



LAWS OF KENYA

**THE NATIONAL ASSEMBLY AND PRESIDENTIAL
ELECTIONS ACT**

CHAPTER 7

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CHAPTER 7**THE NATIONAL ASSEMBLY AND PRESIDENTIAL
ELECTIONS ACT****ARRANGEMENT OF SECTIONS****PART I—PRELIMINARY***Section*

- 1—Short title.
- 2—Interpretation.
- 3—(*Repealed*).
- 3(1)—Appointment of staff of the Commission.
- 3A—Protection from personal liability.
- 3B—Code of conduct and procedure of the Commission.

PART II—REGISTRATION OF ELECTORS

- 4—Register of electors.
- 4A—Registration.
- 5—Prohibition of multiple registration.
- 6—Additional disqualification for registration.
- 7—Postponement of disqualification to enable appeal.

**PART III—DETERMINATION OF QUESTIONS CONCERNING
REGISTRATION**

- 8—Determination of questions as to registration.
- 9—Claims.
- 10—Objections.
- 11—Interpretation of Part.

PART IV—ELECTIONS

- 12—Initiation of presidential election.
- 13—Issue of writs.
- 14—Holding of elections.
- 15—Right to vote.
- 16—Additional disqualifications for candidature.
- 17—Nomination by a political party.
- 17A—Overall conduct of elections.
- 17B—Participation in elections by public officers.

Section

PART V—VACANCIES IN THE NATIONAL ASSEMBLY

18—Speaker may declare seat vacant.

PART VA—ELECTION EXPENSES

18A–18L—(*Repealed*).

PART VI—PETITIONS

19—Constitution of election court.

20—Presentation of petition.

21—Security for costs.

22—Procedure on receipt of petition.

23—Procedure of election court.

24—Attorney-General to attend trial of petition.

25—Prohibition of disclosure of vote.

26—Votes to be struck off at scrutiny.

27—(*Repealed*).

28—Non-compliance with law.

29—Costs.

30—Certificate of court as to validity of election.

31—Report of court as to election offences.

PART VII—MISCELLANEOUS PROVISIONS

32—Provisions as to misnomer or inaccurate description.

33—Expenses.

34—Regulations.

SCHEDULES

CHAPTER 7

THE NATIONAL ASSEMBLY AND PRESIDENTIAL
ELECTIONS ACT*Commencement: 21st August, 1969*

An Act of Parliament to provide for registration of electors and holding of elections to the office of President and to the National Assembly, the conduct of the Electoral Commission and of political parties participating in elections in Kenya and various matters connected with and incidental to the foregoing.

PART I—PRELIMINARY

Short title.

1. This Act may be cited as the National Assembly and Presidential Elections Act.

Interpretation.

19 of 1979, s. 2,
8 of 1982, s. 2,
1 of 1992, s. 2,
2 of 2002, Sch.

2. In this Act, unless the context otherwise requires—

“candidate” means a candidate at a parliamentary election;

“constituency” means one of the constituencies into which Kenya is divided under section 42 of the Constitution;

“constituency register” means the register of electors compiled in respect of each constituency by the Electoral Commission;

Cap. 66.

“corrupt practice” has the meaning assigned to it in the Election Offences Act;

“Director of Elections” means a person appointed by the Electoral Commission under section 3;

“election” means a parliamentary election and a presidential election;

“election court” means the High Court in the exercise of the jurisdiction conferred upon it by section 44 (1) of the Constitution;

“election offence” means a corrupt practice, an illegal practice or any offence under section 3 or section 4 of the Election Offences Act;

“elector” means a person whose name is included in a current register of electors;

“the Electoral Commission” means the Electoral Commission established by section 41 (1) of the Constitution;

“elector’s card” means a card issued to an elector as evidence of his registration in a register of electors;

“illegal practice” means an offence so designated in, and punishable under Part IV of, the Election Offences Act;

“officer” includes the Director of Elections, a Deputy Director of Elections, a returning officer, a presiding officer, a poll clerk and any other person employed in the holding of an election;

“parliamentary election” means the election of one or more elected members of the National Assembly;

“petition” means an application to the election court under section 19;

“political party” has the meaning assigned to it by section 123 (1) of the Constitution;

“presidential election” means an election of a President in accordance with section 5 of the Constitution;

“principal register” means the national consolidated register of electors compiled by the Electoral Commission in accordance with section 4;

“registration officer” means a person appointed under the Regulations for the purpose of preparing a register of electors;

“the Regulations” means regulations made under this Act;

“returning officer” means a person appointed under the Regulations for the purpose of conducting any election under this Act;

“the Speaker” means the Speaker of the National Assembly.

3. (Repealed by 10 of 1997, Sch.).

3. (1) The Commission shall appoint such officers with such designations as it may deem necessary to assist the Commission in the discharge of its functions under the Constitution and this Act, and such officers may, subject to the general or special directions of the Commission, exercise any or all of the duties and powers conferred or

Appointment of staff
of Commission.

imposed upon the Commission by the Constitution and this Act.

(2) The terms and conditions of service of the officers appointed under this section shall be determined by the Commission in consultation with the Treasury.

Cap. 84.

(3) Notwithstanding the provisions of the Police Act, a police officer assigned duties during the conduct of an election shall be deemed to be an election official for the purposes of this Act and subject to direction and instruction of the Commission.

Protection from
personal liability.

3A. No matter or thing done by a member of the Commission or by any electoral officer shall, if the matter or thing is done in good faith for executing the powers, functions or duties of the Commission under the Constitution or this Act, render such member or officer personally liable for any action, claim or demand whatsoever.

Code of conduct
and procedure of the
Commission.

3B. For the better discharge of the responsibilities and functions of the Electoral Commission under the Constitution and any other law, the code of conduct for the members and staff of the Commission, and the rules of procedure of the Commission specified in the Second and Third schedules respectively, shall apply.

PART II—REGISTRATION OF ELECTORS

Registration of
electors.

1 of 1992, s. 4.
10 of 1997, Sch.,
2 of 2002, Sch.

4. (1) The Electoral Commission shall, in such manner and at such times as may be prescribed, prepare or cause to be prepared—

- (a) constituency registers in respect of all constituencies; and
- (b) the principal register, which shall be a combination of the constituency register, and such other registers, for the time being in existence, as the Electoral Commission may direct.

(2) Upon the coming into operation of this section, the Electoral Commission shall cause all constituency registers to be opened for inspection by members of the public, for such period of time as the Electoral Commission may deem appropriate for the purpose of rectification of the particulars thereon.

(3) The Electoral Commission shall, upon expiry of the period of time provided for under subsection (2), compile the principal register and as soon as practicable thereafter—

- (a) publish a notice in the Gazette to the effect that such compilation has been completed; and

(b) cause to be transmitted to every registration officer, a copy of the part of that register relating to the constituency for which he is responsible to be kept in safe custody.

(3) The original of the principal register shall be kept at the offices of the Electoral Commission.

4A. (1) Registration of electors and revision of the register of electors under this Act may be carried out at all times except—

Registration.
10 of 1997, Sch.,
2 of 2002, Sch.

(a) in the case of a presidential election, between the date of commencement of the ninety-day period provided for by section 6(1) of the Constitution and the date of such election; or

(b) in the case of an election to the National Assembly, between the date of dissolution of Parliament under section 59 of the Constitution and the date of such election; or

(c) in the case of an election of councillors to local authorities, between the date of dissolution of such local authorities and the date of such election; or

(d) in the case of any by-election, between the date of the declaration of the vacancy of the seat concerned and the date of such by-election.

(2) Any citizen of Kenya who has attained the age of majority as evidenced by either a national identity card or a Kenyan passport and whose name is not in the principal register shall be registered as an elector upon application in the prescribed manner to the Electoral Commission.

(3) All applicants for registration under this section shall be registered in the appropriate register and such register shall, at such times as the Electoral Commission may direct, be transmitted to the Electoral Commission for amendment.

5. (1) No person shall at any time be registered as an elector in more than one constituency.

Prohibition of
multiple registration.

(2) No person shall be registered as an elector more than once in any register of electors.

(3) A person who—

- (a) being registered as an elector in a register of electors, applies to be registered as an elector—
- (i) in any other register of electors, otherwise than in substitution for his subsisting registration; or
- (ii) in the same register of electors; or
- (b) having made an application to be registered in a register of electors which has not been either granted or rejected, applies to be registered in the same register of electors or in another register of electors; or
- (c) makes simultaneously two or more applications to be registered as an elector,

shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding five thousand shillings or to both.

Additional disqualification for registration.

6. A person shall be disqualified for registration as an elector if he has within the preceding five years been convicted of an election offence or been reported guilty of an election offence by the election court.

Postponement of disqualification to enable appeal.

7. Where a person has been adjudged or declared to be of unsound mind, sentenced to death or imprisonment, adjudged or declared bankrupt or convicted of an election offence, and he is thereby disqualified from being registered as an elector, then, if it is open to him to appeal against the decision (either with the leave of a court or other authority or without leave), that person shall not be thereby disqualified for being so registered until the expiration of thirty days after the date of the decision or such further period as the Minister in his discretion may, at the request of the person, direct in order to enable the person to appeal against the decision.

PART III—DETERMINATION OF QUESTIONS CONCERNING REGISTRATION

Determination of questions as to registration.

8. Any question whether a person is qualified to be registered as an elector shall be determined in accordance with this Part.

Claims.
8 of 1974, s. 3.

9. (1) A person who has duly applied to be registered and whose name is not included in the appropriate register of electors may submit a claim to the registration officer in the prescribed form and manner and within the prescribed time.

(2) A claim under subsection (1) shall be determined by the registration officer in the prescribed manner, and an appeal shall lie, in the prescribed manner, to the High Court.

10. (1) A person who is registered in a register of electors may, in the prescribed manner, object to—

- (a) his registration; or
- (b) the registration in that register of electors of any other person; or
- (c) the registration in that register of electors of a person who has made a claim under section 9, to a court.

(2) The objection shall be determined by the court, and no appeal shall lie from the decision of the court.

11. In this Part, “court” means a subordinate court of the first class having jurisdiction in the constituency concerned.

Interpretation of Part.
8 of 1974, s. 4.

PART IV—ELECTIONS

12. (1) Whenever a presidential election is to be held, the Electoral Commission shall forthwith cause notice of holding of the election to be published in the Gazette and shall thereafter exercise the powers conferred by subsection (3).

Initiation of
presidential election.
8 of 1974, s. 5,
1 of 1992, s. 5,
11 of 1992, Sch.,
10 of 1997, Sch.

(2) A notice under subsection (1) shall be published—

- (a) where the presidential election is to be held at a general parliamentary election, as nearly as may be at the same time as the writs for the parliamentary election are issued;
- (b) in any other case, forthwith upon the office of President becoming vacant.

(3) Upon the publication of a notice under this section, the Electoral Commission shall cause to be published in the Gazette a notice in the prescribed form which shall specify—

- (a) the days for the nomination of candidates for the presidential election, which shall not be less than ten days after the date of publication of the second notice;
- (b) in the case of a presidential election which is not to be

held at a general parliamentary election, the day or days on which the poll shall be taken, if it be necessary, which shall not be less than ten days after the day fixed for nomination of candidates.

(4) Notwithstanding anything contained in this section or any other written law, whenever a fresh election of a President is to be held pursuant to subsection (4) of section 5 of the Constitution the fresh election shall be commenced and held within twenty-one days after any of the grounds specified in that subsection have arisen.

Issue of writs.
8 of 1974, s. 6,
19 of 1979, s. 3,
8 of 1982, s. 3,
1 of 1992, s. 6,
L.N. 276/1992,
10 of 1997, Sch.

13. (1) For the purposes of a parliamentary election—

- (a) consequent upon a dissolution of the National Assembly;
or
- (b) to supply a vacancy arising from any cause other than the dissolution of the National Assembly,

the Speaker shall issue a writ under his hand in the prescribed form addressed to the returning officer of each constituency in which an elected member is to be returned.

(2) The Speaker shall issue the writs—

- (a) in the case of an election consequent upon the dissolution of the National Assembly, within fourteen days after the dissolution;
- (b) in the case of an election consequent upon a determination by the election court under this Act, within one month after the determination; and
- (c) in any other case, within two months after the occurrence of the vacancy:

Provided that the Speaker may, after consultation with the Electoral Commission, by notice in the Gazette, extend the periods specified in paragraphs (b) and (c) to facilitate the proper organization and holding of any ensuing election, except that such extension shall not exceed two months.

(3) Every writ shall be delivered to the Electoral Commission which shall, within ten days after receiving it—

- (a) transmit the writ to the returning officer to whom it is addressed; and

(b) cause to be published in the Gazette a notice in the prescribed form which shall specify—

- (i) the day or days upon which each political party shall nominate candidates to contest parliamentary elections in accordance with its constitution or rules which shall not be more than twenty-one days after the date of publication of such notice;
- (ii) the day for the nomination of candidates for the parliamentary election;
- (iii) the day or days on which the poll shall be taken for the parliamentary election, if it be necessary, which shall not be less than fourteen days after the day fixed for nomination:

Provided that where more than one writ is issued a composite notice may be published.

14. (1) After a notice has been published in the Gazette under section 12, every returning officer shall proceed to hold a presidential election according to the terms of the notice and in accordance with the Regulations. Holding of elections.

(2) After receiving a writ under section 13, the returning officer to whom it is addressed shall proceed to hold the parliamentary election according to the terms of the relevant notice published under subsection (3) of that section and in accordance with the Regulations.

15. Every person whose name is entered on a register of electors for a particular constituency, and who produces an elector's card issued to him in respect of that registration, and no one else, shall be entitled to vote at any election for that constituency: Right to vote.

Provided that nothing in this section shall entitle a person who is prohibited from voting by any written law to vote or relieve that person from any penalties to which he may be liable for voting.

16. (1) A person who at the date of his nomination for election holds or is acting in any of the offices specified in the Schedule to this Act shall be deemed to hold or to be acting in an office to which section 35 (1) (f) of the Constitution applies and shall not be qualified to be elected as an elected member of the National Assembly. Additional disqualifications for candidature. 8 of 1979, Sch., 10 of 1997, Sch.

