACTED by the Parliament of Kenya, as follows—

**PART 1 —PRELIMINARY**

1. This Act may be cited as the Political Party Primaries Act, 2020.

Short title.

2. In this Act —

Interpretation.

“aspirant” means a person who has presented themselves for election in the party primary;

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

“competitive party primary” means a method of identifying a candidate for an elective post where all registered members of a political party are eligible to participate in the identification of the candidate by voting;

“non-competitive party primary” means a method of identifying a candidate for an elective post by a delegation chosen by registered members of a political party;

“member of a political party” a person who has been recruited by a political party as a member and issued with a party membership number or card.

“political party” has the meaning assigned to it in Article 260 of the Constitution;

“party primary election official” means the officials appointed by the elections board under section 7 (2)(f);

“party primary” means the process by which a political party elects or selects a candidate for a forthcoming general election or by-election; and

“Registrar” has the meaning assigned to it under the Political Parties Act.

No. 11 of 2011.

**3.** In conducting its party primary, a political party shall —

Guiding principles.

- (a) not discriminate against any eligible aspirant; and
- (b) ensure that the party primary is—
  - (i) democratic, free and fair;
  - (ii) inclusive and participatory;
  - (iii) open, transparent and accountable; and
  - (iv) credible in the process and outcome, and conducted in a peaceful manner.

## **PART II — POLITICAL PARTY STRUCTURES FOR THE CONDUCT OF PARTY PRIMARIES**

**4.** (1) A political party shall, in accordance with the Elections Act, the Political Parties Act and this Act establish in its constitution and nomination rules the following party organs—

Political party organs.

- (a) a governing body;
- (b) an election board; and
- (c) an internal dispute resolution organ.

(2) A political party shall appoint persons —

- (a) to hold office in the party organs established under subsection (1); and
- (b) as authorised signatories to a nomination certificate.

(3) In making the appointments to a party organ under subsection (1), a political party shall ensure that —

- (a) a person is not a member of more than one organ;
- (b) at least one-third of the members of each party organ are of the opposite gender; and
- (c) special interest groups including persons with disability and the youth are represented.

**5.** (1) A political party shall submit to the Commission and the Registrar information on persons holding office in the party organs and the authorised signatories at least thirty days before the political party conducts a party primary.

Submission of particulars of office holders to the Commission.

(2) The information required to be submitted under subsection (1) shall —

- (a) be submitted in a prescribed form; and
- (b) include—
  - (i) the name;
  - (ii) the specimen signature, in the case of authorised signatories;
  - (iii) the identity card or passport number; and
  - (iv) include such other information as the Commission shall subscribe.

**6.** The governing body of a political party shall, for purposes of this Act, be responsible for—

Functions of the governing body.

- (a) the recruitment and appointment of persons to hold office in the election board and the internal disputes resolution organ;
- (b) appointing the authorised signatories to nomination certificates;
- (c) certification of the political party membership register;
- (d) informing the Commission and the Registrar of the type of party primary to be conducted by the political party;
- (e) setting the date, time and venue of the party primary;
- (f) receiving the results and reports of the party primary from the election board;
- (g) submitting the list of nominated candidates to the Commission; and
- (h) submitting the party lists to the Commission.

**7.** (1) A person is qualified for appointment as a member of the election board if that person—

The election board.

- (a) is a member of the political party;
- (b) is eligible to vote at an election;
- (c) is not an aspirant in the party primary;

- (d) has not been convicted of an election offence;
  - (e) satisfies the requirements of Chapter Six of the Constitution;
  - (f) holds at least a certificate of secondary education; and
  - (g) meets such other requirements as may be specified in the constitution or rules of the political party.
- (2) The election board shall, for the conduct of a party primary under this Act—
- (a) conduct or supervise the party primary and party nomination of members to the party lists;
  - (b) notify members of the party of the date by which applications must be received;
  - (c) notify members of the party of the date, time and venue of the party primary;
  - (d) publicise the list of aspirants and the party membership register;
  - (e) vet the aspirants before the party primary;
  - (f) recruit and appoint party primary election officials;
  - (g) announce and declare results of the party primary;
  - (h) issue written election result slips to each aspirant participating in the party primary; and
  - (i) submit to the political party governing body, a candidate or a list of nominated candidates for an election.

**8.** (1) A person is qualified for appointment as a chairperson of the internal dispute resolution organ of a political party if that person is an advocate of the High Court of Kenya of at least five years and meets such other requirements as may be specified in the constitution or nomination rules of the political party.

