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REPUBLIC OF KENYA

PARLIAMENT

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SENATE BILLS  
*(Bill No. 29 of 2024)*



**THE ELECTIONS (AMENDMENT) (NO. 2) BILL, 2024**

(A Bill published in the Kenya *Gazette* Supplement No. 99 of 7<sup>th</sup> May, 2024 and passed by the Senate, with amendments, on 5<sup>th</sup> December, 2024)

**THE ELECTIONS (AMENDMENT) (NO. 2) BILL, 2024**

**A Bill for**

**AN ACT of Parliament to amend the Elections Act and for connected purposes.**

**ENACTED** by the Parliament of Kenya, as follows—

Short title.

1. This Act may be cited as the Elections (Amendment)(No. 2) Act, 2024.

Amendment of section 2 of No. 24 of 2011.

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

(a) deleting the definition of “nomination” and substituting therefor with the following new definition—

“nomination” means the process through which a political party elects or selects its candidates for elections;

(b) deleting the definition of “nomination day”;

(c) deleting the definition of political party and substituting therefor with the following new definition—

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

(d) inserting the word “valid” immediately before the words “Kenyan passport” in the definition of “identification document”; and

(e) inserting the following new definition in its proper alphabetical sequence—

“registration of a candidate” means the process through which a person applies to and is cleared by the Commission to contest in an election.

Amendment of section 5 of No. 24 of 2011.

3. Section 5 of the principal Act is amended—

(a) in subsection (1)(b) by inserting the words “within the affected electoral area” immediately after the words “such by-election”;

(b) in subsection (1)(ba) by inserting the words “of the

referendum question” immediately after the word “publication”;

- (c) by inserting the following new subsection immediately after subsection 3-

“(3A) A person who registers as a voter during the period when registration of voters is suspended for the purposes of a by-election as contemplated under subsection (1)(b) shall not be eligible to contest in the electoral area affected by the by-election.

Amendment of section 6 of No. 24 of 2011.

4. Section 6 of the principal Act is amended—

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

(1) The Commission shall cause the Register of Voters to be opened for inspection by members of the public at all times.

(1A) The Commission may revise the particulars of voters at any time except –

(a) in the case of a general election or an election under Article 138(5) of the Constitution, during the sixty-day period before the date of the election;

(b) in the case of a by-election, between the date of the declaration of the vacancy of the seat concerned and the date of such election within the affected electoral area; or

(c) in the case of a referendum, between the date of the publication of the referendum question and the date of the referendum.

- (b) by deleting subsection (2).

Amendment of section 8A of No. 24 of 2011.

5. Section 8A of the principal Act is amended—

- (a) by deleting subsection (3); and

(b) in subsection (4), by deleting the expression “subsection (3)” and substituting therefor the expression “subsection (1)”.

Amendment of section 14 of

6. Section 14 of the principal Act is amended in

No. 24 of 2011. subsection (2)—

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

(a) the day or days for the registration of candidates for the presidential election;

(b) by deleting the word “nomination” appearing in paragraph (b) and substituting therefor the words “registration of candidates”.

Amendment of section 16 of No. 24 of 2011.

7. Section 16 of the principal Act is amended in subsection (2)—

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

(b) the day or days for registration of candidates for the parliamentary election;

(b) by deleting the word “nomination” appearing in paragraph (c) and substituting therefor the words “registration of candidates”.

Amendment of section 17 of No. 24 of 2011.

8. Section 17 of the principal Act is amended in subsection (2)—

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

(a) the day or days for registration of candidates for the election for a county governor;

(b) by deleting the word “nomination” appearing in paragraph (b) and substituting therefor the words “registration of candidates”.

Amendment of section 19 of No. 24 of 2011.

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

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

(b) the day or days for registration of candidates for the county elections; and

(b) by deleting the word “nomination” appearing in paragraph (c) and substituting therefor the word “registration”.

Amendment of  
section 22 of  
No. 24 of 2011.

**10.** Section 22 of the principal Act is amended-

- (a) in the marginal note by deleting the word “nomination” and substituting therefor the word “registration”;
- (b) in subsection (1) by-
  - (i) deleting the word “nominated” appearing in the introductory phrase and substituting therefor the word “registered”;
  - (ii) deleting paragraph (b); and
- (c) in subsection (2), by deleting the word “nominated” and substituting therefor the word “registered”.