(2) A person who is convicted of an election offence or who is

reported guilty of an election offence by the election court shall not be qualified to be nominated for election as an elected member of the National Assembly during the remainder of the life of that parliament following his conviction or, as the case may be, following the report of the election court:

Provided that a person disqualified as a result of a conviction or a report for an election offence prior to the dissolution of Parliament and the ensuing elections in the year, 1997 shall cease to be so disqualified and shall, unless otherwise lawfully disqualified, be entitled to have the Electoral Commission enter his name in the appropriate register of electors.

Nomination by a political party.
1 of 1992, s. 7,
10 of 1997, Sch.,
7 of 2007, Sch.

17. (1) A person shall be deemed to be nominated by a political party for election as a member of the National Assembly for the purposes of paragraph (d) of section 34 of the Constitution if he 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 parliamentary elections and, subject to subsection (4), the party certifies the selection to the Electoral Commission.”

(2) No person shall be nominated by a political party, and no person shall put himself forward for such nomination, unless he is qualified in all respects, other than such nomination, to be an elected member of the National Assembly.

(3) Each political party shall bear the expenses relating to the nomination of candidates for contesting parliamentary elections and a political party may, at its own expense and on such terms as may be agreed between the party and the Commission, request the Electoral Commission to supervise any such party nomination of candidates.

(4) Every political party shall notify the Electoral Commission of the name of the person authorized by the party to certify to the Commission that any person has been selected by the party under subsection (1) and the person so named shall deposit his or her specimen signature with the Commission in such manner as the Commission may require.

(5) No person who is elected or nominated as a member of the National Assembly with the support of or as a supporter of a political party (other than the party whose candidate has been elected President at an election) shall be appointed a Minister of the Government of Kenya under section 16 of the Constitution without the concurrence of the party which supported him for election or nominated him for appointment as a member of the National Assembly.

(6) The concurrence referred to in subsection (5) shall be signified in writing to the President with a copy to the Speaker by the Chairman or any other official designated for the purpose by the political party.

17A. The Electoral Commission shall have the overall conduct of elections under this Act and shall give general directions and exercise supervision and control thereof and take the necessary measures to ensure that the elections are transparent, free and fair.

Overall conduct of elections.
10 of 1997, Sch.

17B. (1) No public officer shall—

(a) engage in the activities of any political party or act as an agent of any such party; or

Participation in elections by public officers.
10 of 1997, Sch.

(b) publicly indicate support for or opposition against any party or candidate participating in an election under this Act or under the Local Government Act.

Cap. 265.

(2) A public officer who contravenes any of the provisions of subsection (1) shall be guilty of an offence and liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months, or to both.

PART VA—ELECTION EXPENSES

ss. 18A-18L—(*Repealed by 11 of 1992, Sch.*).

PART V—VACANCIES IN THE NATIONAL ASSEMBLY

18. If the Speaker has reason to believe that the seat in the National Assembly of a member thereof has become vacant, he shall call for such evidence on the matter as he thinks necessary and may consult the Attorney-General, and shall thereafter—

Speaker may declare seat vacant.

(a) if he is satisfied that the seat has become vacant, declare that the seat has become vacant, and publish notice of the declaration in the Gazette; or

(b) if he is not so satisfied, refuse so to declare.

PART VI—PETITIONS

19. (1) An application to the High Court under the Constitution to hear and determine a question whether—

Constitution of election court.
10 of 1997, Sch.

(a) a person has been validly elected as President; or

(b) a person has been validly elected as a member of the National Assembly; or

(c) the seat in the National Assembly of a member thereof has become vacant,

shall be made by way of petition.

(2) A petition to determine the question whether a person has been validly nominated for election as President, or was validly elected as President, or, being a person elected President, was validly elected as a member of the National Assembly, shall be heard by a court consisting of three judges.

(3) A petition other than a petition under subsection (2) shall be heard by an election court consisting of one judge.

(4) A petition under this Act shall be heard and determined on a priority basis.

Presentation of
petition.
8 of 1974, s. 8,
19 of 1979, s. 5,
10 of 1997, Sch.,
7 of 2007, Sch.

20. (1) A petition—

(a) to question the validity of an election, shall be presented and served within twenty-eight days after the date of publication of the result of the election in the Gazette;

(b) to seek a declaration that a seat in the National Assembly has not become vacant, shall be presented and served within twenty-eight days after the date of publication of the notice published under section 18;

(c) to seek a declaration that a seat in the National Assembly has become vacant, may be presented at any time:

Provided that—

(i) a petition questioning a return or an election upon the ground of a corrupt practice and specifically alleging a payment of money or other act to have been made or done since the date aforesaid by the person whose election is questioned or by an agent of that person or with the privity of that person or his election agent may, so far as respects the corrupt practice, be presented at any time within twenty-eight days after the date of the alleged payment or act;

(ii) a petition questioning a return or an election upon an allegation of an illegal practice and alleging a payment of money or other act to have been made or done since the date aforesaid by the person whose election is questioned, or by an agent of that person, or with the privity of that person or his election agent in pursuance or in furtherance of the illegal practice alleged in the petition, may, so far as respects the illegal practice, be presented at any time within twenty-eight days after the date of the alleged payment or act;

(iii) (*Repealed by 10 of 1997, Sch.*).

(iv) where after due diligence it is not possible to effect service under paragraphs (a) and (b), the presentation may be effected by its publication in the Gazette and in one English and one Kiswahili local daily newspaper with the highest national circulation in each case.

(2) A petition presented in due time may, for the purpose of questioning a return or an election upon an allegation of an election offence, be amended with the leave of the election court within the time within which the petition questioning the return or the election upon that ground may be presented.

(3) A petition presented in respect of the matters set out in the proviso to subsection (1) may, where a petition has already been presented on other grounds, be presented as a supplemental petition.

21. (1) Not more than three days after the presentation of a petition, the petitioner shall give security for the payment of all costs that may become payable by the petitioner.

Security for costs.
19 of 1979, s. 6,
10 of 1997, Sch.

(2) The amount of security under this section shall be two hundred and fifty thousand shillings and shall be given by deposit of money.

(3) If no security is given as required by this section, or if an objection is allowed and not removed, no further proceedings shall be had on the petition, and the respondent may apply to the election court for an order directing the dismissal of the petition and for the payment of the respondent's costs; and the costs of hearing and deciding that application shall be paid as ordered by the election court, or if no order is made shall form part of the general costs of the petition.

(4) (*Deleted by 19 of 1979, s. 6.*)

Procedure on receipt
of petition.

22. Upon receipt of a petition the election court shall peruse the petition and—

- (a) if it considers that no sufficient ground for granting the relief claimed is disclosed therein may reject the petition summarily; or
- (b) shall fix a date for the trial of the petition.

Procedure of election
court.

8 of 1974, s. 9,
10 of 1997, Sch.

23. (1) In the exercise by an election court of its jurisdiction—

- (a) witnesses shall be summoned and sworn in the same manner as nearly as circumstances admit as in a trial by the High Court in the exercise of its original civil jurisdiction and shall be subject to the same penalties for the giving of false evidence;
- (b) the election court may compel the attendance of any person as a witness who appears to the court to have been concerned in the election or in the circumstances of the vacancy or alleged vacancy, and a person refusing to obey the order shall be guilty of a contempt of court;
- (c) the election court may examine a witness so compelled to attend or any person in court, although the witness is not called and examined by a party to the petition, and after examination the witness may be cross-examined by or on behalf of the petitioner and respondent, or either of them;
- (d) the election court shall decide all matters that come before it without undue regard to technicalities.

(2) Unless otherwise ordered by the Chief Justice, all interlocutory matters in connexion with a petition may be dealt with and decided by any judge.

(3) The Rules Committee may make rules of court regulating the practice and procedure concerning petitions.

(4) Subject to subsection (5), an appeal shall lie to the Court of Appeal from any decision of an election court, whether the decision be interlocutory or final, within thirty days of the decision.

(5) An appeal from a petition under section 19 (2) shall be heard by a bench of five judges of appeal.

(6) An appeal from a petition under this Act, shall be heard and determined on a priority basis.

24. (Repealed by 10 of 1997, Sch.).

25. No elector who has voted at an election shall, in proceedings to question the election, be required to state for whom he has voted.

Prohibition of disclosure of vote.

26. (1) On a scrutiny of votes at the trial of a petition, the following votes only shall be struck off—

Votes to be struck off at scrutiny.

- (a) the vote of a person whose name was not on the register or list of electors assigned to the polling station at which the vote was recorded or who has not been authorized to vote at that station;
- (b) the vote of a person whose vote was procured by bribery, treating or undue influence;
- (c) the vote of a person who committed or procured the commission of personation at the election;
- (d) the vote of a person proved to have voted in more than one constituency;
- (e) the vote of a person who, by reason of conviction for an election offence or by reason of the report of the election court, was disqualified from voting at the election;
- (f) votes given for a disqualified candidate by a voter knowing that the candidate was disqualified or the facts causing the disqualification, or after sufficient public notice of the disqualification, or when the disqualification or the facts causing it were notorious.

(2) The vote of a registered elector shall not, except in the case specified in paragraph (e) of subsection (1), be struck off at a scrutiny by reason only of the voter not having been or not being qualified to have his name entered on the register or list of electors.

27. (Repealed by 8 of 1974, s. 10).

28. No election shall be declared to be void by reason of a non-compliance with any written law relating to that election if it appears that the election was conducted in accordance with the principles laid down in that written law, or that the non-compliance did not affect the result of the election.

Non-compliance with law.

Costs.

29. An election court may, in its discretion, award against the petitioner the costs of and incidental to a petition which is dismissed or rejected.

Certificate of court as to validity of election.

10 of 1997, Sch.

30. (1) At the conclusion of the trial of a petition, the election court shall determine the question raised in the petition, and shall certify its determination to the Speaker.

(2) Upon receipt of a certificate under this section the Speaker shall give the necessary directions for altering or confirming the return, and shall take such action thereon, pursuant to section 18, as shall be necessary.

Report of court as to election offences.

10 of 1997, Sch.

31. (1) At the conclusion of the trial of a petition, the election court shall also report in writing to the Speaker whether an election offence has or has not been proved to have been committed by any person in connexion with the election, and the names and descriptions of the persons, if any, who have been proved at the trial to have been guilty of an election offence.

(2) Before a person, not being a party to an election petition or a candidate on behalf of whom the seat is claimed by an election petition, is reported by an election court under this section, the election court shall give that person an opportunity of being heard and of giving and calling evidence to show why he should not be so reported.

(3) The Speaker shall cause a copy of any report made under this section to be published in Gazette, and the Electoral Commission shall forthwith peruse the report and delete from the register of electors the name of every person who is thereby disqualified for being registered in that register of electors.

PART VII—MISCELLANEOUS PROVISIONS

Provisions as to misnomer or inaccurate description.

32. No misnomer or inaccurate description of any person or place in any order, notice or other instrument made under or by virtue of this Act or the Regulations shall prejudice the validity of the order, notice or other instrument or the operation of this Act or the Regulations as respects that person or place, if the person or place is so designated as to be commonly understood.

Expenses.
10 of 1997, Sch.

33. (1) There shall be defrayed out of moneys provided by Parliament any expenses properly incurred by the Electoral Commission in the performance of its duties under or by virtue of this Act.

Cap. 412.

(2) There shall be an accounting officer of the Commission appointed under the Exchequer and Audit Act.

34. (1) The Electoral 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, those regulations may—

Regulations.
8 of 1974, s. 11,
11 of 1992, Sch.,
10 of 1997, Sch.

- (a) prescribe the manner in which registers of electors shall be compiled and the manner in which they shall be revised so as to bring them up to date;
- (b) provide for the provision of registers of electors, and for the division of any register into new registers or parts thereof, or for the preparation of new registers;
- (c) prescribe the procedure for making and determining claims to be registered and objections to registration;
- (d) provide for the payment of compensation, not exceeding one hundred shillings in any one case, by a person who has made without reasonable cause an objection under Part III, to any person who is aggrieved thereby;
- (e) authorize any registration officer, for the purpose of considering or determining any application, claim, objection or appeal, to summon any person to appear before him and to 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;
- (f) provide for the division of constituencies into units for the purpose of the registration of electors;
- (g) provide, for the purposes of section 5 of the Constitution and subject thereto, for the manner in which a presidential election shall be held;
- (h) prescribe anything which, under the provisions of the Constitution concerning elections, may be prescribed by or under an Act of Parliament;
- (i) prescribe the conditions under which elections may be postponed;
- (j) prescribe the amount of the deposit (if any, but not exceeding five thousand shillings in any case) to be made by or on behalf of candidates at parliamentary elections, and the

- circumstances in which the deposit may be forfeited;
- (k) provide for the appointment of officers to preside at polling stations;
- (l) prescribe the facilities to be provided at polling stations, and the persons who may be admitted to polling stations;
- (m) prescribe the place and manner in which votes may be cast, and the construction and sealing of ballot boxes, and provide for the issue of ballot papers to electors;
- (n) provide for the manner in which, and the persons by whom any question as to the identity of any person claiming the right to vote shall be determined;
- (o) provide for the manner in which an elector who is blind or otherwise incapacitated 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 invalid;
- (q) prescribe conditions for the use of private motor vehicles or vessels at elections;
- (r) prescribe the facilities to be provided for voting by post, the persons entitled so to vote and the circumstances in which persons may so vote;
- (s) prescribe forms, and the fees to be paid upon an application, notice, claim or objection, including the manner in which those fees shall be disposed of, and anything which under this Act may be prescribed.

(2) No regulations shall be made under this Act unless a draft of the regulations has been laid before, and has been approved by resolution of the National Assembly.

34A. (1) The Electoral Code of Conduct set out in the Fourth Schedule shall be subscribed to in such manner as the Electoral Commission may, subject to paragraph 6 of that schedule, from time to time determine, and shall be subscribed to and observed by every political party and every person that participates in any election under the Constitution and this Act.

(2) No political party shall be eligible to nominate candidate

under that section shall be eligible to contest any election unless such party and the candidate have, under subsection (1), subscribed to the Electoral Code of Conduct.

(3) Every officer of a political party which, and every person nominated as a candidate who, attempts to participate in or participates in any election without subscribing to the Electoral Code of Conduct shall be guilty of an offence and liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding three years or both.

(4) For the avoidance of doubt, the trial of an offence under this section shall be without prejudice to any proceedings in or consequent upon a petition.

(5) Subject to the provisions of the Criminal Procedure Code, the Electoral Commission may designate any of its officers to conduct any prosecution for an offence under this section and the Electoral Code of Conduct, and such officer shall for that purpose have all the powers conferred upon a public prosecutor by the Criminal Procedure Code.