Internal dispute  
resolution organ.

(2) A person is qualified for appointment as a member of the internal dispute resolution organ if that person has at least a certificate of secondary education and meets such other requirements as may be specified in the constitution or nomination rules of the political party.

(3) A person is not qualified for appointment as chairperson or member of the internal dispute resolution organ if the person participated as an aspirant in the party primary immediately preceding the dispute.

(4) The internal dispute resolution organ shall receive, hear and determine any disputes arising from the party primary.

(5) A political party shall provide for alternative dispute resolution mechanisms to resolve disputes arising from party primaries in its party constitution.

9. The authorised signatories to a nomination certificate shall be as specified in the political party constitution or rules in accordance with section 4 of this Act and the Elections Act.

Authorised signatories to a nomination certificate. No. 24 of 2011.

**PART III – CONDUCT OF PARTY PRIMARIES**

10. (1) A political party shall provide in its party constitution and nomination rules the type of party primary to be used for identifying a candidate for an elective post or a party list.

Types of party primaries.

(2) A party primary conducted by a political party may include—

- (a) competitive party primary;
- (b) non-competitive party primary; or
- (c) such other process as may be specified in the constitution or nomination rules of the political party.

(3) A Political party that has entered into a coalition agreement shall provide in the agreement the procedure for nominating a candidate for an elective post.

11. (1) The Commission shall, by notice in the prescribed form, specify the day or days upon which all political parties shall conduct party primaries.

Date of party primary.

(2) The day or days specified under subsection (1) shall be at least ninety days before a general election or at least fifty five days before a by-election.

(3) The day or days specified by the Commission for the conduct of party primaries for a general election under subsection (1) shall be a public holiday.

(4) An employer or any person in charge of an employee who is a member of a political party that is undertaking a party primary for a by-election shall permit that employee to participate in the relevant party primary on the day or days specified under subsection (1).

(5) A person who contravenes the provisions of subsection (3) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.

**12.** A political party shall notify the Commission and the Registrar in writing, at least twenty-one days before the date of the party primary—

Party primary notification.

- (a) the type of party primary to be conducted;
- (b) the venue of the party primary; and
- (c) the list of aspirants participating in the party primary.

**13.** (1) A political party shall maintain an updated register of its members in accordance with section 17 (1)(a) of the Political Parties Act.

Membership register.  
No. 11 of 2011.

(2) Notwithstanding the requirements prescribed under section 17 (1)(a) of the Political Parties Act, the register of members under subsection (1) shall comprise the —

No. 11 of 2011.

- (a) national register;
- (b) county register in respect of every county;
- (c) constituency register in respect of every constituency; and
- (d) ward register in respect of every ward.

(3) The membership register of a political party shall be accessible to members of the public.

**14.** A person is eligible to vote in a party primary if the details of that person are contained in the membership register certified by the governing body pursuant to section 6(c) of this Act.

Eligibility to vote.

**15.** A political party that intends to conduct a competitive party primary shall —

Competitive party primary.

- (a) use the party membership register certified by the governing body;
- (b) post in a conspicuous place within the polling venue the list of members eligible to vote at that venue; and
- (c) provide at each polling venue polling materials including —
  - (i) ballot papers;
  - (ii) ballot boxes;
  - (iii) membership Register;
  - (iv) pens; and
  - (v) party primary election result slips.

**16.** (1) A political party that intends to conduct a non-competitive party primary shall submit a list of delegates to the Commission and the Registrar at the time of making the notification under section 12 of this Act.

Non-competitive party primary.

(2) The procedure for selection of delegates to participate in non-competitive party primary shall be specified in the party constitution or nomination rules of the political party.

(3) The list of delegates under subsection (1) shall include the names, addresses and contact details of the delegates, who shall be members of the political party.

**17.** (1) A person who intends to contest in a party primary shall submit to the election board a self-declaration form as prescribed under the First Schedule together with —

Vetting of aspirants.

- (a) the aspirant’s academic qualifications;
- (b) a copy of a national identity card or passport;
- (c) a self-declaration form as prescribed under the Leadership and Integrity Act; and
- (d) proof of payment of the nomination fees.

(2) The election board shall vet the applications received under subsection (1) to determine whether an applicant qualifies to contest for election in the post applied

No. 19 of 2012.

for or to be included in a party list as provided for in the Constitution and other relevant laws before preparing a list of aspirants to participate in the party primary.