Amendment of  
section 23 of  
No. 24 of 2011.

**11.** Section 23 of the principal Act is amended—

- (a) in the marginal note, by deleting the word “nomination” and substituting therefor the word “registration”;
- (b) in the introductory phrase of subsection (1) by deleting the word “nomination” appearing immediately after the words “person qualifies” and substituting therefor the word “registration”; and
- (c) in the introductory phrase of subsection (2) by deleting the word “nomination” appearing immediately after the words “not qualified for” and substituting therefor the word “registration”.

Amendment of  
section 24 of  
No. 24 of 2011.

**12.** Section 24 of the principal Act is amended—

- (a) in the marginal note by deleting the word “nomination” and substituting therefor the word “registration”; and
- (b) in the introductory phrase of subsection (1) by deleting the word “nomination as a” and substituting therefor the words “registration as a candidate for election to the office of”.

Amendment of  
section 25 of  
No. 24 of 2011.

**13.** Section 25 of the principal Act is amended—

- (a) in the marginal note by deleting the word “nomination” and substituting therefor the word “registration”;

- (b) in the introductory phrase of subsection (1) by deleting the word “nomination as a” and substituting therefor the words “registration as a candidate for election to the office of”;

Amendment of  
section 27 of  
No. 24 of 2011.

**14.** Section 27 of the principal Act is amended—

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

(1B) Notwithstanding the provisions under subsection (1) a coalition political party shall, within fourteen days of registration, submit to the Commission a copy of the coalition political party’s nomination rules certified by the Registrar of Political Parties.

- (b) in subsection (2A) by deleting the words “from a political party under subsection (1)” appearing immediately after the words “the nomination rules” and substituting thereof the words “under subsection (1) and (1B)”.

Amendment of  
section 31 of  
No. 24 of 2011.

**15.** Section 31 of the principal Act is amended—

- (a) by deleting subsection (2);
- (b) by deleting subsection (2E); and
- (c) by deleting subsection (2F).

Amendment of  
section 32 of  
No. 24 of 2011.

**16.** Section 32 of the principal Act is amended—

- (a) in subsection (1) by deleting the words “nomination day” appearing immediately after the words “days before” and substituting therefor the words “the date for registration of candidates”;
- (b) in subsection (1A) by deleting the word “nomination” appearing immediately after the words “days before” and substituting therefor the words “the date for registration of candidates”; and
- (c) in subsection (3) by deleting the word “candidate” appearing immediately after the words “the symbol of another” in paragraph (a) and substituting therefor the words “independent candidate within the same county”.

Amendment of  
section 33 of  
No. 24 of 2011.

**17.** Section 33 of the principal Act is amended—

- (a) in the marginal note by deleting the word “nomination” and substituting therefor the word “registration”;
- (b) in subsection (1)—
  - (i) by deleting the word “nominated” appearing in the introductory phrase and substituting therefor the word “registered”;
  - (ii) by deleting the words “nomination paper” appearing in paragraph (b) and substituting therefor the words “registration of candidates Form”;
  - (iii) by deleting the words “nomination day” appearing in paragraph (c) and substituting therefor with the words “date for registration of candidates”;
  - (iv) by deleting paragraph (d); and
- (c) by deleting subsection (2).

Insertion of new  
section 33A in  
No. 24 of 2011.

**18.** The principal Act is amended by inserting the following new section immediately after section 33—

Publication of registered candidates. **33A.** The Commission shall publish in the Gazette the names of political party candidates and independent candidates registered to contest in an election.

Amendment of  
section 34 of  
No. 24 of 2011.

**19.** Section 34 of the principal Act is amended-

- (a) by inserting the following new subsections immediately after subsection 8—

(8A) A person shall not be nominated by a political party under subsection (4) unless the person is, on the date of submission of the party list by the political party, a registered voter in any of the wards in the county in which the person is nominated.

(8B) The nomination under subsection (4) by a political party shall ensure equitable representation from all wards comprising the respective county.

(b) by deleting subsection (9).

Insertion of new section 38A in No 24 of 2011.

**20.** The principal Act is amended by inserting the following new section immediately after section 38 –

Gazettement of polling station.