6 of 1979, Sch.,
19 of 1979, s. 7,
10 of 1997, Sch.

FIRST SCHEDULE

(s.16 (1))

1. A member, other than a member who is not employed full time, of a board, council or governing body (however called) of, or employee of, a body corporate established by or under an Act of Parliament other than the Companies Act, the Building Societies Act, the Co-operative Societies Act or the Local Government Act.

2. An officer, other than a director who is not employed full time, or employee of a company incorporated under the Companies Act of which the Government holds fifty per cent or more of the shares.

SECOND SCHEDULE

(s. 3B)

CODE OF CONDUCT FOR MEMBERS AND STAFF OF THE ELECTORAL COMMISSION

Impartiality and Independence of Members

1. (1) Every member of the Commission shall serve impartially and independently and perform the functions of a member in good faith and without fear, favour or prejudice, and without influence from—

- (a) the Government; or
- (b) any public officer; or
- (c) any political party; or
- (d) any candidate participating in an election; or
- (e) any other person or authority.

(2) Every member of the Electoral Commission shall take or make and subscribe to an oath or affirmation in the following form—

OATH OF OFFICE/SOLEMN AFFIRMATION OF A MEMBER OF THE ELECTORAL COMMISSION

I,.....
being appointed a member of the Electoral Commission of Kenya, do solemnly swear/do solemnly and sincerely declare and affirm that I will faithfully, fully, impartially and to the best of my ability discharge the trust and perform the functions and exercise the powers devolving upon me by virtue of this appointment without fear, favour, bias, affection, ill-will or prejudice and to the end that in the exercise of the functions

and powers of such member, I shall not be influenced by any political party, religious society or other organization.

(So help me God).

.....
Member

.....
Chief Justice

2. (1) No member of the Commission shall, during tenure of office, be eligible for appointment or nomination to any political office.

(2) No member of the Commission may—

- (a) whether directly or indirectly, in any manner support or oppose any party or candidate participating in an election, or any of the issues in contention between parties or candidates;
- (b) by his or her membership, association, statement, conduct or in any other manner place in jeopardy the perceived independence of the member, or in any other manner harm the credibility, impartiality, independence or integrity of the Commission;
- (c) make private use of or profit from any confidential information gained as a result of being a member of the Commission;
- (d) divulge any information to any third party save in the course of any official duty.

Disclosure of Conflicting Interests

3. If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Commission and is present at a meeting of the Commission at which the contract, proposed contract or other matter is the subject of consideration, he shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter or be counted in the quorum of the meeting during consideration of the matter.

4. This Code shall apply with necessary modifications to the staff of the Commission.

5. Any breach of the Code by a member or officer of the Commission shall be treated as misbehaviour for a member and gross misconduct for an officer.

THIRD SCHEDULE

(s. 3B)

PROCEEDINGS OF THE ELECTORAL COMMISSION

1. The Commission shall meet as often as may be necessary for the despatch of its business but there shall be at least four meetings of the Commission in any financial year.

2. A meeting of the Commission shall be held on such date and at such time as the Commission shall decide.

3. The chairman shall, on the application of at least seven members, convene a special meeting of the Commission.

4. Unless the majority of the total membership of the Commission otherwise agree, at least fourteen days' written notice of every meeting of the Commission shall be given to every member of the Commission.

5. The quorum for the conduct of business at a meeting of the Commission shall be the majority of all the members of the Commission.

6. The chairman shall preside at every meeting of the Commission at which he is present and in the absence of the chairman at a meeting, the vice-chairman shall preside and in the absence of both the chairman and the vice-chairman the members present shall elect one of their number who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairman.

7. Unless a unanimous decision is reached, a decision on any matter before the Commission shall be by concurrence of a majority of all the members.

8. Subject to paragraph 5, no proceedings of the Commission shall be invalid by reason only of a vacancy among the members thereof.

9. (1) The Commission shall designate one of its officers to be the secretary to the Commission.

(2) The Commission shall, subject to sub-paragraph (3), establish a committee for liaison with political parties and may establish committees of its members for any other purpose including a general purposes Committee.

(3) The Committee for liaison with political parties shall be known as the Parties Liaison Committee and shall be established whenever an election is to be held, either at a general election or at any other time and shall consist of the designated members of the Commission and the representatives of every political party with one or more candidates validly nominated for the election; and the Commission shall consult with the committee on all matters relating to the election.

10. Unless otherwise provided by or under any law, all instruments made by and decisions of the Commission shall be signified under the hand of the chairman and the secretary.

11. The Commission shall cause minutes of all proceedings of meetings of the Commission to be entered in books for that purpose.

12. Except as provided by this Schedule, the Commission may regulate its own proceedings.

FOURTH SCHEDULE

(s. 34)

ELECTORAL CODE OF CONDUCT

1. (1) Subject to paragraph 6, this code shall be subscribed to by—

- (a) every political party participating in the election of a President, a member of the National Assembly, and a member of a local authority; and
- (b) every candidate nominated, as a condition of the candidate's respective rights to be so nominated.

(2) This code shall, in so far as it is applicable, bind the Government and every political party, its leader and every office-bearer, member, supporters and every candidate nominated under the electoral laws for any election.

2. In this code unless the context otherwise requires—

“electoral area” means a constituency under this Act or an electoral area under the Local Government Act and defined in the Local Government Election Rules.

“electoral court” means the High Court under this Act or, as the case may be, the Resident Magistrate's Court under the Local Government Act.

“electoral laws” means the Constitution, the National Assembly and Presidential Elections Act and the Local Government Act and subsidiary legislation thereunder as they relate to the presidential, parliamentary and local government elections.

3. The object of this code is to promote conditions conducive to the conduct of free and fair elections and a climate of tolerance, in which political activity may take place without fear of coercion, intimidation or reprisals.

4. All registered political parties and other persons bound by this code shall endeavour to promote the object of the code to enable free political campaigning and open public debate to take place in all parts of Kenya during any election period.

5. Registered political parties and candidates do, by subscribing to this code, further commit themselves—

- (a) to give wide publicity to this Code;
- (b) to promote voter education campaigns which may be conducted in concert with the Electoral Commission;
- (c) to condemn, avoid and take steps to prevent violence and intimidation;
- (d) to instruct their candidates, office bearers, members and supporters of their obligations under this Code; and
- (e) generally, to affirm the rights of all participants in an election—
 - (i) to express divergent political opinions;
 - (ii) to debate and contest the policies and programmes of other parties;
 - (iii) to canvass freely for membership and support from voters;
 - (iv) subject to the Public Order Act, to hold public meetings;
 - (v) to distribute non-offensive electoral literature and campaign materials;

- (vi) to publish and distribute non-offensive notices and advertisements;
- (vii) to erect non-offensive banners, placards and posters;
- (viii) to promote free electoral campaigns by all lawful means; and
- (ix) to co-operate with the Electoral Commission and the relevant Government and other authorities in the investigation of issues and allegations arising during the election period.

6. All those bound by this code shall, throughout any election period, have the duty—

- (a) to publicly and repeatedly condemn violence and intimidation, and to avoid the use of language or any kind of action which may lead to violence or intimidation, whether to demonstrate party strength, gain any kind of advantage or for any other reason;
- (b) to refrain from any action involving violence or intimidation;
- (c) to ensure that no arms or weapons of any kind are carried or displayed at political meetings or in the course of any march, demonstration or other event of a political nature;
- (d) to refrain from publishing or repeating false, defamatory or inflammatory allegations concerning any person or party connected with the election;
- (e) subject to the Public Order Act, to co-operate and liaise in good faith with other parties to avoid, in so far as possible, arrangements involving public meetings, demonstrations, rallies or marches taking place at the same time and venue as similar political events organized by other parties;
- (f) to do nothing to impede the right of any party, through its candidates, canvassers and representatives, to have reasonable access to voters for the purposes of conducting voter education, fund raising, canvassing membership and soliciting support;
- (g) to avoid plagiarizing the symbols, colours or acronyms of other parties; and to discourage and prevent the removal,

disfigurement or destruction of political campaign materials of any party;

- (h) to refrain from offering any inducement or reward to any person in consideration of such person either joining or not joining any party; attending or not attending any political event; voting or not voting (either at all, or in any particular manner); or accepting, refusing or withdrawing such person's nomination as a candidate in the election;
- (i) to refrain from any attempt to abuse a position of power, privilege or influence, including parental, patriarchal or traditional authority, for political purposes, including any offer of reward or threat of penalty;
- (j) to avoid any discrimination based on age, race, tribe, place of origin or residence or other local connexion, political opinions, colour, creed or sex in connection with the election and political activity;
- (k) in relation to the Electoral Commission;
 - (i) to acknowledge the Commission's authority in the conduct of the election;
 - (ii) to ensure the attendance and participation of representatives at meetings of any parties' liaison committee and other forums convened by or on behalf of the Electoral Commission;
 - (iii) to implement the orders and directions of the Electoral Commission;
 - (iv) to facilitate the Commission's right of access through official observers and other representatives to all public political meetings or other electoral activities;
 - (v) to co-operate in the official investigation of issues and allegations arising during any election period;
 - (vi) to take all reasonable steps to ensure the safety of observers and officers of the Electoral Commission from exposure to insult, hazard or threat in the course of their official duties; and
 - (vii) to establish and maintain effective lines of communication with the Electoral Commission;

- (l) to reassure voters with regard to the secrecy and integrity of the ballot, and furthermore, to reaffirm the provisions of section 25 of this Act to the effect that no one should know how any other person has voted;
- (m) to take reasonable steps to discipline and restrain their party office-bearers, employees, candidates, members and supporters who—
 - (i) infringe this Code;
 - (ii) engage in activities of commission or omission which amount to offences under the electoral laws or otherwise fail to observe this Code;
 - (iii) contravene or fail to comply with any provision of the electoral laws;
- (n) without prejudice to the right to present a petition to an election court, to accept the final outcome of the election and the Commission's declaration and certification of the results thereof.

7. The registered political parties shall execute this Code of Conduct through the hand of their respective authorized leaders to signify their acceptance to be bound by the provisions of this code and as their committal to strive to ensure that their members and supporters abide by the code at all stages of the elections for President, the National Assembly and local authorities.

8. Where, in the opinion of the Commission, any political party participating in any election or the leader or any office-bearer, member or supporter of such political party or any candidate at any election, in any way infringes any provision of this Code, the Commission may—

- (a) in the case of any political party and, subject to sub-paragraph (b), also in the case of the leader or any office-bearer, member or supporter of such political party or candidate, impose upon that party one or more of the following penalties or sanctions of which any or all may be suspended on specific conditions;
 - (i) a formal warning;
 - (ii) a fine determined by the Commission;
 - (iii) notwithstanding the provisions of any other law, an order prohibiting such political party, whether permanently or

for a specified period, from utilizing any public media time, through the television or radio broadcasting services of such media as have been or may be allocated to the political party for electoral purposes;

(iv) an order prohibiting the political party—

(aa) from holding particular public meetings, demonstrations or marches, or any kind of such meetings, demonstrations or marches;

(bb) from entering any specified electoral area for purposes of canvassing for membership, or for any other electoral purpose;

(cc) from erecting placards or banners, or from publishing and distributing campaign literature;

(dd) from publishing or distributing campaign literature and electoral advertising; or limiting the rights of the political party to do so, and such prohibition or limitation shall be notified to the relevant regulating officers under the Public Order Act in the affected places or electoral areas for purposes of that Act;

(b) in the case of the leader or candidate or any office-bearer, member or supporter of such political party impose any one or more of the penalties or sanctions referred to in sub-paragraph (a) (i) or (ii) of this paragraph.

9. Without prejudice to the provisions of paragraph 8, the Commission may either of its own motion or in consequence of any report made to it, institute proceedings in the High Court in its unlimited original civil jurisdiction as may be appropriate in the case of any alleged infringement of the Code by a political party or by the leader or any office-bearer, member or supporter of the political party or any candidate and where such Court finds the infringement of the provisions of this Code—

(a) in the case of a political party, any act or omission involving violence or intimidation or a gross or systematic violation of the rights of any political party, candidate or voter, such Court may in addition to or in substitution for any other penalty or sanction specified in sub-paragraph (a) of paragraph 8 make an order canceling the right of such party to participate in the election concerned; or

(b) in the case of the leader or any office-bearer, member or supporter of such political party or of any candidate, that any act or omission involving violence or intimidation or gross or systematic violation of the rights of any political party candidate or voter, such Court may in addition to or in substitution any other penalty or sanction specified in paragraph 8 (a) (i) and (ii) make an order disqualifying, in the case of a person who is a candidate, such person from being a candidate or deleting the name of such candidate from the list or lists of candidates concerned.

10. There shall be no appeal from an order of the Commission imposing a penalty or sanction under paragraph 8 (a) but a party aggrieved by the decision of the Commission shall have direct access to the High Court under Order 53 of the Civil Procedure Rules.

11. In making its decision regarding appropriate penalties or sanctions, the Commission or, as the case may be, the High Court shall have regard to any other legal consequences that may result from civil or criminal proceedings instituted by reason of the same occurrence.

12. The High Court shall ensure that any proceedings initiated under paragraph 9 are dealt with in priority to all other matters brought before it, and that the decision of that Court is given before the date of the election concerned.

13. The procedure of the High Court in cases falling within the provisions of this Code shall, without prejudice to paragraph 10, be in accordance with such Rules of Procedure as shall from time to time be promulgated by the Chief Justice in consultation with the Commission.

[Subsidiary]

SUBSIDIARY LEGISLATION**Regulations under section 34—****THE PRESIDENTIAL AND PARLIAMENTARY
ELECTIONS REGULATIONS**

ARRANGEMENT OF REGULATIONS

Regulation

PART I—PRELIMINARY

- 1—Citation.
- 2—Interpretation.

PART II—MATTERS PRELIMINARY TO ELECTIONS

- 3—Returning officers.
- 4—Languages tests.
- 5—Party symbol.
- 6—Polling areas and polling stations.
- 7—Use of schools as polling stations.
- 8—Forms of writs and notices.
- 9—Publication of particulars of election.
- 10—Presiding officers and agents.

PART III—NOMINATION OF PRESIDENTIAL CANDIDATES

- 11—Manner of nomination of Presidential candidate.
- 12—Supporters.
- 13—Declaration of no contest.
- 13A—Invalid nomination.
- 13B—Withdrawal of candidate.

