



REPUBLIC OF KENYA

PARLIAMENT

SENATE BILLS

(Bill No. 26 of 2024)



**THE POLITICAL PARTIES (AMENDMENT) (NO. 2)
BILL, 2024**

(A Bill published in the Kenya *Gazette* Supplement No. 96 of 7th May, 2024 and passed by the Senate, with amendments, on 5th December, 2024.)

THE POLITICAL PARTIES (AMENDMENT) (NO. 2) BILL, 2024

A Bill for

AN ACT of Parliament to amend the Political Parties Act, Cap. 7D; and for connected purposes.

ENACTED by the Parliament of Kenya as follows—

Short title and commencement.

1. This Act may be cited as the Political Parties (Amendment) Act, 2024 and shall come into force upon publication in the *Gazette*.

Amendment of section 2 of Cap. 7D.

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

(a) deleting the definition of the word “Commission” and substituting therefor the following new definition—

“Commission” means the Independent Political Parties Regulatory Commission established under section 33;

(b) by deleting the definition of the term “Registrar”.

Amendment of section 21 of Cap. 7D.

3. Section 21 of the principal Act is amended by deleting subsection (7) and substituting therefor the following new subsection –

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

Amendment of Cap. 7D.

4. The principal Act is amended—

(a) by deleting the word “Registrar” wherever it appears and substituting therefor the word “Commission”; and

(b) by deleting the words “Office of the Registrar of Political Parties” wherever they appear and substituting therefor the word “Commission”.

Repeal of section 14A of Cap. 7D.

5. The principal Act is amended by repealing section 14A.

Amendment of section 32 of Cap. 7D.

6. Section 32 of the principal Act is amended by –

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

(1) The Commission shall keep proper books of account of the income, expenditure and assets of the Commission.

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

(2) Within a period of three months after the end of a financial year, the Commission shall submit to the Auditor-General, the accounts of the Commission

together with—

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

Repeal and replacement of section 33 of Cap. 7D.

7. The principal Act is amended by repealing section 33 and substituting therefor the following new sections—

Establishment of the Independent Political Parties Regulatory Commission.

33. (1) There is established a Commission known as the Independent Political Parties Regulatory Commission.

(2) The Commission shall be a body corporate with perpetual succession and a 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

Functions of the Commission.

33A. (1) The Commission is responsible for —

- (a) the registration of political parties and their office holders;
- (b) the management of the Political Parties' Fund established under this Act;
- (c) ensuring the publication of audited annual accounts of political parties;
- (d) the verification and making publicly available the list of all members of political parties;
- (e) keeping and maintaining a register of members of registered political parties;
- (f) maintaining a register of political parties and the symbols of the political parties;
- (g) ensuring and verifying that no person is a member of more than

- one political party and notifying the Independent Electoral and Boundaries Commission of its findings;
- (h) certifying that an independent candidate in an election is not a member of any registered political party;
 - (i) certifying that the symbol intended to be used by an independent candidate in an election does not resemble the symbol of a registered political party;
 - (j) certifying that the names appearing in a party list are the names of members of the political party; presenting the party list;
 - (k) regulating political party nominations in accordance with this Act;
 - (l) training political party election agents upon the request and financing by the political party;
 - (m) investigating complaints received under this Act; and
 - (n) such other functions as may be conferred on the Commission by national legislation.

(2) The Commission, in the performance of its functions, shall be independent and not subject to the direction or control of any person or authority.

Membership of the Commission.

33B. (1) The Commission shall comprise of five members nominated in accordance with subsection (2) and appointed by the President with the approval of Parliament.

(2) The members of the Commission shall be nominated as follows —

- (a) two members, one man and one woman, nominated by the majority party or coalition of parties in Parliament;
- (b) two members, one man and one woman, nominated by the minority party or coalition of

parties in Parliament; and

- (c) one member nominated by the Parliamentary Service Commission being a representative of nonparliamentary registered political parties.

(3) The members of the Commission shall elect a chairperson and vice chairperson from among themselves—

- (a) at the first sitting of the Commission; and
- (b) whenever it is necessary to fill a vacancy in the office of the chairperson and vice-chairperson.