**18.** (1) A political party shall submit to the Registrar and the Commission, a list of aspirants approved to contest in the party primary prepared under section 15(2) of this Act at least twenty-one days before the date of the party primary.

Submission of the list of aspirants to the Registrar and the Commission.

(2) The Commission shall, within seven days of receipt of the names, publish a notice in the *Gazette* of the names of persons vying in a party primary and the date of the party primary.

**19.** (1) An aspirant or a member of a political party may file a complaint with the internal dispute resolution organ within three days of the declaration of party primary results on the ground that the party primary did not comply with the Constitution, this Act, the Elections Act, the Political Parties Act or any other written law.

Settlement of party primary disputes.

No. 24 of 2011,  
No. 11 of 2011.

(2) The internal party dispute resolution organ shall hear and determine a complaint filed under subsection (1) within thirty days from the date the complaint was filed.

(3) In determining a dispute under this Act, the internal dispute resolution organ shall—

- (a) record its proceedings in writing; and
- (b) issue its decision in writing setting out the reasons for the decision.

(4) A person dissatisfied with the decision of the internal party dispute resolution organ may appeal to the Political Party Dispute Tribunal established under section 39 of the Political Parties Act.

(5) A political party shall not submit the particulars of a nominated candidate to the Commission where party primary result has been challenged under subsection (1) and remains undetermined.

**20.** A political party shall submit to the Commission particulars of a nominated candidate for an election or inclusion in the party list in accordance with sections 13 and 35 of the Elections Act.

Submission of particulars to the Commission.

No. 24 of 2011.

**PART IV — OFFENCES RELATING TO PARTY  
PRIMARIES**

**21.** A person who—

- (a) fraudulently registers or deregisters a person as a member of a political party;
- (b) submits false information for purposes of registration;
- (c) forges, defaces or destroys a party membership register; or
- (d) fails to use, the political party membership register published by the Registrar, in the conduct of party primary,

Offences relating to the political party membership register.

commits an offence and is liable on conviction to a fine not exceeding five million shillings or to imprisonment for a term not exceeding one year or to both.

**22.** A person who willfully and without a justifiable reason prevents, obstructs or hinders another person from accessing a polling station or voting at a polling station where that other person is entitled to vote commits an offence and is liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding six months or both.

Obstruction.

**23.** A person who—

- (a) forges, counterfeits or destroys a ballot paper;
- (b) without authority prints, supplies, sells or purchases a ballot paper;
- (c) not being a person entitled to be in possession of a ballot paper which has been marked, has any such ballot paper in his possession;
- (d) without authority is found in possession of a ballot paper outside a polling station;
- (e) votes at a party primary election when they are not eligible to vote;
- (f) votes more than once at a party primary election;
- (g) interferes with a voter while casting his or her vote; or

Offences relating to election materials.

- (h) pretends to be unable to read or write, or suffering from any disability so as to be assisted to vote;

commits an offence and is liable on conviction, to a fine not exceeding two million shillings or to imprisonment for a term not exceeding six months or to both.

**24.** (1) A person who, directly or indirectly —

Undue influence.

- (a) uses or threatens to use any force, violence including sexual violence, restraint or material, physical or spiritual injury, harmful cultural practices, damage or loss, or any fraudulent device, trick or deception for the purpose of —

- (i) compelling a person to vote or not to vote for a particular aspirant;
- (ii) inducing a person to refrain from becoming or to withdraw as an aspirant; or
- (iii) preventing a person from being nominated as a candidate; or

- (b) by way of duress or intimidation —

- (i) impedes, prevents or threatens to impede or prevent a voter from voting; or
- (ii) influences the result of an election,

commits an offence of undue influence and is liable on conviction to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding five years or to both.

**25.** A person who —

Bribery.

- (a) offers a bribe in order to influence a voter to vote or refrain from voting for a particular aspirant;
- (b) accepts or agrees to accept a bribe that is offered in order to vote or refrain from voting for a particular aspirant; or
- (c) offers or accepts a bribe in order to unlawfully influence the result of a party primary;

commits an offence and is liable, on conviction, to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding five years or to both.

**26.** A person who, directly or indirectly inflicts or threatens to inflict injury, damage, harm or loss on or against a person during party primary —

Use of force or violence

- (a) so as to induce or compel that person to support a particular aspirant;
- (b) on account of such person having voted or refrained from voting; or
- (c) in order to induce or compel that person to vote in a particular way or refrain from voting,

commits an offence and is liable on conviction to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding five years or to both.