PART IV—NOMINATION OF CANDIDATES FOR PARLIAMENTARY
ELECTIONS

- 14—Notice of nomination day.
- 15—Nomination of candidates.
- 16—Nomination papers.
- 17—Attendance at delivery of nomination papers.
- 18—Validity of nomination papers.
- 19—Withdrawal of candidature.
- 19A—Death of candidate.
- 19B—Disruption of nomination.
- 20—Procedure after closure of nomination.

[Subsidiary]

Regulation

PART V—PROVISIONS RELATING TO ELECTIONS

- 21—Elections procedure.
- 22—Equipment of polling stations.
- 23—Admission to polling station.
- 24—Keeping order at polling stations.
- 25—Postponement, etc., of polling.
- 26—Communication with electors at polling station.
- 27—Sealing of ballot boxes.
- 28—Ballot papers.
- 29—General voting procedure.
- 30—Method of voting.
- 31—Assisted voters.
- 32—Spoilt ballot papers.
- 33—Evidence of identity and record of certain votes.
- 34—Procedure on close of poll.
- 35—Attendance at counting of votes.
- 35A—Counting of votes.
- 36—Counting of votes.
- 37—Recount.
- 38—Rejected ballot papers.
- 39—Sealing of ballot papers by presiding officer.
- 40—Announcements of election results.
- 40A—Sealing of ballot papers by returning officer.
- 41—Returns of persons elected.

PART VI—MISCELLANEOUS PROVISIONS

- 42—Retention and public inspection of documents.
- 43—Offences by election officials.
- 44—Voting of patients, pastoralists, etc.
- 45—Accreditation of election observers.
- 46—Attendance of agents.

FIRST SCHEDULE—Forms.

SECOND SCHEDULE—Language tests.

[Subsidiary]

L.N. 227/1992,
L.N. 66/2002,
L.N. 118/2002,
L.N. 172/2002,
L.N. 178/2007.

**THE PRESIDENTIAL AND PARLIAMENTARY ELECTIONS
REGULATIONS**

PART 1—PRELIMINARY

Citation.

1. These Regulations may be cited as the Presidential and Parliamentary Elections Regulations.

Interpretation.

L.N. 172/2002,
L.N. 178/2007.

2. In these Regulations, unless the context otherwise requires-

“agent” means a person duly appointed by a candidate for the purposes of these Regulations and includes a counting agent;

“close of nominations” means four o’clock in the afternoon of the last nomination day;

“copy register” means the copy of the register of voters or part thereof supplied to a polling station under regulation 22 (3) (e);

“counting agent” means an agent of a candidate authorized in accordance with regulation 35 (2) to be present at the counting of votes in an election;

“election” means a presidential election and a parliamentary election;

“election officer”, means a returning officer, presiding officer and any other person appointed by the Electoral Commission to assist in the conducting of an election under these Regulations;

“electoral number”, in relation to an elector, means the number shown against the name of that elector in the register of electors for his constituency;

“Form” means a form which is substantially the same as the appropriately numbered form in the First Schedule;

“joint election” means a presidential election and a parliamentary election held together in a general election;

“nomination day”, in respect of an election, means the day fixed by a notice under the Act or these Regulations as the day for the nomination of candidates for that election;

“nomination paper” means a nomination paper delivered to the appropriate officer by or on behalf of a person wishing to stand as a candidate at an election;

“party colour or party symbol” means respectively a colour or symbol allotted to a political party under regulation 5;

“police officer” means a member of the Kenya Police Force or of the Administration Police or any other person assigned, by the Electoral

[Subsidiary]

Commission, the duties that are performed by a police officer under these Regulations;

“polling area” means one of the areas into which a constituency is divided under regulation 6 or, if the Electoral Commission has declared a constituency to be a single polling area, that constituency;

“polling station” means any room, place, vehicle or vessel set apart and equipped for the casting of votes by electors at an election;

“presiding officer” means a person appointed under regulation 10 to preside at polling station;

“registration unit” means any area into which a constituency has been divided for the purpose of preparing a register of electors under the National Assembly Elections (Registration of Voters) Regulations;

Sub. Leg.

“rejected ballot paper” means a ballot paper which is void and not to be counted by virtue of any of the provisions of these Regulations;

“rejection objected to ballot paper” means a rejected ballot paper which rejection is objected to under regulation 38;

“spoilt ballot paper” means a ballot paper delivered to a presiding officer under regulation 32 and accepted by him as a spoilt ballot paper;

“subscriber”, in relation to a nomination paper, means a proposer, seconder and any supporter whose name appears on the nomination paper.

PART II—MATTERS PRELIMINARY TO ELECTIONS

3. (1) The Electoral Commission shall appoint a returning officer for each constituency and may appoint such deputy returning officers for the constituencies as it may consider necessary.

Returning officers.

(2) Every appointment under this regulation shall be published in the Gazette and in such other manner, if any, as the Electoral Commission may deem necessary in order to bring it to the attention of persons who may be affected thereby.

(3) A deputy returning officer shall, subject to the general direction and control of the returning officer to whom he is a deputy, have all the power, and may perform all the duties, of the returning officer under these Regulations.

4. For the purpose of ascertaining the qualification of a person for election as a member of the National Assembly, in respect of his proficiency in the English and Swahili languages, the provisions contained in the Second Schedule shall have effect.

Language tests.

5. (1) The Electoral Commission shall, by notice in the Gazette, allot to every political party a distinctive symbol for use at elections in accordance with the provisions of these Regulations.

Party symbol.
L.N. 178/2007.

[Subsidiary]

(2) A party symbol shall be that chosen by the political party concerned unless the Electoral Commission considers that a symbol so chosen—

- (a) is likely to be confused with a symbol previously allotted to another political party which has not been dissolved; or
- (b) is obscene or likely to lead to public unrest, in which case it may reject the symbol and require the political party concerned to submit a further choice.

Polling areas and
polling stations.
L.N. 178/2007.

6. (1) The Electoral Commission shall—

- (a) divide each constituency in which an election is to be held into polling areas or, if it thinks fit, declare any particular constituency to be a single polling area;
- (b) assign to each polling area a distinguishing number or letter or a combination of number and letter;
- (c) appoint a place or places or designate a vehicle or vehicles or a vessel or vessels at which the polling station or stations for each polling area shall be established; and
- (d) publish in the Gazette a notice specifying—
 - (i) the polling areas established for each constituency, which may be done by specifying the registration units which they respectively comprise;
 - (ii) the distinguishing number or letter, or combination thereof, assigned to each polling area; and
 - (iii) the place or places appointed or the vehicle or vehicles, vessel or vessels designated for the establishment of a polling station or stations for each polling area.

(2) In determining the boundaries of any polling area, the Electoral Commission shall have regard to geographical considerations, population and any other factors affecting the facility of communication between various places within the polling area.

(3) Subject to paragraph (2), the Electoral Commission may alter a division, assignment or appointment made under paragraph (1), and shall thereupon publish a notice in the Gazette specifying the alteration.

(4) If the Electoral Commission considers it desirable it may appoint a single polling station for two or more polling areas.

Use of schools as
polling stations.
L.N. 178/2007.
Cap. 211.

7. (1) The Electoral Commission may use, free of charge, any public school or any other public facility within the meaning of the Education Act or any part of the school as a polling station.

[Subsidiary]

(2) Where any damage is caused to a school by reason of its being used as a polling station under this regulation, the Government shall either make good the damage or defray any expenses incurred by persons having control of the school in making the damage good.

8. (1) A notice published by the Electoral Commission under section 12 (1) and (3) of the Act shall be in Form 1 or Form 2 as the circumstances of the case may require. Forms of writs and notices.

(2) A writ issued by the Speaker under section 13 of the Act shall be in Form 3.

(3) A notice issued by the Electoral Commission under section 13 (3) of the Act shall be in Form 4.

9. (1) Immediately after the publication of a notice under section 12 (3) of the Act, the returning officer of every constituency shall notify the holding of a presidential election in Form 5. Publication of particulars of election.

(2) Immediately after receipt of a writ under section 13 (3) of the Act, a returning officer shall notify day or days on which each political party shall nominate candidates to contest parliamentary elections and the holding of a parliamentary election, in Form 6, which shall specify the place at which, and the times during which, nomination papers for parliamentary elections may be obtained.

(3) Notifications under this regulation shall be made by the publication of the relevant form in such manner, in such languages, and at such places within the constituency, as the returning officer deems necessary for the information of as many electors in the constituency as possible.

10. (1) Whenever an election is to be held in a constituency, the returning officer, in consultation with the Electoral Commission, shall appoint a presiding officer to preside at each polling station, and such deputy presiding officers as he may consider necessary; but no person shall be so appointed if he has been employed by or on behalf of, or has in any manner whatsoever assisted, any candidate in or about that election. Presiding officers and agents. L.N. 172/2002.

(2) A returning officer may preside at a polling station and in that case he shall, for the purposes of these Regulations, be deemed to be the presiding officer of that station.

(3) A deputy presiding officer may perform any act (including the asking of any question) which his presiding officer is required or authorized to perform by these Regulations; but no deputy presiding officer shall have power to order the arrest of any person, or the exclusion or removal of any person from a polling station.

(4) The returning officer shall require every presiding officer, deputy presiding officer, clerk, interpreter and agent authorized to attend at polling station, as soon as he has made the oath of secrecy prescribed by the Election Offences Act, to make before the returning officer a declaration that the officer Cap. 66.

[Subsidiary]

making the declaration understands that he must not prompt any elector whom he is empowered by these Regulations to assist, and must strictly follow the provisions of these Regulations, and any instructions which may lawfully be given to him, relating to the election concerned.

(5) Every agent appointed by a candidate for the purposes of these Regulations shall at all times during the performance of the duties authorized by the candidate wear the official badge or insignia of the political party sponsoring the candidature of the candidate at the election.

PART III—NOMINATION OF PRESIDENTIAL CANDIDATES

Manner of
nomination of
presidential
candidates.
L.N. 172/2002,
L.N. 178/2007.

11. (1) For the purposes of section 5 of the Constitution, a candidate at a presidential election shall be nominated by a political party by delivery to the Electoral Commission, between the hours of eight o'clock in the morning and one o'clock in the afternoon and between the hours two o'clock and four o'clock in the afternoon of the days fixed for the nomination of candidates at that election of a nomination paper in Form 7.

(2) A nomination paper under this regulation shall—

- (a) be signed by the candidate, and by a proposer and seconder who shall be electors who are also national officials of the political party concerned;
- (b) contain such description of the candidate as is, in the opinion of the Electoral Commission, sufficient adequately to identify the candidate;
- (c) show the constituencies and electoral number of the proposer and the seconder; and
- (d) be delivered to the Electoral Commission personally by the candidate himself or by his proposer or seconder.

(3) Every application for nomination for candidature at a presidential election shall be accompanied by a nomination fee of one hundred thousand shillings in banker's draft which fee shall be refunded to the candidate—

- (a) where the returning officer holds a nomination paper invalid under regulation 13A; or
- (b) where the candidate withdraws his candidature under regulation 13B.

Supporters.
L.N. 172/2002.

12. (1) The person delivering a nomination paper under regulation 11 shall at the same time deliver to the Electoral Commission forty standards sheets of foolscap paper, serially numbered, each having at the top, in typescript, the wording in Form 8 and each bearing the signatures of twenty-five electors and their respective electoral numbers.

[Subsidiary]

(2) A minimum of one hundred of the supporters specified under paragraph (1) must be registered electors from at least each of the five provinces out of the eight provinces of Kenya.

13. If at the close of nominations for a presidential election only one candidate is validly nominated, the Electoral Commission shall publish a notice in the Gazette showing the name of the candidate so nominated and stating that the presidential election shall not be held, and-

Declaration of no contest.

- (a) in the case of a presidential election held otherwise than at a general election; or
- (b) in the case of a general election where the candidate is also the only candidate validly nominated in his constituency in the parliamentary election,

shall declare the candidate duly elected as President.

13A. (1) Where an application has been made in accordance with regulation 11, unless the returning officer holds a nomination paper invalid under paragraph (2) of this regulation, or the candidate withdraws his candidature under regulation 13B, the candidate named therein shall stand validly nominated.

Invalid nomination.
L.N. 172/2002.

(2) A returning officer shall hold a nomination paper invalid on any of the following grounds:-

- (a) that the particulars of the candidate or subscribers contained in the nomination paper are not as required by these Regulations;
- (b) that the nomination paper is not subscribed as required by these Regulations;
- (c) that the candidate is not qualified to be, or is disqualified by law from being, nominated or elected as a President;
- (d) that the proposer or seconder, or so many of the supporters as would reduce the number of qualified supporters to less than one thousand, are not qualified to be subscribers;
- (e) that the nomination paper is presented after another one has been presented by another candidate by the same political party which nomination paper was not declared invalid provided that where

the political party in question has submitted a composite list of Parliamentary candidates duly signed by two national officials of the party accredited for that purpose, the returning officer shall confirm the validly nominated candidate by referring to such a list;

- (f) that the nomination paper was presented after the prescribed period had lapsed; or

[Subsidiary]

(g) that the nomination paper was not accompanied by the prescribed deposit.

(3) A returning officer shall give his decision on an objection to a nomination paper as soon as practicable after the objection is made.

(4) Where a returning office decides that a nomination paper is invalid he shall record that decision and the reasons therefor on the paper, add his signature thereto and return the said invalid nomination paper to the candidate or its presenter.

Withdrawal of
candidate.
L.N. 172/2002,
L.N. 178/2007.

13B. A candidate whose nomination papers have been delivered to the returning officer may, before the close of nominations, by notice in writing signed by him before the returning officer and presented to the returning officer, withdraw his candidature.

PART IV—NOMINATION OF CANDIDATES FOR PARLIAMENTARY ELECTIONS

Notice of
Nomination day.
L.N. 178/2007.

14. A notice published by the Electoral Commission under section 13(3) of the Act shall—

- (a) specify the days for the nomination of candidates by each political party taking part in the parliamentary elections which shall be not less than twenty-one days before the date fixed by such notice for the holding of the parliamentary elections; and
- (b) require the political parties to submit a complete list of nominated candidates for the election to the Electoral Commission five days before the nomination day.

Nomination of
candidates.