(4) The chairperson and vice chairperson of the Commission shall not be of the same gender.

Qualifications
appointment
member of
Commission.

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33C. (1) A person is qualified for appointment as member of the Commission if that 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) electoral matters
 - (v) law;
 - (vi) governance; or
 - (vii) public administration;
- (c) has at least ten years post qualification experience in the relevant areas of expertise; and
- (d) meets the requirements of Chapter Six of the Constitution.

(2) A person is not qualified for appointment as a member of the Commission if the person –

- (a) has, at any time within the

preceding five years, held office or stood for election for any elective position in Kenya or as a member of a governing body of a political party;

- (b) is an undischarged bankrupt; or
- (c) has been removed from office for contravening the provisions of the Constitution or any other law.

(3) A person who serves as a member of the Commission is not eligible to contest for any elective position or as a member of a governing body of a political party within five years of the person ceasing to be a member of the Commission.

Tenure of office.

33D. (1) The members of the Commission shall be appointed for a single term of six years and are not eligible for re-appointment.

(2) The members of the Commission shall serve on a full-time basis.

Vacancy in the office of a member of the Commission.

33E. (1) The office of a member of the Commission shall become vacant if the holder—

- (a) dies;
- (b) resigns from office by notice in writing addressed to the President; or
- (c) is removed from office in accordance with section 33F.

(2) The President shall publish a notice of a vacancy in the Gazette within seven days of the occurrence of such vacancy.

(3) Whenever a vacancy arises under subsection (1), the nominating body shall, within sixty days from the date of publication of the vacancy, competitively recruit and submit the name of the nominee to the President for appointment.

(4) The members of the Commission shall, before assuming office, take and subscribe to the oath or affirmation prescribed in the Fourth Schedule.

Removal from office.

33F. (1) A member of the Commission

may be removed from office only on grounds of—

- (a) serious violation of the Constitution or of this Act;
- (b) gross misconduct whether in the performance of the member's or office holder's functions or otherwise;
- (c) physical or mental incapacity to perform the functions of office;
- (d) bankruptcy; or
- (e) incompetence.

(2) A person desiring the removal of a member of the Commission 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 member.

(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), send the petition to the President.

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

- (a) suspend the member 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; and

- (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, within thirty days, investigate the matter and report on the facts to the President who shall act in accordance with the recommendation.

(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.

Procedure of the Commission.

33G. (1) The business and affairs of the Commission shall be conducted in accordance with the Sixth Schedule.

(2) Except as provided in the Sixth Schedule, the Commission may regulate its own procedure.

Terms and conditions of service.

33H. The salaries and allowances payable to, and other terms and conditions of service of the members of the Commission shall be determined by the Salaries and Remuneration Commission.

Appointment of the secretary.

33I. (1) There shall be a secretary to the Commission who shall be competitively recruited and appointed by the Commission.

(2) The secretary shall be –

- (a) the chief executive officer of the Commission; and
- (b) the head of the secretariat and shall be responsible to the Commission.

(3) A person is qualified for appointment as a secretary to the Commission if the person—

- (a) is a citizen of Kenya;
- (b) holds a degree from a university recognized in

Kenya;

(c) has had at least ten years proven experience at management level;

(d) has extensive experience in public administration; and

(e) meets the requirements of Chapter Six of the Constitution.

(4) The secretary shall hold office for a term of five years and shall be eligible for re-appointment for a further term of five years.

Removal of the secretary.

33J. (1) The secretary may be removed from office by the Commission in accordance with the terms and conditions of service for—

(a) inability to perform the functions of the office of secretary arising out of physical or mental incapacity;

(b) gross misconduct;

(c) incompetence or neglect of duty;

(d) violation of the Constitution; or

(e) any other ground that would justify removal from office under the terms and conditions of service.

(2) Before the secretary is removed under subsection (1), the Secretary shall be given—

(a) sufficient notice of the allegations made against him or her; and

(b) an opportunity to present his or her defence against the allegations

Powers of the Commission to appoint staff.

33K. The Commission shall have the power to appoint such other staff as may be necessary for the proper discharge of its functions under this Act and on such terms and conditions of service as the Commission may determine in consultation with the Salaries and Remuneration

Commission.