**38A.** (1) The Commission shall —

(a) appoint a place or places as a polling station or polling stations for each electoral area; and

(b) publish in the Gazette and publicise through electronic and print media of national circulation and other easily accessible medium, a notice specifying the polling stations established for each electoral area at least three months before the date of any election.

(2) No election shall be conducted in a place other than a place gazetted as a polling station under subsection (1).

Amendment of section 38A of No. 24 of 2011.

**21.** Section 38A of the principal Act be amended by—

(a) renumbering it 38B; and

(b) by deleting the words “not exceed seven hundred” appearing immediately after the words “polling station shall not exceed” and substituting therefor the words “by between fifty and one thousand”.

Deletion and substitution of section 39 of No. 24 of 2011.

**22.** The principal Act is amended by deleting section 39 and substituting therefor the following new section—

Determination and declaration of results.

**39.(1)** The Commission shall determine, declare and publish the results of an election immediately after the close of polling and results declared at the polling station shall be final.

(2) The Commission shall appoint constituency returning officers to be responsible for-

(a) tallying, announcement and declaration, in the prescribed



form, of the final results from each polling station in a constituency for the election of a member of the National Assembly and members of a county assembly;

- (b) collating, announcing and declaring the results from each polling station in the constituency for the election of the President, county Governor, Senator and county women representative to the National Assembly; and
- (c) submitting, in the prescribed form, the collated results for the election of the President to the national tallying centre and the collated results for the election of the county Governor, Senator and county women representative to the National Assembly to the respective county returning officer.

(3) The Commission shall appoint county returning officers to be responsible for tallying, announcement and declaration, in the prescribed form, of final results from constituencies in the county for purposes of the election of the county Governor, Senator and county women representative to the National Assembly.

(4) For purposes of a presidential election, the Commission shall—

- (a) tally, announce and declare the presidential results before tallying, announcing and declaring results for the other elective positions;
- (b) electronically transmit the results, within two hours of the declaration of the results, from a polling station to the constituency tallying centre, national tallying centre, the candidates or their

agents and elections observers in the prescribed form;

(c) where the results are not transmitted in accordance with paragraph (b), provide reasons in a prescribed form;

(d) physically deliver the tabulated results from a polling station to the constituency tallying centre and thereafter to the national tallying centre;

(e) tally and verify the results received at the constituency tallying centre and the national tallying centre; and

(f) publish the polling results forms on an online public portal maintained by the Commission.

(5) The Commission shall verify that the results transmitted under this section are an accurate record of the results tallied, verified and declared at the respective polling stations.

(6) The Chairperson of the Commission shall declare the results of the election of the President in accordance with Article 138(10) of the Constitution.

(7) The Chairperson may declare a candidate elected as the President before all the constituencies have transmitted their results if the Commission is satisfied that the results that have not been received will not affect the result of the election.

(8) The Commission shall announce the final results in the order in which the tallying and verification of the results is completed.

(9) The Commission shall, to facilitate public information, allow a candidate and their agent, observers and any other person authorised to access a polling

station or tallying centre to record and document the tallying, announcement and declaration of results.

Amendment of  
section 44 of  
No. 24 of 2011.

**23.** Section 44 of the principal Act is amended by inserting the following new subsection immediately after subsection (4) –

(4A) In procuring the technology, the Commission shall ensure that –

- (i) intellectual property rights to the technology vests in the Commission;
- (ii) the supplier or their associates have not been found guilty of violating any procurement law, committed a crime, violated professional standards or been barred from participating in public procurement in any jurisdiction;
- (iii) subject to the Constitution, this Act and the Data Protection Act, the technology is accessible and available for scrutiny by candidates, courts and such other persons as required under the law; and
- (iv) processing of data is only effected through a server or a data centre located in Kenya.

No. 24 of 2019

Amendment of  
section 44A of  
No. 24 of 2011.

**24.** Section 44A of the principal Act is amended-

- (a) by renumbering the existing provision as subsection (1);
- (b) by inserting the words “and transmission of election results” immediately after the words “identification of voters”; and
- (c) by inserting the following new sub-section immediately after subsection (1)—

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

Amendment of  
section 45 of  
No. 24 of 2011.

**25.** Section 45 of the principal Act be amended by—

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

(2) A member may be recalled on the following grounds—

(a) misconduct likely to bring hatred, ridicule, contempt or disrepute to the office; and,

(b) persistent desertion of the electorate without reasonable cause.

