



REPUBLIC OF KENYA

PARLIAMENT

NATIONAL ASSEMBLY BILLS

(Bill No. 56 of 2021)

**THE POLITICAL PARTIES (AMENDMENT) BILL,
2021**

(A Bill published in the Kenya Gazette Supplement No. 219 of 2021 and passed by the National Assembly, with amendments, on January 5th, 2022)

N.A./B/No. 56/2021

**THE POLITICAL PARTIES (AMENDMENT) BILL,
2021**

A Bill for

**AN ACT of Parliament to amend the Political Parties
Act; and for connected purposes**

ENACTED by the Parliament of Kenya as follows—

1. This Act may be cited as the Political Parties (Amendment) Act, 2021.

Short title.

2. Section 2 of the Political Parties Act, 2011 (hereinafter referred to as “the principal Act”) is amended by—

Amendment of section 2 of No. 11 of 2011.

(a) deleting the definition of the term “political party” and substituting therefor the following new definition—

“political party”—

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

(b) includes a coalition political party;

(b) deleting the definition of the term “party primary”; and

(c) inserting the following new definitions in proper alphabetical sequence—

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

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

“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; and

“statement of ideology” means a statement setting out the doctrine, ethical ideals, and principles of the party.

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3. Section 3 of the principal Act is amended by inserting the following new subsection immediately after subsection (2) –

Amendment of section 3 of No. 11 of 2011.

“(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”.

4. The principal Act is amended by inserting the following new sections immediately after section 4—

Insertion of new section 4A in No. 11 of 2011.

Roles and functions of a political party.

4A. 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.

Reservation of name, symbol and slogan.

4B. (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).

5. Section 5 of the principal Act is amended—

Amendment of section 5 of No. 11 of 2011.

- (a) by inserting the following new subsection immediately after subsection (1)—

(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.

- (b) in subsection (5), by deleting the words “one hundred and eighty days” and substituting therefor the words “two hundred and seventy days”.

6. Section 6 of the principal Act is amended—

Amendment of section 6 of No. 11 of 2011.

- (a) in subsection (2), by inserting the following new paragraph immediately after paragraph (d)—

(da) be accompanied by a statement of the ideology of the proposed political party;

- (b) in subsection (3), by inserting the words “and slogan” immediately after the word “symbol”.

7. Section 7 of the principal Act is amended—

Amendment of section 7 of No. 11 of 2011.

- (a) in subsection (2) (f), by inserting the following new item immediately after item (iv)—

(v) the address of the official website of the

political party.

(b) by inserting the following new subsections immediately after subsection (5)—

(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.

8. Section 8 of the principal Act is amended—

Amendment of
section 8 of No.
11 of 2011.

(a) in the opening statement, by inserting the words “the slogan” immediately after the word “name”;

(b) in paragraph (c), by inserting the word “slogan” immediately after the word “name”;

(c) by inserting the following new paragraphs immediately after paragraph (c)—

(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.

9. Section 10 of the principal Act is amended—

Amendment of
section 10 of No.
11 of 2011.

(a) in subsection (1), by inserting the words “or a coalition political party” immediately after the words “form a coalition”; and

(b) by inserting the following proviso to subsection (2)—

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.

10. Section 14 of the principal Act is amended by—

Amendment of section 14 of No. 11 of 2011.

- (a) deleting subsection (5);
- (b) deleting subsection (5A);
- (c) deleting subsection (6); and
- (d) deleting subsection (7).

11. The principal Act is amended by inserting the following new sections immediately after section 14—

Insertion of new section 14A in No. 11 of 2011.

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

14A. (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 Registrar may, where the Registrar is satisfied that the political party has complied with 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.

Expulsion of a member from a political party.

14B. (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.

12. Section 16 of the principal Act is amended in subsection (4) by inserting the words "and in the political party's official website" immediately after the word "circulation".

Amendment of section 16 of No. 11 of 2011.

13. Section 20 of the principal Act is amended—

Amendment of
section 20 of No.
11 of 2011.

- (a) in subsection (2), by—
- (i) deleting the word “two” and substituting therefor the word “one”; and
 - (ii) inserting the words “and in the political party’s official website” immediately after the word “circulation”;
- (b) by inserting the following new subsections immediately after subsection (3A)—

(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.

14. Section 21 of the principal Act is amended—

Amendment of
section 21 of No.
11 of 2011.

- (a) by deleting the marginal note and replacing it with the following new marginal note—
- “Suspension and deregistration of a political party”.
- (b) in subsection (1), by inserting the word “suspend” immediately after the word “may”;
- (c) by inserting the following new subsection immediately after subsection (1)—

(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.

(d) in subsection (2), by inserting the words “suspending and” immediately after the word “before”;

(e) by deleting subsection (3); and

(f) by inserting the following new subsection immediately after subsection (4)—

(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.

(g) by inserting the following new subsection immediately after subsection (6)—

(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.

15. Section 22 of the principal Act is amended by—

Amendment of
section 22 of No.
11 of 2011.

(a) deleting subsection (2) and substituting therefor the following new subsection—

(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 a member of another political party or independent of any political party.

(b) deleting subsection (3).

16. Section 24 of the principal Act is amended in subsection (1) (a) by deleting the words “the revenue collected by the national government as may be provided by Parliament” and substituting therefor the words “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”.

Amendment of section 24 of No. 11 of 2011.

17. Section 25 of the principal Act is amended—

Amendment of section 25 of No. 11 of 2011.

(a) by deleting subsection (1) and substituting therefor the following new subsection—

(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.

(b) by deleting paragraph (b) and substituting therefor the following new paragraph –

“(b) by deleting subsection (2) and substituting

therefor the following new subsection –

(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.

18. Section 26 of the principal Act is amended—

Amendment of section 26 of No. 11 of 2011.