15. (1) For the purposes of nomination of candidates at a parliamentary election every candidate shall be—

- (a) proposed and seconded and supported by not less than seven and not more than eighteen persons other than the proposer and seconder; and
- (b) nominated by the delivery by the candidate or his duly appointed agent to the returning officer of the constituency between the hours of eight o'clock in the morning and one o'clock in the afternoon and between the hours of two o'clock and four o'clock in the afternoon of the nomination days for election of a nomination paper in Form 9.

(2) There shall be delivered to the returning officer together with the nomination paper a statutory declaration in Form 10 made not earlier than one month before the nomination day.

(3) The subscribers to a nomination paper shall all be persons who are registered as electors for the constituency concerned and who are members of the political party whose endorsement the candidate is seeking.

[Subsidiary]

(4) Every application for nomination for candidature at a parliamentary election shall be accompanied by a nomination fee of five thousand shillings in cash or banker's draft, which fee shall be refunded to the candidate-

- (a) where the returning officer holds a nomination paper invalid under regulation 18; or
- (b) where the candidate withdraws his candidature under regulation 19,

but not otherwise.

(5) If a person stands nominated as a candidate in more than one constituency all nominations of that candidate shall be void.

16. (1) A nomination paper under this Part shall-

- (a) contain such description of the candidate as is sufficient adequately to identify the candidate; and
- (b) contain the candidate's name as it appears in the voter register;
- (c) show the electoral number of each of the subscribers thereto.

Nomination papers.
L.N. 178/2007.

(2) Where a nomination paper bears the signatures of more than the required or permitted number of persons as proposing, seconding or supporting the candidate, the signature or signatures, up to the required or permitted number, appearing first on the paper in each category shall be taken into account to the exclusion of all others in that category.

(3) No person shall be a subscriber to more than one nomination paper in respect of the same parliamentary elections and if any person subscribes to more than one such paper his subscription shall be inoperative on all such papers:

Provided that this paragraph shall not apply to the subscription of a person by reason only of his having subscribed a nomination paper of a candidate who has died or who has withdrawn his candidature before a second nomination paper subscribed by that person has been delivered to the returning officer.

(4) When a nomination paper has been delivered to a returning officer no further nomination papers shall be accepted in respect of the same candidate unless the first paper has been declared invalid under regulation 18.

(5) A returning officer shall supply free of charge to any elector of his constituency a form of nomination paper upon a request made in that behalf at such place and time as is specified in a notification under regulation 9 (2), but it shall not be necessary for a nomination form to be on a form so supplied so long as it otherwise complies with the requirements of these Regulations.

17. (1) Except for the purpose of assisting the returning officer, and at his request, no person shall be entitled to attend the proceedings taking place during the time fixed for the delivery of nomination papers unless he is a candidate or

Attendance at
delivery of
nomination papers.
L.N. 172/2002.

[Subsidiary]

the agent or the proposer or seconder of a candidate; but only two such persons shall be entitled so to attend at any one time in respect of any one candidate, whether one of those two is the candidate himself or not.

(2) A person entitled to attend proceedings under this regulation shall also be entitled to inspect, and to object to the validity of, any nomination paper delivered in his presence.

(3) Nothing contained in this regulation shall prevent the Electoral Commission from authorizing observers or members of the press duly approved or accredited by the Electoral Commission from attending the nomination proceedings.

Validity of
nomination papers.
L.N. 172/2002,
L.N. 178/2007.

18. (1) Where an application has been made in accordance with regulation 15 then, unless the returning officer holds a nomination paper invalid under paragraph (2) of this regulation, or the candidate withdraws his candidature under regulation 19 or proof is given to the satisfaction of the returning officer of the candidates' death, the candidate named therein shall stand validly nominated.

(2) A returning officer shall be entitled to hold a nomination paper invalid on any of the following grounds, but not otherwise—

- (a) that the particulars of the candidate or subscribers contained in the paper are not as required by these Regulations;
- (b) that the paper is not subscribed as required by these Regulations;
- (c) that the candidate is not qualified, or is disqualified by law from being nominated, or for being elected as an elected member of the National Assembly; or
- (d) that the proposer or seconder, or so many of the supporters as would reduce the number of qualified supporters to less than seven, are not qualified to be subscribers;
- (e) that the nomination paper is presented after another one had been presented by another candidate sponsored by the same political party;
- (f) that the nomination paper was presented after the prescribed period had expired; or
- (g) that the nomination paper was not accompanied by the prescribed nomination fees.

(2A) Notwithstanding paragraph (2) (e), if two nomination papers are presented in which the same political party appears to have nominated different candidates, the returning officer may investigate the matter and determine which nomination paper to hold invalid, provided that where the political party in question has submitted a composite list of Parliamentary candidates duly signed by two national officials of the party accredited for that purpose, the returning

[Subsidiary]

officer shall confirm the validly nominated candidate by referring to such a list.

(3) A returning officer shall give his decision immediately on an objection to a nomination paper.

(4) Where a returning officer decides that a nomination paper is invalid he shall immediately record that decision and the reasons therefor on the paper and add his signature thereto and shall return the said invalid nomination paper to the candidate or its presenter.

19. At any time before the close of nominations, but not later, a candidate whose nomination paper has been delivered to the returning officer may, by notice in writing signed by him and attested by one other person and delivered to the returning officer, withdraw his candidature.

Withdrawal of
candidature.
L.N. 172/2002.

19A. Where, after the close of the nomination and before the poll is commenced, proof is given to the satisfaction of the returning officer of the death of a person who has been duly nominated, the returning officer shall countermand notice of the poll for that constituency and all the proceedings with reference to the election in that constituency shall be commenced afresh as if the writ had been received on the day on which proof of the death was given, or in the case of a general election or an election involving other constituencies or electoral areas, the day following the announcement of the last election results:

Death of candidate.
L.N. 172/2002.

Provided that no fresh nomination shall be necessary in the case of a person already duly nominated for the countermanded election whose nomination shall remain valid.

19B. (1) Where the proceedings for or in connection with nomination in a constituency are on any day interrupted or obstructed by riots, open violence, floods or other natural catastrophe, the proceedings in that constituency shall be abandoned for that day and if that day is the last day for the delivery of nomination papers, the nomination proceedings in that constituency shall be continued on the next day as if that were the last day for the delivery thereof, and that day shall be treated for purposes of these Regulations as being the last day (subject however to any further application of this rule in the event of interruption or obstruction on that day).

Disruption of
nomination.
L.N. 172/2002,
L.N. 178/2007.

Provided the returning officer shall advertise the postponing of the nominations in such a manner as he considers sufficient to bring it to the notice of electors.

(2) A returning officer may extend the hours of nomination at the constituency where nomination has been interrupted and shall, where nomination started late, extend the hours of nomination by the amount of time which was lost in so starting late.

20. (1) If, after the closure of nomination no person stands validly nominated, the returning officer shall—

Procedure
after closure of
nomination.

(a) certify accordingly to the Electoral Commission in Form 11; and

L.N. 172/2002.

[Subsidiary]

(b) publish a statement counter-manding the holding of the election concerned.

(2) If, after the close of nominations, only one candidate stands validly nominated, the returning officer shall—

(a) declare the candidate to be nominated; and

(b) certify accordingly to the Electoral Commission in Form 12.

(3) Upon receipt of a certificate under paragraph (1) or (2), the Electoral Commission shall publish a notice in the Gazette in appropriate terms and, where two or more certificates are received at substantially the same time, such notice may be a composite one.

(4) If, after the close of nominations, two or more candidates stand validly nominated, the returning officer shall publish a statement and post it prominently at a place at the returning officer's office where the public has full access and in such other places as the Electoral Commission may deem necessary in Form 13 stating—

(a) the names, in alphabetical order of surnames, addresses and occupations or descriptions of such candidates as given in their nomination papers;

(b) the names of the subscribers to the nomination papers;

(c) the day or days upon which, and the hours during which, the poll will be taken; and

(d) the situation of each polling station and the description of the electors entitled to vote at each polling station.

PART V—PROVISIONS RELATING TO ELECTIONS

Election procedure.

21. (1) Every election shall be by ballot wherein the votes of electors shall consist of ballot papers, and shall be held in accordance with the provisions of these Regulations applicable to the class of election concerned.

(2) No person shall vote in a constituency other than that in respect of which he is registered as an elector.

(3) No person shall cast more than one vote at any particular election.

Equipment of polling
stations.
L.N. 172/2002.

22. (1) The returning officer shall provide each presiding officer with such number of ballot boxes and ballot papers as the returning officer considers necessary for the effective carrying out of the provisions of these Regulations relating to the election concerned, and in the case of a joint election shall ensure that the ballot boxes relating to the presidential election and the parliamentary election are of different colours and bear different serial numbers and placed as far away as possible from each other.

[Subsidiary]

(2) Every ballot box shall be constructed—

- (a) with an aperture which is large enough to receive a ballot paper but which is no larger; and
- (b) so as to be capable of being sealed so that ballot papers cannot be taken out of the box so long as the seal is unbroken;
- (c) so that the ballot boxes shall bear serial numbers of the polling stations, which serial numbers shall be posted prominently and in full view of electors at every polling stations.

(3) The returning officer shall provide each polling station with—

- (a) materials to enable electors to mark their ballot papers in election where marking is necessary;
- (b) instruments for stamping the official mark on ballot papers;
- (c) a bottle or container of indelible ink suitable for the purposes of regulation 29 (2) (a);
- (d) a seal of the Electoral Commission suitable for the purposes of regulation 29 (2) (b);
- (e) a copy of the register of electors or such part thereof as contains the names of the electors entitled to vote at that polling station; and
- (f) a sufficient number of compartments in which electors can mark their votes screened from observation.

23. (1) The presiding officer shall regulate the number of electors to be admitted to the polling station at the same time, and shall exclude all other persons except—

Admission to polling station.

L.N. 178/2007.

- (a) the candidates and their agents;
- (b) members of the Electoral Commission and election officers on duty;
- (c) police officers on duty;
- (d) persons necessarily assisting blind or incapacitated voters; and
- (e) observers and representatives of the print and electronic media approved or accredited by the Electoral Commission.

(2) The presiding officer shall admit to the polling station not more than two agents for each candidate, but he may refuse admission to a person claiming to be an agent for a candidate if that person does not produce a letter of appointment as an agent signed by that candidate.

[Subsidiary]

(3) No person shall be admitted to vote at any polling station other than that allotted to him under regulation 20 (4) (d).

Keeping order at
polling station.
L.N. 172/2002.

24. (1) It shall be the duty of the presiding officer to keep order at his polling station.

(2) If any person misconducts himself in a polling station, or fails to obey the lawful instructions or orders of the presiding officer, he may immediately be removed, by order of the presiding officer, from the polling station by a police officer, and a person so removed shall not re-enter the polling station during the continuance of the poll without the permission of the presiding officer.

(3) A person removed from a polling station under paragraph (2) may, if charged with the commission in the polling station of an offence, be dealt with as a person taken into custody for an offence by a police officer without a warrant.

(4) The presiding officer may order the dispersal of any gathering of persons which appears to him to be preventing free ingress to, or egress from, the polling station or to be intimidating or interfering with electors, and any such order shall be sufficient authority for a police officer, or any other person authorized by the order, to effect the dispersal.

(5) The power conferred on a presiding officer and a police officer under paragraph (4) shall not be limited to the area covered by the polling station only but shall encompass a radius of four hundred meters from the centre of the polling station.

(6) The powers conferred by this regulation shall not be exercised so as to prevent an elector who is entitled to vote at the polling station from having an opportunity of peaceably voting thereat.

Postponement, etc.
of polling by the
presiding officer.
L.N. 178/2007.

25. (1) Notwithstanding the terms of any writ or notice issued under the Act or these Regulations, a presiding officer may postpone or adjourn the proceedings at his polling station where they are interrupted by a riot, open violence, flood, natural catastrophe shortage of equipment or other materials at a polling station or other administrative difficulty or other cause, but where he does so he shall start or re-start the proceedings at the earliest practicable moment.

(2) The discretionary powers of a presiding officer under paragraph (1) shall include a power in the circumstances therein mentioned to transfer the proceedings to another polling station in the same constituency, and where he does so—

(a) he shall advertise the fact in such manner as he thinks sufficient to bring it to the notice of electors; and

(b) the polling area for the polling station from which the proceedings are transferred shall, for all the purposes of these Regulations, be deemed to be part of the polling area of the polling station to which the proceedings are transferred.

[Subsidiary]

(3) A presiding officer may extend the hours of polling at his polling station where polling has been interrupted under this regulation or for other good cause, and shall, where polling in that polling station has started late, extend the hours of polling by the amount of time which was lost in so starting late.

25A. (1) Where a date has been appointed for holding of an election, and there is reason to believe that a serious breach of peace is likely to occur if the election is held on that date or it is impossible to conduct the elections as a result of natural disasters or other emergencies, the Electoral Commission may postpone the election and shall in respect of the area, or areas concerned, appoint another date for the holding of the postponed election.

Postponement of
polls by Electoral
Commission.
L.N. 178/2007.

(2) Where an election is postponed under paragraph (1), the election shall be held at the earliest practicable time.

(3) Notwithstanding the provisions of this Regulation the Electoral Commission may, if satisfied that the result of the elections will not be affected by voting in the area in respect of which substituted dates have been appointed, direct that a return of elections be made.

26. No person other than an election officer or police officer on duty shall, except with the authority of the presiding officer, have any communication whatsoever with an elector who is in, or in the immediate precincts of, a polling station for the purpose of voting; but this regulation shall not prevent the companion of a blind or incapacitated elector from communicating with that elector.

Communication with
electors at polling
station.

27. (1) Immediately before the commencement of the poll, the presiding officer shall show the ballot box or ballot boxes to those persons lawfully present in the polling station, and shall allow those of the candidates and their agents as may wish to do so to ascertain that the box or boxes are empty, and shall thereupon close the box or boxes so that they may not be opened without breaking the seal.

Sealing of ballot
boxes.

(2) After a ballot box is sealed under paragraph (1) the presiding officer shall cause it to be so placed in the polling station that it can at all times be in the view of himself or a deputy presiding officer and of the candidates or their agents.

(3) On the adjournment of the poll in a polling station to another day, or on the close of the poll at one station with a view to transferring a ballot box to another station, and at any other time when a ballot box is not in use for the purpose of receiving ballot papers, the presiding officer shall close up the aperture used for the insertion of the ballot papers into the box and place his seal on it in such a manner as to prevent the insertion of ballot papers without breaking the seal.