**27.** A person who aids, abets, counsels or procures the commission of, or attempts to aid, abet, counsel, or procure the commission of an offence specified in this Act commits an offence and is liable, on conviction, to such penalty if the person actually committed the offence.

Aiding and abetting.

**PART V — MISCELLANEOUS PROVISIONS**

**28.** (1) A political party shall, at least fourteen days before the date of a party primary or nomination of party lists, specify the fees to be paid by an aspirant.

Nomination fees.

(2) The fees set by a political party for participation in a party primary shall not exceed the amount specified in the Second Schedule.

(3) The fees payable by members of the marginalised groups under Article 100 of the Constitution shall not exceed half the fee charged to other aspirants.

**29.** (1) An aspirant may, at least seven days before the date of a party primary, appoint and submit to the election board particulars of one agent for every polling venue to observe the conduct of the party primary.

Party primary agents.

(2) The particulars required to be submitted under subsection (1) shall include —

- (a) the name;
- (b) the identity card or passport number;
- (c) the specimen signature; and

(d) such other information as shall be prescribed in the nomination rules of a political party.

**30.** The Commission shall be responsible for the conduct of civic education and awareness related to party primary.

Civic education.

(2) The Commission may outsource the service under subsection (1) to institutions accredited by the Registrar.

(3) The Commission shall be responsible for the development of a curriculum on civic education and awareness related to party primary.

**31.** (1) The Commission may accredit institutions to conduct party primaries on behalf of political parties.

Accreditation of institutions.

(2) A political party may at its own cost hire an institution accredited under subsection (1) to conduct a party primary.

**32.** (1) A political party shall put in place and implement affirmative action measures to promote the inclusion of special interest groups in party primary.

Special interest groups.

(2) The affirmative action measures under subsection (1) shall include—

(a) ensuring party information and party primary venues are easily accessible to persons with disabilities; and

(b) provision of assistance to persons with disability to vote during a party primary.

**33.** (1) The Commission may make regulations for the better carrying into effect the provisions of this Act.

Regulations.

(2) Without prejudice to the generality of subsection (1), the Commission may make regulations to —

(a) prescribe the conduct of party primary;

(b) provide for the procedure of nomination of special seats under party lists;

(c) provide for the use of technology in a party primary;

(d) prescribe forms for carrying out the provisions of this Act;

- (e) require submission of details required under this Act; and
- (f) accredit institutions for provision of civic education and awareness related to party primary.

**PART VI— CONSEQUENTIAL AMENDMENTS**

**34.** The Elections Act is amended by deleting section 13 and substituting therefor the following new section—

Amendment of section 13 of No. 24 of 2011.

Nomination of candidates by a political party.

**13.** (1) A political party shall nominate its candidates for an election under this Act at least ninety days before a general election under this Act in accordance with the Political Party Primaries Act.

(2) A political party shall not change the candidate nominated after the nomination of that person has been received by the Commission:

Provided that in the event of the death, resignation or incapacity of the nominated candidate or of the violation of the electoral code of conduct by the nominated candidate, the political party may, after notifying the candidate that the party seeks to substitute, where applicable, substitute its candidate before the date of presentation of nomination papers to the Commission.

**35.** The Elections Act is amended by deleting section 31.

Amendment of section 31 of No. 24 of 2011.

**36.** Section 109 of the Elections Act is amended in subsection (1) by—

Amendment of section 109 of No. 24 of 2011.

- (a) deleting paragraph (c); and
- (b) deleting paragraph (d).

**FIRST SCHEDULE** (s. 17(1))  
**SELF-DECLARATION FORM**

1. General Information

.....  
 (Surname) (First Name) (Middle Name)  
 .....  
 (Other Names)  
 National ID No. / Passport No.: ..... Passport  
 Expiry Date: .....  
 Party Membership No.: .....  
 Sex: (tick where appropriate) Male (  ) Female (  ) Intersex (  )  
 Occupation:..... Mobile Number:.....  
 Email Address:.....  
 Nationality: Kenyan (  ) Dual Citizen (  ) (provide  
 details).....

2. Declaration

I declare that I have fulfilled all requirements under the laws relating to elections, the party constitution and nomination rules including –

- (a) meeting obligations imposed by the political party on its members including payment of requisite fees;
- (b) producing valid educational certificates as and when requested; and
- (c) being of good moral standing in society;

3. Oath and Affirmation

I solemnly swear (or affirm) and certify, under penalty of false declaration under the Oaths and Statutory Declarations Act (Cap 15 of the Laws of Kenya), that all the statements in this declaration are true and correct to the best of my knowledge.