(a) by inserting the following new subsection immediately after subsection (1)—

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

(b) in subsection (3)(a) by deleting the words “a member of staff” appearing at the end of the subsection and substituting therefor the words “a party election agent or a contracted person in furtherance of the objectives under subsection (1) or an employee of the political party”.

19. Section 29 of the principal Act is amended in subsection (2) by—

Amendment of section 29 of No. 11 of 2011.

- (a) deleting the word “two” and substituting therefor “one”; and
- (b) inserting the words “and in the political party’s official website” immediately after the word “circulation”.

20. Section 30 of the principal Act is amended in subsection (1) by deleting the word “sixty” and substituting therefor the words “ninety”.

Amendment of section 30 of No. 11 of 2011.

21. Section 31 of the principal Act is amended by

Amendment of section 31 of No.

deleting subsection (3).

11 of 2011.

22. Section 34 of the principal Act is amended—

Amendment of
section 34 of No.
11 of 2011.

(a) by inserting the following new paragraph immediately after paragraph (d)—

(da) keep and maintain a register of members of registered political parties;

(b) in paragraph (f), by deleting the word “his” appearing immediately after the words “the Commission of” and substituting therefor the word “the”;

(c) by inserting the following new paragraphs immediately after paragraph (f)—

(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; and

(fe) train political party election agents upon the request and financing by the political party.

23. The principal Act is amended by inserting the following new sections immediately after section 34A—

Insertion of new
section in No. 11
of 2011.

Use of technology.

34B. (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 the provisions of this section.

Powers of the Registrar in respect of political party records.

34C. (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.

24. The principal Act is amended by inserting the following new Part immediately after section 38—

Insertion of new Part in No. 11 of 2011.

PART IVA—PARTY NOMINATIONS

Methods of conducting party nominations.

38A. A political party may conduct party nominations using any of the following methods—

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

Establishment of party structures.

38B. (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.

Registered members to participate in party nominations.

38C. (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.

Access to register.

38D. A political party shall ensure that the register of members used in party nominations is accessible to the registered members of the party.

Notification on party nominations.

38E. (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.

Conduct of direct party nominations.

38F. (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.

Conduct of indirect party nominations.

38G. (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.

Vetting of candidates.

38H. 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.

Resolution of party nominations disputes.

38I. A political party shall resolve any disputes arising out of the party nominations within thirty days after the date of the party nominations.

Amendment of section 39 of No. 11 of 2011.

25. Section 39 of the principal Act is amended in subsection (2) by inserting the following new paragraph immediately after paragraph (b) –

“(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)”.

Insertion of new section 39A in No.11 of 2011.

26. The principal Act is amended by inserting the following new section immediately after section 39 –

39A. (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:

Appointment of *ad hoc* members of the Tribunal.

- (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.

27. Section 40 of the principal Act is amended—

Amendment of section 40 of No. 11 of 2011.

(a) in subsection (1), by—

- (i) deleting the words “a political party and a political party” appearing in paragraph (b) and substituting therefor the words “a political party and the political party”; and
- (ii) by deleting the words “party primaries” appearing in paragraph (fa) and substituting therefor the words “party nominations”;

(b) by deleting subsection (2) and substituting therefor the following new subsection—

“(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”.

(c) by inserting the following new subsection immediately after subsection (2)—

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

28. Section 41 of the principal Act is amended —

Amendment of section 41 of No. 11 of 2011.

- (a) in subsection (2), by deleting the words “to both the Court of Appeal and the Supreme Court” and substituting therefor the words “to the Court of Appeal and the decision of the Court of Appeal shall be final”;
- (b) in subsection (3), by inserting the words “but the Tribunal shall have the powers of the High Court to punish for any acts or omissions amounting to

contempt of the Tribunal” immediately after the words “Magistrates Court”.

29. Section 45 of the principal Act is amended by inserting the following new subsection immediately after subsection (1)—

Amendment of section 45 of No. 11 of 2011.

(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.

30. The principal Act is amended in the Second Schedule by inserting the following new paragraph immediately after paragraph 5—

Amendment of the Second Schedule to No. 11 of 2011.

5A. The address of the official website of the political party.

31. The Elections Act, 2011 is amended—

Amendment of No. 24 of 2011.

(a) in section 27, by inserting the following new subsection immediately after subsection (1)—

(1A) The Registrar of Political Parties shall certify the nomination rules submitted under subsection (1).

(b) by inserting the following new section immediately after section 28—

Certification of party membership lists.

28A. (1) A political party that nominates a person for an election under this Act shall, at least fourteen days before submitting the party membership list to the Commission under section 28 (1), submit the party membership list to the Registrar of Political Parties for certification.

(2) The Registrar shall verify the names contained in the party membership list submitted by a political party under subsection (1) and, where the names are of members of that political party, certify the membership list within seven days after receiving the application under subsection (1).

(c) by inserting the following new section immediately

after section 35—

Certification of party lists.

35A. (1) A political party intending to submit a party list to the Commission shall, at least fourteen days before the submission of the party list to the Commission under section 35, submit the party list to the Registrar for certification.

(2) The Registrar shall verify that the names appearing in the party list belong to registered members of the political party and certify the party list within seven days after the application under subsection (1).

(3) Any dispute arising out of the certification of a party list under this section shall be referred to the Political Parties Dispute Tribunal for determination.

The Political Parties (Amendment) Bill, 2021

I certify that this printed impression is a true copy of the Bill passed by the National Assembly on Wednesday, 5th January, 2022.



Clerk of the National Assembly

Endorsed for presentation to the Senate in accordance with the provisions of Standing Order 142 of the National Assembly.



Speaker of the National Assembly

The Political Parties (Amendment) Bill, 2021