(4) After a box has been sealed under paragraph (3), the seal shall not be broken or the aperture opened until broken and opened in the presence of those persons lawfully present in the polling station where polling is about to re-commence.

[Subsidiary]

(5) Where a presiding officer affixes his seal on a ballot box or aperture thereof under this regulation he shall permit any candidate or agent of a candidate who so wishes to affix his seal on the box or aperture.

Ballot papers.
L.N. 172/2002.

28. (1) Ballot papers–

- (a) for use at a presidential election shall be in Form 14, and where the election forms part of a joint election shall be printed on paper of a different colour from those for use in the parliamentary election; and
- (b) for use at a parliamentary election shall be in Form 15.

(2) The persons validly nominated under regulation 11 or regulation 18, as the case may be, and no other, shall have their names inserted in the ballot papers for an election in the same order as they appeared in a notice published in accordance with regulation 20(3).

(3) Every ballot paper for use at an election shall–

- (a) contain the names and party symbols of the persons validly nominated who are entitled to have their names inserted therein;
- (b) be capable of being folded up;
- (c) have a number, or combination of letter and number, printed on the front; and
- (d) have attached a counterfoil with the same number or combination printed thereon.

(4) The presiding officer shall allow those candidates or their agents who are present at the polling station before polling commences to inspect the ballot papers provided for use at the polling station and note the serial numbers thereon.

General voting
procedure.
L.N. 172/2002.

29. (1) Before the delivery of a ballot paper to an elector–

- (a) the ballot paper shall be stamped with the official mark of the Electoral Commission;
- (b) the number and name of the elector as stated in the copy register shall be called out;
- (c) *(Deleted by L.N. 529/1997).*
- (d) the name of the elector shall be deleted from the register but the electoral number of the elector shall be retained as proof that a ballot paper has been delivered; and
- (e) the elector's card of the elector shall be stamped to show that a ballot paper has been delivered to him.

[Subsidiary]

(2) Upon receiving a ballot paper, an elector shall submit his elector's card to be impressed with the seal of the Electoral Commission leaving a permanent impression on the card.

(3) After receiving a ballot paper—

- (a) an elector shall cast his vote in accordance with regulation 30 without undue delay;
- (b) submit to having a particular one of his fingers immersed or dipped in ink of a distinctive colour which, so far as is possible, is sufficiently indelible to leave a mark for the period of the election; and
- (c) shall then immediately leave the polling station.

(4) A person who knowingly fails to place a ballot paper issued to him (not being a spoiled ballot paper) into a ballot box before leaving the place where the box is situated, shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding six months or to both.

(5) Any election officer who deliberately refuses to mark or stamp any ballot paper shall be guilty of an offence and shall be liable to a fine of twenty thousand shillings or to imprisonment for a term of one year or to both.

29— 30. (1) An elector shall, upon receiving a ballot paper under regulation Method of voting.
L.N. 172/2002.

- (a) go immediately into one of the compartments of the polling station and there secretly mark his ballot paper by putting a cross, a tick or any other mark in the box and column provided for that purpose against the name and party symbol of the candidate for whom he wishes to vote; and
- (b) fold it up so as to conceal his vote, and shall then put the ballot paper into the ballot box in the presence of the presiding officer and in full view of the agents.

(2) In the case of a joint election the elector shall follow the procedure set out in paragraph (1) with regard to both ballots and shall put each ballot paper into the ballot box provided for the election concerned:

Provided that if an elector so requests, he shall be supplied with all the ballot papers for both elections at the same time in which case such elector shall not be required to follow this procedure more than once.

(3) No person other than a person acting under regulation 31 shall be present in a compartment of a polling station while an elector is therein for the purpose of marking his ballot paper and any person who contravenes this

[Subsidiary]

paragraph shall be guilty of an offence and liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding one year or both.

Assisted voters.
L.N. 172/2002,
L.N. 178/2007.

31. (1) On the application of an elector who declares that he is unable to read or write, or who is incapacitated by reason of blindness or other physical cause from voting in the manner prescribed in these Regulations, the presiding officer shall permit the elector to be assisted by a person of the elector's own free choice.

(2) No person other than the person chosen by the elector shall enter the compartment whilst the elector is casting the vote.

(3) The person chosen by the elector is not required to be qualified to vote but is required to have reached the age of majority.

(4) The following shall apply with respect to a person who assists an elector under this regulation—

- (a) the person shall, before assisting the elector, make an oath of secrecy before the presiding officer in the form specified by the Electoral Commission;
- (b) the person is only required to make one oath of secrecy before he assists an elector; and
- (c) if the person breaches his oath he shall be guilty of an offence and liable to the penalty specified in regulation 42.
- (d) the person shall assist only one elector at that election.

(5) The presiding officer may make such inquiries as he may deem necessary in order to establish that the elector and his chosen assistant satisfy the provisions of this regulation.

(6) Where a presiding officer grants the request of an elector under this regulation, the presiding officer shall record in the copy register against the name of the elector the fact that the elector was assisted and the reason for the assistance.

Spoilt ballot papers.

32. An elector who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used as a ballot paper may, on delivering it to the presiding officer and proving to the satisfaction of such officer the fact of the inadvertence, obtain another ballot paper in the place of the paper so delivered, and the spoilt ballot paper shall be immediately cancelled and the counterfoil thereof marked accordingly.

Evidence of identity
and record of certain
votes.
L.N. 172/2002,
L.N. 178/2007.
Cap. 107.

33. (1) A presiding officer shall require a person applying for a ballot paper to produce his identity card issued under the Registration of Persons Act or a valid Kenya passport and the elector's card issued by the Electoral commission.

34. (1) Immediately after the close of the poll at his polling station the presiding officer shall make a written statement of—

- (a) the number of ballot papers issued to him under regulation 22 (1);
- (b) the number of ballot paper, other than spoilt ballot papers, issued;
- (c) the number of spoilt ballot papers;
- (d) the number of ballot papers remaining unused.

(2) Immediately after the completion of the statement under paragraph (1), the presiding officer, in the presence of those candidates or their agents as are then present with him, shall make up into separate packets

- (a) the spoilt papers, if any;
- (b) the marked copy register;
- (c) the counterfoils of the used ballot papers; and
- (d) the aforesaid statement and any statement recorded under regulation 33 (2), and shall seal with his own seal each of the packets, and shall seal with the electoral commission seal each of the packets, and shall allow any candidate or agent who may so desire to affix his seal to the packet or box.

(3) After complying with the provisions of this regulation, the presiding officer shall, as soon as practicable, deliver the ballot boxes, with keys, (if any) attached, and the sealed packets to the returning officer who shall take charge thereof, and the presiding officer shall permit candidates or their agents to accompany the ballot boxes and sealed packets in the course of delivery to the returning officer.

35. (1) Immediately after complying with the provisions of regulation 34 the presiding officer shall in the presence of the candidate or their counting agents proceed to count the votes for that polling station.

(2) No agent of a candidate shall be deemed to be a counting agent unless, at least thirty-six hours before the close of the poll in that election, the name and address of the agent and his appointment as such by the candidate has been submitted to the presiding officer, and a presiding officer shall not allow a person whose name, address and authorization has not been so submitted to attend at a counting of votes notwithstanding that the appointment of that person is otherwise in order.

(3) Notwithstanding the provisions of this regulation, a presiding officer shall not be obliged to admit more than two counting agents of any one candidate to the counting of votes.

(4) The Electoral Commission shall permit—

[Subsidiary]

Procedure on close of poll.

L.N. 172/2002.

Attendance at counting of votes.
L.N. 172/2002,
L.N. 178/2007.

[Subsidiary]

- (a) observers and representatives of the media duly approved or accredited by the Electoral Commission;
- (b) members of the Electoral Commission and election officers on duty;
- (c) candidates and agents appointed under paragraph (2); and
- (d) police officers on duty, to attend the proceedings at the counting of votes.

(6) If a vehicle or vessel is appointed for a polling station and weather conditions exist, immediately after the presiding officer complies with the provisions of regulation 34, that may interfere with the counting of votes, the Electoral Commission may allow the vehicle or vessel to be moved to a place where the votes can be counted.

Counting of votes.
L.N. 172/2002,
L.N. 178/2007.

35A. (1) In pursuance of the provisions of regulation 35, the presiding officer shall, in the presence of the candidates or their agents as shall be present—

- (a) open each ballot box and empty its contents onto the counting table or any other facility provided for the purpose and, with the assistance of polling clerks, proceed to count the votes polled by each candidate; and
- (b) record the total number of votes cast in favour of each candidate.
 - (2) Each ballot paper shall be counted as follows:—
 - (a) the presiding officer shall in respect of every ballot paper, announce the candidate in whose favour the vote was cast.
 - (b) display to the candidates or their agents the ballot paper sufficiently for them to ascertain the vote; and
 - (c) put the ballot paper at the place on the counting table, or other facility provided for this purpose, set for the candidate in whose favour it was cast.
 - (3) A candidate or his agent shall have a right to—
 - (a) dispute the inclusion in the count of a ballot paper; or
 - (b) object to the rejection of a ballot paper, where upon the presiding officer may decide to uphold or reject the complaint and act as provided under regulation 41.

(4) The presiding officer, the candidates or their agents shall then sign the declaration set out in Form 16A which shall state—

[Subsidiary]

- (a) the name of the polling station;
- (b) the total number of registered electors for the polling station;
- (c) the total number of valid votes cast;
- (d) the number of votes cast in favour of each candidate;
- (e) the number of votes that were rejected; and
- (f) the number of disputed votes.

(5) The presiding officer shall—

- (a) immediately announce the results of the voting at that polling station before communicating them to the returning officer;
- (b) request each of the candidates and in the absence of a candidate, such of his agents then present to append his signature or write down reasons for the refusal to sign the declaration of the results of the count of the votes at the polling station;
- (c) provide each candidate or agent with a copy of the declaration of the results; and
- (d) affix a copy of the declaration of the results at the public entrance to the polling station or at any other place convenient and accessible to the public at the polling station.

(3) Where any of the candidates or his agents refuses or fails to sign the declaration form, the candidates and his agents shall record the reasons for the refusal or failure to sign.

(4) Where the candidates or his agent refuses or fails to record the reasons for refusal or failure to sign the declaration form the presiding officer shall record the fact of their refusal or failure to sign the form.

(5) Where any candidate or agent is absent, the presiding officer shall record the fact of their absence.

(6) The refusal or failure of a candidate or agent to sign a declaration form under paragraph (4) or to record the reasons for their refusal to sign as required under this regulation shall not by itself invalidate the results announced under paragraph (5).

(7) The absence of a candidate or an agent at the signing of a declaration form or the announcement of results under paragraph (2) shall not by itself invalidate the results announced.

36. (1) At the counting of votes at an election any ballot paper—

- (a) which does not bear the official mark; or

Counting of votes.
L.N. 172/2002,
L.N. 178/2007.

[Subsidiary]

- (b) on which votes are given for more than one candidate; or
- (c) on which anything is written or so marked as to be uncertain for whom the vote has been cast; or
- (d) which bears a serial number different from the serial number of the respective polling station and which cannot be verified from the counterfoil of ballot papers used at that polling station,

shall, subject to paragraph (2), be void and shall not be counted.

(2) A ballot paper on which a vote is marked—

- (a) elsewhere than in the proper place; or
- (b) *(Deleted by L.N. 172/2002).*
- (c) by more than one mark;
- (d) which bears a different serial number from ballot papers issued at the polling station; or
- (e) which bears marks or writing which may identify the voter or;
- (f) is unmarked.

shall not by that reason only thereof be void if an intention that the vote shall be for one or other of the candidates clearly appears, and the manner in which the paper is marked does not itself identify the elector and it is not shown that the elector can be identified thereby.

(3) A presiding officer shall, so far as practicable proceed continuously with the counting of votes.

(4) A presiding officer shall not commence to count votes unless he is of the opinion that he can conveniently complete the count, and any recount if it appears to him to be likely, without a break, but having commenced the count, he may if he considers it desirable and after consultation with such of the candidates or their counting agents as are present, exclude the hours between seven o'clock in the evening and nine o'clock of the following morning.

(5) *(Deleted by L.N. 172/2002).*

(6) During any time excluded under paragraph (5), the presiding officer shall place the ballot papers and other documents relating to the election under the Electoral Commission's seal and the seal of those of the candidates and their counting agents as may desire to affix their seals, and shall otherwise take all due and proper precautions for the security of such papers and documents.

Recount.
L.N. 172/2002.

37. (1) A candidate or counting agent, if lawfully present when the counting or any recount of votes is completed, may require the presiding officer

[Subsidiary]

to have the votes rechecked and recounted or the presiding officer may on his own initiative, have the votes recounted:

Provided that the recount of votes shall not take place more than twice.

(2) No steps shall be taken on the completion of a count or recount of votes until the candidates and counting agents present at the completion have been given a reasonable opportunity to exercise the right given by this regulation.

38. (1) Every rejected ballot paper shall be marked with the word "rejected" by the presiding officer, and, if an objection is made by a candidate or counting agent to the rejection, the presiding officer shall add the words "rejection objected to".

Rejected ballot papers.
L.N. 172/2002.

(2) The presiding officer shall mark every ballot paper which he counted but whose validity has been disputed or questioned by a candidate or an agent with the word "disputed" but such ballot papers shall be treated as valid for the purpose of the declaration of election results at the polling station.

(3) After the counting of votes is finally concluded, the returning officer shall draw up a statement showing the number of rejected ballot papers under such of the following heads of rejection as may be applicable-

- (a) want of official mark;
- (b) voting for more than one candidate;
- (c) writing or mark by which the elector might be identified;
- (d) unmarked or void for uncertainty,

and any candidate or counting agent shall, if he so desires, be allowed to copy that statement.

39. (1) Upon completion of a count (including any recount), the presiding officer shall seal in separate packets-

Sealing of ballot papers by presiding officer.
L.N. 172/2002,
L.N. 178/2007.

- (a) the counted ballot papers which are not disputed;
- (b) the rejected ballot papers together with the statement relating thereto; and
- (c) the disputed ballot papers;
- (d) "rejection objected to" ballot papers;

(2) The presiding officer shall allow candidates or their agents who are then present to affix their own seals on the packets specified in regulation 34.

(3) The presiding officer shall, after demonstrating to the candidates or their counting agents that the ballot box to be used to carry the election

[Subsidiary]

results is empty put–

- (a) the packets specified in regulation 34;
- (b) the statements made under regulations 37 and 38; and
- (c) the declaration of results made under regulation 40, in the ballot box, then seal the ballot box with the seal of the Electoral Commission and let the candidates or their counting agents affix their own seals on the ballot box if they so wish.