Dated this .....day of ..... ,20 .....



**SECOND SCHEDULE**

(s. 28(2))

**NOMINATION FEES**

	<b>Elective Position</b>	<b>Amount in KSh. (not more than)</b>
1.	President	1,000,000
2.	County Governor	500,000
3.	Member of Parliament	250,000
4.	Member of a County Assembly	50,000

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**MEMORANDUM OF OBJECTS AND REASONS**

**Statement of the Objects and Reasons for the Bill**

The principal object of this Bill is to put in place a legal framework for the conduct of political party primary. It sets out the procedure to be followed in the conduct of party primaries for purposes of identifying candidates to stand for election in an elective post as well as preparing party lists as required under the Constitution and the Elections Act.

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

The Bill delegates legislative powers to the Independent Electoral and Boundaries Commission to make regulations for the better carrying into effect the provisions of the Bill once enacted.

The Bill does not limit fundamental rights and freedoms.

**Statement on how the Bill concerns county governments**

The Bill concerns county governments as it contains provisions relating to the identification of candidates to contest in an elective post or be included in a party list for nomination to be a member of a legislature at both the national and county level.

The Bill is therefore a Bill concerning county governments in terms of Article 110 (1) (a) of the Constitution.

**Statement that the Bill is not a money Bill, within the meaning of Article 114 of the Constitution**

This Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 25th September, 2020.

ISAAC MWAURA,  
*Senator.*

*Section 13 of Act No. 24 of 2011 that the Bill proposes to amend—*

### **13. Nomination of candidates by a political party**

(1) A political party shall nominate its candidates for an election under this Act at least ninety days before a general election under this Act in accordance with its constitution and nomination rules.

(2) A political party shall not change the candidate nominated after the nomination of that person has been received by the Commission:

Provided that in the event of the death, resignation or incapacity of the nominated candidate or of the violation of the electoral code of conduct by the nominated candidate, the political party may after notifying the candidate that the party seeks to substitute, where applicable, substitute its candidate before the date of presentation of nomination papers to the Commission.

(2A) A political party shall hear and determine all intra party disputes arising from political party nominations within thirty days.

(3) Notwithstanding subsection (1), in the case of any other election, the Commission shall by notice in the prescribed form, specify the day or days upon which political parties shall nominate candidates to contest in a presidential, parliamentary or county election in accordance with its constitution or rules, which shall be at least fifty-five days before such election.

*Section 31 of Act No. 24 of 2011 that the Bill proposes to amend—*

### **31. Nomination of political party candidates**

(1) A person qualifies to be nominated by a political party for presidential, parliamentary and county elections for the purposes of Articles 97, 98, 137, 177 and 180 of the Constitution if that person—

- (a) is selected in the manner provided for in the constitution or rules of the political party concerned relating to members of that party who wish to contest presidential, parliamentary and county elections; and
- (b) subject to subsection (4), the party certifies the nomination to the Commission.

(2) The Commission shall, upon the request of a political party, conduct and supervise the nomination of candidates by the political party for presidential, parliamentary or county elections in accordance with Article 88 of the Constitution.

(2A) Every political party shall submit the names of the party candidates who have been selected to participate in the general elections under this Act at least sixty days before the elections.

(2B) A political party shall, at least twenty-one days before the nomination day, submit to the Commission the names of the persons contesting in its party primary and the date of its party primary.

(2C) The Commission shall publish, in the *Gazette* the names of the persons contesting in a party primary under subsection (1) and the date of the party primary within seven days of receipt of the names of party candidates.

(2D) A candidate for a presidential, parliamentary or county election shall be selected by persons who are members of the respective political parties and whose names appear on the party membership list as submitted to the Commission under section 28.

(2E) Where the Commission receives multiple requests under subsection (2), the Commission shall conduct and supervise the nomination of candidates for presidential, parliamentary or county elections for all the requesting political parties—

- (a) on the same day;
- (b) in the same polling centres; and
- (c) in different polling streams for each participating political party.

(2F) Parliament shall appropriate monies for the effective implementation of this section.

(3) Every political party shall notify the Commission of the name of the person authorised by the party to certify to the Commission that a person has or persons have been selected by the party under subsection (1) and the person or persons so named shall deposit his or their specimen signature with the Commission in such manner as the Commission may require.