(b) deleting subsection (3); and

(c) deleting subsection (6).

Amendment of section 46 of No. 24 of 2011.

**26.** Section 46 of the principal Act is amended in subsection (1) by-

(a) deleting subparagraph (ii) appearing in paragraph (b); and

(b) deleting paragraph (c)

Amendment of section 48 of No. 24 of 2011.

**27.** The principal Act is amended by deleting section 48.

Repeal of section 74 of No. 24 of 2011.

**28.** The principal Act is amended by repealing section 74.

Amendment of section 75 of No. 24 of 2011.

**29.** Section 75 of the principal Act is amended –

(a) in subsection (4) by deleting the words “on matters of law only”; and

(b) by inserting the following subsection immediately after subsection (4)—

(5) The determination of the appeal under subsection (4) by the High Court shall be final.

Insertion of new section 82A in No. 24 of 2011.

**30.** The principal Act is amended by inserting the following new section immediately after section 82 –

Access to information.

**82A.** (1) The Commission shall ensure access to information including any technology used in the elections in accordance with the Constitution, the Data Protection Act and the Independent Electoral and Boundaries Commission Act.

No. 24 of 2019  
No. 9 of 2011

(2) Where a request for access to information is made for the purposes of a court order for scrutiny of votes, the

Commission shall facilitate access—

(a) in the case of a presidential election, within three days of the date of the request; and

(b) in the case of any other elective position, within seven days of the date of the request.

(3) The Commission shall not charge fees where the information requested is provided in softcopy format.

(4) Where information requested is to be provided in hardcopy format, the Commission may charge a prescribed fee for the provision of the information and the fee shall not exceed the actual costs of making copies of such information and if applicable, supplying them to the applicant.

(5) The Commission shall, in ensuring access to information, ensure that the information is in accessible formats for persons with disability where such a request is made or where the information is required to be made available to the general public.

Amendment of section 85A of No. 24 of 2011.

**31.** Section 85A of the principal Act is amended –

(a) in subsection (1) by deleting the words “on matters of law only”; and

(b) by inserting the following subsection immediately after subsection (2)—

(3) The determination of the appeal under section (2) by the Court of Appeal shall be final.

Insertion of new part in No. 24 of 2011.

**32.** The principal Act is amended by inserting the following new sub-part immediately after section 87-

***Evaluation of electoral process***

Evaluation of elections.

**87A.** (1) The Commission shall, pursuant to Article 88(4)(h) of the Constitution and within one year of a general election, facilitate evaluation of the electoral process.

(2) An evaluation under subsection (1) shall

include-

- (a) a review of the legal framework under which the general elections were conducted;
- (b) an audit of the Register of Voters used during the election;
- (c) a review of the role of media and civil society in the elections;
- (d) a review of the voting procedures on election day;
- (e) a review of the vote counting procedures on election day;
- (f) a review of the elections information and communication technology deployed in the conduct of the general elections;
- (g) a review of the human resource deployed for the conduct of the general elections;
- (h) a review of the existing elections disputes resolution mechanisms; and
- (i) a review of the cost of conducting the general elections including the procurement of the necessary goods and services.

Reports.

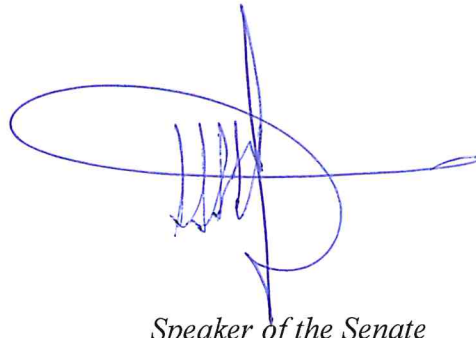
**87B.** A report on the evaluation of the electoral process undertaken in accordance with section 87A shall be published in the *Gazette* and submitted to Parliament.

I certify that this printed impression is a true copy of the Bill as passed by the Senate on Thursday, 5<sup>th</sup> December, 2024.



*Clerk of the Senate*

Endorsed for presentation to the National Assembly in accordance with the provisions of Standing Order 161 of the Senate Standing Orders.



*Speaker of the Senate*

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