(4) The presiding officer shall as soon as is practicable deliver to the returning officer for the constituency the ballot box containing the items listed under paragraph (3).

Announcement of
election results.
L.N. 172/2002,
L.N. 178/2007.

40. (1) Immediately after the results of the poll for all polling stations in a constituency have been received by the returning officer, he shall, in the presence of candidates or their agents present–

- (a) tally the results from the polling stations for each candidate without recounting the ballots that were not in dispute and where the returning officer finds the total valid votes in a polling station exceeds the number of registered voters in that polling station, he shall disregard the results of the count of that polling station in the announcement of the election results and make a statement to that effect;
- (b) examine the ballot papers marked “rejection objected to” and “disputed” and confirm or vary the decisions of the presiding officers with regard to the validity of these ballot papers;
- (c) publicly announce to persons present the total number of valid votes cast for each candidate in case of an election for the president;
- (d) publicly announce to persons present the total number of valid votes cast for each candidate in case of a parliamentary election;
- (e) publicly declare to the persons present the candidate who has won the parliamentary election for the constituency;
- (f) complete Form 17A set out in the First Schedule in which he shall declare the–
 - (i) name of the constituency;
 - (ii) total number of registered voters;
 - (iii) votes cast for each candidate in each polling station;
 - (iv) number of rejected votes for each candidate in each polling station;

[Subsidiary]

(v) aggregate number of votes cast in the Constituency; and

(vi) aggregate number of rejected votes; and

(g) sign and date the form and—

(i) give to any candidate or candidate's agent present a copy of the form; and

(ii) deliver to the Electoral Commission the original of Form 16A together with Form 17A and Form 18.

(2) The returning officer shall allow the following persons to be at the tallying centre—

(a) the presiding officers and other election officials on duty;

(b) a police officer on duty;

(c) a candidate;

(d) an agent;

(e) duly accredited election observers;

(f) duly accredited media persons; and

(g) a member of the Electoral Commission.

(3) Notwithstanding the provisions of this regulation, the returning officer shall not be obliged to admit more than one agent of any candidate to the tallying venue;

(3) The results of the presidential election in a constituency shown in Form 16A shall be subject to confirmation by the Electoral Commission after a tally of all the votes cast in the election.

(4) The decisions of the returning officer on the validity or otherwise of a ballot paper or a vote under this Regulation shall be final except in an election petition.

40A. After the announcement of results, the returning officer shall seal up in separate packets—

(a) the counted ballot papers; and

(b) the rejected ballot papers, together with the statements related thereto and shall put the sealed packets in the used ballot box in the presence of candidates or their agents as are present and seal the ballot box with the Electoral Commission seal and let the candidates or their agents present affix their own seals on the ballot box if they so wish.

Sealing of ballot papers by returning officer.
L.N. 178/2007.

[Subsidiary]

Returns of
persons elected.
L.N. 172/2002,
L.N. 178/2007.

41. (1) The returning officer shall, as soon as practicable, forward to the Electoral Commission—

- (a) in the case of a presidential election, whether or not forming part of a joint election, a certificate in Form 16 showing the total number of votes cast for each candidate;
- (b) in the case of a parliamentary election, whether or not forming part of a joint election, a certificate in Form 17 showing the name of the candidate who was elected and any statement made under regulation 40 (1) (d).
- (c) Form 16A containing the presidential and parliamentary declaration of election results at the polling stations; and
- (d) Form 17A containing the presidential and parliamentary declaration of election results at the Constituency.

(2) Upon receipt of a certificate under paragraph (1) the Electoral Commission shall—

- (a) in the case of a presidential election, whether or not forming part of a joint election, hold the certificate until the results of that election in every constituency have been received and thereafter publish a notice in the Gazette declaring the person who has received the greatest number of votes in the election, and has complied with the provisions of section 5 of the Constitution, to have been elected President:

Provided that the Electoral Commission may declare a candidate elected as the President before all the constituencies have delivered their results if in its opinion the results that have not been received will not make a difference as to the winner on the basis of section 5 of the Constitution; and

- (b) in the case of a parliamentary election, whether or not forming part of a joint election, publish a notice in the Gazette, which may form part of a composite notice, showing the name or names of the person or persons elected.

(3) Where a parliamentary election results in a tie, the Electoral Commission shall notify the Speaker accordingly and the Speaker shall issue the appropriate notice or writ for a fresh election at which the only candidates shall be the candidates who tied.

(4) The Electoral Commission shall certify to the Speaker of the National Assembly the candidates who were elected in the parliamentary election.

(5) The Electoral Commission shall issue and deliver a certificate in Form 18 to the candidate who shall be elected President in the presidential election at the time and place where the new President shall take the oath of office.

[Subsidiary]

(6) Where a dispute arises over the counting and or tally of the votes, a candidate may within twenty four hours petition the Electoral Commission which shall have the power to order and supervise a count and or tally as is appropriate provided that the decision of the Electoral Commission shall be made within forty eight (48) hours of such a petition.

PART VII—MISCELLANEOUS PROVISIONS

42. (1) All documents relating to an election shall be retained in safe custody by the returning officer for a period of three months after the results of the elections have been declared and shall then, unless the Electoral Commission or an election court otherwise directs, be destroyed.

Retention and public inspection of document.
L.N. 172/2002,
L.N. 178/2007.

(2) Any person may apply to the High Court with notice to all candidates in the election concerned for authority to inspect documents retained under these Regulations, other than ballot papers and their counterfoils;

(3) For the purpose of an inspection under paragraph (2), the returning officer shall unseal the documents concerned in the presence of candidates or their agents appointed in writing and the returning officer and candidates or their agents shall keep the documents under their scrutiny until they are resealed by the returning officer, in the presence of the witness, after the inspection is completed.

(4) The provisions of this regulation shall not apply to documents that concern a pending election petition unless there is a court order granting such authority.

43. An officer, clerk or other person who having a duty to perform under these Regulations is without reasonable cause, guilty of an act or omission in breach of his official duty, shall be guilty of an offence and liable to the penalty specified under section 4 of the Elections Offences Act.

Offences by election officials.
L.N. 172/2002,
L.N. 178/2007.
Cap. 66.

44. The Electoral Commission may make special provision for the voting of patients in hospitals, persons admitted in sanatoria or homes for the aged and similar institutions, persons who lead nomadic life on account of vagaries of climate, physically disabled persons and expectant mothers.

Voting of patients, pastoralists, etc.
L.N. 172/2002.

45. (1) The Electoral Commission may, at any election, accredit any individual, association, organization, or institution who or which is manifestly non-partisan to act as election observers.

Accreditation of election observers.
L.N. 172/2002,
L.N. 178/2007.

(2) The Electoral Commission shall issue guidelines for election observers, consistent with internationally accepted standards for fair elections, which shall be binding on election observers upon accreditation by the Electoral Commission.

(3) Without prejudice to the generality of paragraph (2) the guidelines issued thereunder may specify the procedures for the accreditation of election observers.

[Subsidiary]

(4) The Electoral Commission may revoke the accreditation it has granted to any election observers where it is satisfied that an election observer is partisan.

(5) No person, association, organization or institution shall observe any election unless the person, association, organization or institution has been accredited by the Electoral Commission.

(6) All the accredited election observers shall submit to the Electoral Commission a written report of their individual or group observation not later than six months after the date of the announcement of the election results in respect of the election observed.

(7) The Electoral Commission may at any election accredit the media to access and cover the electoral process.

(8) The Electoral Commission may issue guidelines consistent with internationally accepted standards for fair elections which shall be binding on all media representatives upon accreditation by the Electoral Commission.

Attendance of agents.
L.N. 172/2002.

46. Where in these Regulations expressions are used requiring, authorizing, or implying that any act or thing is to be done in the presence of the candidates or their polling or counting agents, those expressions shall be regarded as reference to the presence of such candidates or agents as may be authorized to attend and have in fact attended at the time and place where the act or thing is being done and the mere non-attendance of any candidate or agent at that time and place shall not, if any act or thing is otherwise lawfully done, invalidate that act or thing.

FIRST SCHEDULE

FORMS

Form 1

(r. 8 (1))

NOTICE OF PRESIDENTIAL ELECTION

An election of a President of the Republic of Kenya is to be held at the forthcoming general election.

Nomination papers for the presidential election may be delivered by the candidate or his proposer or seconder to the Electoral Commission, Nairobi, between the hours of eight o'clock in the morning and one o'clock in the afternoon and between the hours of two o'clock and four o'clock in the afternoon

on the day of, 19.....

and on the day of, 19.....

Dated the, 19

.....
Chairman,
Electoral Commission.

[Subsidiary]

Form 2

(r. 8 (1))

NOTICE OF PRESIDENTIAL ELECTION

An election of a President of the Republic of Kenya is to be held otherwise than at a general election.

Nomination papers for the presidential election may be delivered by the candidate or his proposer or seconder to the Electoral Commission, Nairobi, "between the hours of eight o'clock in the morning and one o'clock in the afternoon and between the hours two o'clock and four o'clock in the afternoon on the day of, 19..... and on theday of, 19....."

If the presidential elections is contested, the poll will take place on theday(s) of, 19

Dated the, 19.....

..... Chairman, Electoral Commission.

Form 3

(r. 8 (2))

WRIT

To: THE RETURNING OFFICER,

FOR THE CONSTITUENCY

WHEREAS a vacancy has arisen in the membership of the National Assembly in respect of the above-mentioned constituency:

NOW, THEREFORE, in pursuance of the provisions of section 13 of the National Assembly and Presidential Elections Act I command you that, due notice being first given, you do cause election to be held according to law of a member to serve in the National Assembly for the said constituency.

Dated the, 19

..... Speaker of the National Assembly

[Subsidiary]

Form 4

(r. 8 (3))

NOTICE OF ELECTION

An election is to be held of a member to serve in the National Assembly for the Constituency.

The day for nomination for the parliamentary election will be the, 19 and nomination papers may be delivered by candidates to the returning officer at between the hours of eight o'clock in the morning and one o'clock in the afternoon and between the hours two o'clock and four o'clock in the afternoon on the day of 19 and on theday of, 19

If the parliamentary election is contested the poll will take place on the, 19

.....
*Chairman,
Electoral Commission.*

NOTES:

1. The attention of candidates and persons subscribing nomination papers is drawn to the provision of Part IV of the Parliamentary and Presidential Election Regulation (*Cap. 7, Sub. Leg.*).

2. A person guilty of an election offence will be liable to the penalties imposed by the Election Offences Act (Cap.66), and to the disqualifications imposed by the National Assembly and Presidential Elections Act (Cap. 7).

L.N. 172/2002.

Form 5

(r. 9 (1))

ELECTION OF PRESIDENT

There is to be an election of a President of the Republic of Kenya. Voting in this election will take place *at the ballot for the general election/on theday of, 19.....

.....
Returning Officer
..... Constituency

*Delete as appropriate.

[Subsidiary]

Form 6

(r. 9 (2))

ELECTION OF MEMBER OF PARLIAMENT

There is to be an election of a member to serve in the National Assembly for the Constituency.

A parliamentary election will be held on the....., 19

Each political party wishing to participate in the election must finalize their nomination of candidates before the, 19

Nomination papers for the election may be delivered to the returning officer at between the hours of eight o'clock in the morning and one o'clock on the, 19 and forms of nomination papers therefor may be obtained at between the hours of nine o'clock in the morning and one o'clock on any weekday. The returning officer will prepare a nomination paper for signature at the request of any person who is a registered elector in his constituency.

Dated the, 19

.....
Returning Officer

Form 7

(r. 11)

NOMINATION PAPER FOR A PRESIDENTIAL ELECTION

Election of a President of the Republic of Kenya to be held on theday of, 19.....

We, the undersigned proposer and seconder, being registered as voters, in the constituencies shown below do hereby nominate the undermentioned person as a candidate at the said election

<i>Candidate's Name in Full</i>	<i>Place of Residence</i>	<i>Occupation or Description</i>

[Subsidiary]

Proposer:

Full Names

Constituency

Electoral Number

Party Office Held

.....
Signature of Proposer

Seconder:

Full Names.....

Constituency

Electoral Number

Party Office Held

And I, the aforesaid
do hereby consent to my nomination as a candidate for election as President of
the Republic of Kenya and hereby certify that I am in all respects qualified for
nomination a such condidate.

.....
Signature of Candidate

Form 8

(r. 12)

[Subsidiary]

SUPPORTERS FOR PRESIDENTIAL CANDIDATE

We, we undersigned, being registered voters with the electoral numbers indicated opposite our respective names, do hereby support the nomination ofas a candidate for election as President of the Republic of Kenya.

No.	Name	Constituency/ District	Electoral Number	Signature/ Thumb Print
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				
14.				
15.				
16.				
17.				
18.				
19.				
20.				
21.				
22.				
23.				
24.				
25.				

[Subsidiary]

Form 9

(r. 15 (1))

NOMINATION PAPER FOR A PARLIAMENTARY ELECTION

Parliamentary election for the Constituency

We, the undersigned, being registered voters in the constituency and members of(political party) nominate the undermentioned person as a candidate at the parliamentary election.

Table with 3 columns: Candidate's Name in Full, Place of Residence, Occupation or Description

Name Signature Electoral Numbers
Proposer.....
Second.....

We, the undersigned, being registered as voters for the Constituency and members of the said political party support the foregoing nomination.

Name Signature Electoral Numbers
.....
.....
.....
.....
.....
.....
.....
.....

NOTES:

1. The attention of candidates and persons subscribing to this paper in drawn to the provision of Part IV of the Parliamentary and Presidential Elections Regulations (Cap. 7, Sub. Leg.).

2. No person may subscribe to more than one nomination paper for this election.

[Subsidiary]

Form 10

(r. 15 (2))

STATUTORY DECLARATION FOR PURPOSES OF NOMINATION AT A PARLIAMENTARY ELECTION

I, of do solemnly and sincerely declare as follows-

1. I do hereby consent to my nomination as a candidate at the parliamentary election to be held in the Constituency.

2. I am duly qualified and am not disqualified by law for election as a member of the National Assembly.

3. I am sufficiently proficient in my knowledge of the English language in that

My native language is English;

or

I have formerly been a member of the National Assembly/the East African Legislative Assembly/the former Legislative Council/the former Central Legislative Assembly;

or

I have formerly been validly nominated for election to the National Assembly/the former Legislative Council;

or

I possess a degree/diploma of the University/University College ofat which the medium of instruction is English, or of the former Royal College Nairobi;

or

I have passed the General Certificate of Education/the Cambridge Overseas School Certificate/the East African Certificate of Education/equivalent examination in the English language;

or

I have received a certificate of proficiency in the English language issued to me by the language board of the province/language appeals board.