(4) The authorised person or persons referred to in subsection (4) shall, in writing, certify that a candidate has been nominated by the party.

*Section 109 of Act No. 24 of 2011 that the Bill proposes to amend—*

### **109. Regulations**

(1) The Commission may make regulations generally for the better carrying out of the purposes and provisions of this Act, and in particular, but without prejudice to the generality of the foregoing, may make regulations to—

- (a) prescribe the manner in which registers of voters shall be compiled and the manner in which they shall be revised;
- (b) prescribe the procedure for registration and issuance of voters cards and provide for the progressive registration of Kenyan citizens living abroad prisoner;
- (c) to provide for the regulation of the process by which parties nominate candidates for elections;
- (d) to provide for the manner of nomination, allocation and re-allocation of special seats and mechanisms for resolving disputes arising out of such nomination, allocation and re-allocation;
- (e) prescribe the procedure for making and determining claims to be registered and objections to registration;
- (f) authorise any registration officer to consider or determine any application, claim, objection or appeal, to summon any person to appear before them and give evidence on oath, and to administer an oath for that purpose and to order the production of any document relevant to any issue which the officer is required to consider and determine;
- (g) provide for the division of constituencies into units for the purpose of the registration of voters;
- (h) prescribe the conditions under which elections may be held in accordance with the provisions of the Constitution, this Act or any other written law relating to elections;

- 
- (i) prescribe the amount of the deposit to be paid by or on behalf of candidates at all elections and the circumstances in which the deposit may be forfeited;
  - (j) provide for the appointment of officers to preside at polling stations;
  - (k) prescribe the facilities to be provided at polling stations and the persons who may be admitted to polling stations;
  - (l) prescribe the place and manner in which votes may be cast and the construction and scaling of ballot boxes and provide for the issue of ballot papers to voters;
  - (m) provide for the manner in which, and the person by whom any question as to the identity of any person claiming the right to vote shall be determined;
  - (n) provide for the manner in which a voter who is not able to read or write may vote or be assisted in voting;
  - (o) provide for the manner in which a voter with special needs including a person with a disability may vote or be assisted in voting;
  - (p) prescribe the procedure to be followed in the counting of votes and the circumstances in which votes may be rejected by a returning officer as being invalid;
  - (q) prescribe conditions for the use of private motor vehicles, vessels or buildings at elections;
  - (r) prescribe the facilities to be provided during the electoral process and in particular, for voting by electronic machines and the persons entitled so to vote and the circumstances in which persons may so vote;
  - (s) provide for the allocation by the Commission, in a just and equitable manner of the use of state owned radio and television broadcasting services during any election period;
  - (t) prescribe the procedure to be adopted by the public in making representations for the alteration of electoral area boundaries;

- (u) prescribe the forms which may be used under this Act and the fees in respect of anything to be done under this Act;
  - (v) prescribe the procedure for advance voting for special categories including patients admitted in hospital, pastoralists, armed forces, elections officers and other citizens of Kenya providing essential services;
  - (w) prescribe the procedure for voting for citizens residing outside Kenya;
  - (x) provide for complaints resolution mechanisms and for the manner of settlement of electoral disputes;
  - (y) provide for the conduct of election observers, the media, monitors and evaluators and organisations carrying out civic and voter education;
  - (z) provide with reasonable grounds for the postponement of elections;
  - (aa) provide for mechanisms for carrying out effective voter education;
  - (bb) provide for the mode of declaration of the result of an election;
  - (cc) prescribe the manner of enforcing the Electoral Code of Conduct; or
  - (dd) provide for the conduct of campaigns during a referendum or an election;
  - (ee) provide for the financing of campaigns during a referendum or an election;
  - (ff) prescribe anything which is required to be prescribed or is necessary or desirable for the better giving effect to this Act.
- (2) The power to make regulations conferred on the Commission under this Act shall be—
- (a) for the purpose and objective of giving effect to the Constitution and this Act;

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- (b) limited to the nature and scope specifically stipulated in the Constitution and this Act; and
  - (c) based on the general principles and standards contained in the Constitution and this Act.

(3) The power to make regulations shall be exercised only after a draft of the proposed regulations has been approved by the National Assembly, at least four months preceding a general election:

Provided that this applies to the first general election under this Act.

(4) The Commission shall publish in the *Gazette*, not later than sixty days prior to the date of a general election, the regulations approved by the National Assembly under subsection (3).