Repeal of section 34 of Cap. 7D.

8. The principal Act is amended by repealing section 34.

Repeal of section 34A of Cap. 7D.

9. The principal Act is amended by repealing section 34A.

Amendment of section 34C of Cap. 7D.

10. Section 34C of the principal Act is amended –

(a) in subsection (1) by deleting the words “or is deemed to have resigned from the political party and the Registrar has been notified of the resignation” appearing in paragraph (c); and

(b) by deleting subsection (4) and substituting therefor the following new subsection –

(4) A political party that is dissatisfied by the decision of the Commission under subsection (1) may appeal to the High Court.

Repeal of section 36 of Cap. 7D.

11. The principal Act is amended by repealing section 36.

Repeal of section 37 of Cap 7D.

12. The principal Act is amended by repealing section 37.

Amendment of section 38 of Cap 7D.

13. Section 38 of the principal Act is amended in subsection (3) by inserting the words “Independent Electoral and Boundaries” immediately after the words “between the Registrar”.

Amendment of section 40 of Cap. 7D.

14. Section 40 of the principal Act is amended in subsection (1) by deleting paragraph (f).

Repeal and substituting of the Sixth Schedule.

15. The principal Act is amended by repealing the Sixth Schedule and substituting therefor the following new schedule –

SIXTH SCHEDULE

(s. 33G)

MEETINGS AND PROCEDURE OF THE COMMISSION

1. Meetings

(1) The Commission shall decide when and where it meets and the meetings shall be convened by the chairperson.

(2) The Commission shall have at least four meetings in every financial year and not more than four months shall elapse between one meeting and the next meeting.

(3) Unless three members otherwise agree, at least seven days’ notice in writing of a meeting shall be given to every member.

(4) A meeting shall be presided over by the chairperson or in

the absence of the chairperson, by the vice-chairperson.

- (5) The Commission may invite any person to attend any of its meetings and to participate in its deliberations, but such person shall not have a vote in any decision of the Commission.

2. Committees of the Commission

- (1) The Commission may, from time to time, establish committees for the better carrying out of its functions.
- (2) The Commission may—
 - (a) co-opt into the membership of a committee established under subsection (1) other persons whose knowledge and skills are necessary for the functions of the Commission;
 - (b) hire such experts or consultants as are necessary for the functions of the Commission.

3. Conflict of interest

- (1) If any person has a personal or fiduciary interest in any matter before the Commission, and is present at a meeting of the Commission or any committee at which any such matter is the subject of consideration, that person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not take part in any consideration or discussion of, or vote on any question touching such matter.
- (2) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.
- (3) A person who contravenes subparagraph (1) commits an offence.
- (4) No member or staff of the Commission shall transact any business or trade with the Commission.

3. Quorum

Subject to subparagraph (2), the quorum of the meeting shall be three members.

4. Voting

A question before the Commission shall be decided with a supporting vote majority of the members present.

5. Rules of procedure and minutes

The Commission shall—

- (a) determine rules of procedure for the conduct of its business; and
- (b) keep minutes of its proceedings and decisions.

Savings and
Transition
provision.


16. On the commencement of this Act – –

- (a) all the funds, assets and other property movable and immovable which immediately before that day, were held in the name of the Office of the Registrar of Political Parties shall, without further assurance, vest in the Commission;
- (b) all rights, powers, liabilities and duties, whether arising under any written law or otherwise, which immediately before that day were vested in, imposed on or enforceable by or against the Office of the Registrar of Political Parties shall, be transferred to, vested in, imposed on or enforceable by or against the Commission;
- (c) all actions, suits or legal proceedings pending by, against or before the Office of the Registrar of Political Parties shall be carried on or prosecuted by, against or before the Commission;
- (d) all records kept, certificate issued, actions taken and decisions made by the Office of the Registrar of Political Parties shall, deemed to have been kept, issued or made by the Commission;
- (e) a person who immediately before that day was a member of staff of the Office of the Registrar of Political Parties shall be deemed to be a member of staff of the Commission and shall continue to serve under the same terms and conditions.

I certify that this printed impression is a true copy of the Bill as passed by the Senate on 5th 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

PRINTED BY THE CLERK OF THE SENATE