4. I am sufficiently proficient in my knowledge of the Swahili language in in that-

My principal language is Swahili;

or

I have at some time since the 5th July, 1974, been a member of the National Assembly;

or

I have on an occasion since the 5th July, 1974, been validly nominated for election to the National Assembly;

or

I have passed the General Certificate of Education/Cambridge Overseas School Certificate/East African Certificate of Education or equivalent examination in the Swahili language;

or

I have received a certificate of proficiency in the Swahili language issued to me by the language board ofprovince/language appeals board.

[Subsidiary]

5. I am qualified under, and have complied with, the constitution and rules of the aforesaid political party relating to members thereof wishing to stand as candidates at parliamentary elections.

And I make this declaration conscientiously believing the same to be true and according to the Oaths and Statutory Declarations Act.

Declared at this..... day of, 19 Signature of Declarant

Before me, A Magistrate/Commissioner of Oaths

*The declarant's names must be written in the order in which he wishes them to appear on the nomination statement and the surname must be underlined.

L.N. 172/2002.

Form 11 (r. 20 (1))

CERTIFICATE THAT NO PERSON NOMINATED

I, the returning officer of the Constituency, do hereby certify that no person stands validly nominated for the parliamentary election in the said constituency.

Dated the, 19 Returning Officer

Form 12 (r. 20 (2))

CERTIFICATE THAT ONLY ONE PERSON NOMINATED

I, the returning officer of theConstituency do hereby certify that only one person stands validly nominated for the parliamentary election in this constituency, is-

Table with 3 columns: Name, Place of Residence, Occupation or Description

and that he/she has therefore been declared elected as a member of the National Assembly for this constituency.

Dated the, 19 Returning Officer

[Subsidiary]

Form 13

(r. 20 (4))

STATEMENT OF PERSONS NOMINATED

The following persons have been and now stand nominated for the parliamentary election for the Constituency

- 1. Name of candidate
Address
Occupation or description
Names of subscribers to nomination paper
Party colour and symbol
2. Name of candidate
Address
Occupation or description
Names of subscribers to nomination paper
Party colour and symbol

The electors belonging to the polling areas specified in the first column hereunder may vote only at the polling station specified in the second column hereunder, and the days and hours for polling at those polling stations shall be those specified in the third column hereunder

Table with 3 columns: Polling Areas, Polling Stations, Days and Hours of Polling

Dated this day of, 19

.....
Returning Officer

[Subsidiary] L.N. 172/2002, L.N.178/2007.

Form 14

(r. 28 (1) (a))

BALLOT PAPER

No.

KENYA RESIDENTIAL ELECTION, 19

IN THE CONSTITUENCY

Counterfoil No	<i>Candidate's Name</i>	<i>Party Symbol</i>	<i>Elector's Mark</i>
..... 1. Constituency			
Elector's Serial No. in register 2.			

Instructions to elector:

1. Mark the paper by placing a mark against the name of the candidate and the symbol of the party you wish to elect.
2. DO NOT place a mark opposite more than one candidate.
3. Make no other mark whatsoever on the paper.
4. Fold the paper through the centre, from left to right, so as to conceal your vote.

L.N. 172/2002, L.N. 178/2007.

Form 15

(r. 28 (1) (b))

BALLOT PAPER

No.

PARLIAMENTARY ELECTION IN THE.....CONSTITUENCY, 19.....

Counterfoil No	<i>Candidate's Name</i>	<i>Party Symbol</i>	<i>Elector's Mark</i>
..... 1. Constituency			
Elector's Serial No. in register 2.			

Instructions to elector:

1. Mark the paper by placing a mark against the name of the candidate and the symbol of the party you wish to elect.
2. DO NOT place a mark opposite more than one candidate.
3. Make no other mark whatsoever on the paper.
4. Fold the paper through the centre, from left to right, so as to conceal your vote.

Form 16

[Subsidiary] (r. 40) L.N. 172/2002.

CERTIFICATE OF RESULTS OF PRESIDENTIAL ELECTION, 19

I, the returning officer of theConstituency do hereby certify that the total number of votes cast for each candidate in the above election was

- 1. Total votes
- 2. Total votes
- 3. Total votes
- 4. Total votes
- 5. Total votes
- 6. Total votes
- 7. Total votes
- 8. Total votes
- 9. Total votes
- 10. Total votes

and that the number of rejected ballot papers was

Dated the, 19

.....
Returning Officer

Form 16A

(r. 35A) L.N. 172/2002.

ELECTORAL COMMISSION OF KENYA
PRESIDENTIAL ELECTION/PARLIAMENTARY ELECTION

DECLARATION OF ELECTION RESULTS AT

POLLING STATION: CONSTITUENCY

- 1. Total number of registered electors:
- 2. Total number of valid votes cast:
- 3. Total number of rejected votes:
- 4. The number of disputed votes:
- 5. The number of valid votes cast in favour of each candidate:

<u>Name of Candidate</u>	<u>No. of valid votes cast</u>
(a)
(b)
(c)
(d)
(e)
(f)
(g)
(h)
(i)

[Subsidiary]

- (j)
- (k)
- (l)
- (m)

6. Declaration

We, the undersigned, being present when the results of the count were announced, do hereby declare that the results shown above are true and accurate count of the ballots inpolling station, constituency.

Presiding officer: Name:

.....

.....

Signature

Candidates or Candidates' Agents

Name Signature Reasons for refusal to Sign

.....

7. Presiding Officer's statutory comments:

Form 17

(r.40 (1))

CERTIFICATE OF RESULT OF PARLIAMENTARY ELECTION, 19.....

I, the returning officer of the Constituency certify that the candidate elected as a member of the National Assembly for the constituency is-

<i>Name</i>	<i>Political Party</i>	<i>Occupation or Description</i>	<i>Place of Residence</i>

Dated the, 19

.....
Returning Officer

Forn 17A

[Subsidiary]
(r. 40 (1)) L.N. 172/2002.

DECLARATION OF ELECTION RESULTS AT
..... CONSTITUENCY

POLLING STATION NO.	NAME OF POLLING STATION	NAME PARTY	VOTES CAST	REJECTED VOTES	VALID VOTE							
TOTAL												

AGGREGATE RESULTS

NO.	NAME OF THE CANDIDATE	VALID VOTES IN FIGURES	VALID VOTES IN WORDS
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

[Subsidiary]

SIGNATURES

NO.	PARTY NAME	CANDIDATE/ AGENT	ID. NO.	SIGNATURE	DATE
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					

Number of Registered Voters

.....

Returning Officer

Voter Turnout Percentage

.....

Constituency

L.N.172/2002.

Form 18

(r. 41 (6))

CERTIFICATE OF RESULTS OF PRESIDENTIAL ELECTION

The Electoral Commission certifies that the candidate who has been duly elected the President of the Republic of Kenya under the provisions of section 5 of the Constitution in the presidential election held on, is.....

.....

*Chairman**Electoral Commission*

Dated the, 19

[Subsidiary]

SECOND SCHEDULE

LANGUAGE TESTS

1. (1) The Electoral Commission may appoint one or more language boards. Language boards.

(2) A language board shall consist of not less than three members one of whom shall be the Director of Education or a Provincial Education Officer.

(3) The Electoral Commission shall designate one of the members to be chairman of the board.

2. (1) Every person desirous of standing as a candidate at a parliamentary election shall, unless exempted under subparagraph (2), before making the declaration required by regulation 15 (2), apply to the Electoral Commission for a test as to his proficiency in the English and Swahili languages. Application for test.

(2) Subparagraph (1) shall not apply—

(a) as regards a test in English, to any person

- (i) whose native language is English; or
- (ii) who has at any time been a member of the National Assembly or the East African Legislative Assembly or the former Legislative Council or is in possession of a certificate of proficiency in the English language issued in connection with any such election; or
- (iii) who has at any time been validly nominated as a candidate for election to the National Assembly or the former Legislative Council or is in possession of a certificate of proficiency in the English language issued in connection with any such election; or
- (iv) who possesses a degree or diploma of a university or university college at which the medium of instruction is English or of the former Royal College, Nairobi; or
- (v) who has passed the General Certificate of Education, the Cambridge Overseas School Certificate, the East African Certificate of Education, the Kenya Certificate of Education or equivalent examination, in the English language;

(b) as regards a test in Swahili, to any person—

- (i) whose principal language is Swahili; or
- (ii) who has at any time since the 5th July, 1974 been a member of the National Assembly; or
- (iii) who has at any time after the 5th July, 1974 been validly

[Subsidiary]

nominated as a candidate for election to the National Assembly or is in possession of a certificate of proficiency in the Swahili language issued in connection with any such election; or

- (iv) who has passed the General Certificate of Education, the Cambridge Overseas School Certificate, the East African Certificate of Education, the Kenya Certificate of Education or equivalent examination, in the Swahili language:

Provided that a person who claims exemption under subparagraph (a) (i) or (b) (i) may be required by the Electoral Commission to attend before a language board for the purpose of being tested as to his ability to read or write the language concerned.

Convening of board.

3. Upon receipt of an application under paragraph 2 the Electoral Commission shall cause a meeting of the language board concerned to be convened at the earliest possible opportunity and shall give notice to the applicant of the place, day and time of the meeting:

Provided that if a meeting of the language board concerned has already been convened in respect of an earlier application, a late applicant may, if his attendance thereat is practicable, be referred to that meeting.

Testing of candidates.

4. (1) At the place and time appointed under paragraph 3 the language board concerned shall assemble and shall proceed to test persons presenting themselves before it as to whether or not they are able to speak and, unless incapacitated by blindness or other physical cause, to read the English and Swahili languages well enough to take an active part in the proceedings of the National Assembly.

(2) If a language board is satisfied as the ability of an applicant under subparagraph (1), the chairman of the board shall issue to the applicant a certificate of proficiency accordingly.

Appeals.

5. (1) The Electoral Commission shall appoint one or more language appeals board to hear appeals under this paragraph.

(2) A person who has been refused a certificate a proficiency by a language board may, within three days of the refusal, appeal in writing to a language appeals board which shall give the person notice of the place and the time, which shall be the earliest time possible, at which the appeal will be heard.

(3) A language appeals board may either allow an appeal, whereupon it shall itself issue a certificate of proficiency to the appellant, or may reject the appeal, and in either case the decision of a language appeals board shall be final.

Rules under section 27 of Cap. 7 (1964)**THE NATIONAL ASSEMBLY ELECTIONS (ELECTION
PETITION) RULES**

ARRANGEMENT OF RULES

Rule

- 1–Citation.
- 2–Interpretation.
- 3–Manner of presentation of petition.
- 4–Contents and form of election.
- 5–Evidence not to be stated in petition.
- 6–Where more than one petition presented.
- 7–Where seat or nomination claimed by unsuccessful candidate.
- 8–List of objections in recriminatory case.
- 9–Appointment of advocate by petitioner.
- 10–Appointment of advocate by respondent.
- 11–Registrar to keep book with addresses and names of advocates.
- 12–Security by deposit of money.
- 13–Return of money deposited.
- 14–Service on respondent.
- 15–When petition to be deemed at issue.
- 16–List of petitions.
- 17–Time and place of trial.
- 18–Affidavits of the witnesses.
- 19–Returning officer to deliver documents.
- 20–
- 21–Postponement of trial.
- 22–Adjournment and continuation of trial.
- 23–Withdrawal of petition.
- 24–Form of application to withdraw petition.
- 25–Copies of, and notice of, application for withdrawal of petition.
- 26–Application to be substituted as petitioner on withdrawal.
- 27–Time and place of hearing of application.
- 28–Substitution of another petitioner.
- 29–Death of petitioner.
- 30–Application to be substituted as petitioner on abatement.
- 31–Death, resignation or notice not to oppose of respondent.
- 32–Respondent not opposing petition not to be party.
- 33–Countermanding notice of trial where petition abated, etc.
- 34–Costs.
- 35–Taxation and recovery of costs.
- 36–Attorney–General to attend trial.

[Subsidiary]

L.N. 44/1961,
L.N. 192/1979,
L.N. 14/1993.

**THE NATIONAL ASSEMBLY ELECTIONS (ELECTION
PETITION) RULES, 1993**

Citation.

1. These Rules may be cited as the National Assembly Elections (Election Petition) Rules, 1993.

Interpretation.

2. In these Rules, unless the context otherwise requires—

“Registrar” means the Registrar of the High Court and includes a district or deputy registrar;

“respondent”, in relation to an election petition, means the person whose election is complained of, or if the petition complains of the conduct of the returning officer or any person under him, that officer and includes any other person whose conduct is complained of in relation to the election.

Manner of
presentation of
petition.

3. (1) The presentation of an election petition shall be made by delivering it at the office of the Registrar, and the Registrar or the officer of his department to whom the petition is delivered shall give a receipt in the following form

Received on the day of, 19.....
at the Registry of the High Court, a petition touching the election of
..... for purporting to be signed
by..... (*insert the names of petitioners*)

Registrar
(*or other officer to whom the
petition is delivered*)

(2) Two other copies of the petition shall be delivered with the original of the petition.

Contents and form of
election petition.

4. (1) An election petition shall—

(a) state whether the petitioner is entitled to petition under section 44 of the Constitution; and

(b) state when the election was held and results of the election, and shall state briefly the facts and grounds relied on in support of the petition.

(2) The petition shall be divided into paragraphs, each of which shall be confined, as nearly as is practicable, to a distinct portion of the subject, and every paragraph shall be numbered consecutively, and no costs shall be allowed for drawing or copying any petition not substantially in compliance with this rule, unless otherwise ordered by the election court.

(3) The petition shall conclude with a prayer as, for instance, that some specified person should be declared duly elected or that the election should be declared void, and shall be signed by all petitioners.

(4) The following form, or one of the same effect, shall be sufficient

[Subsidiary]

IN THE HIGH COURT OF KENYA

THE NATIONAL ASSEMBLY AND PRESIDENTIAL ELECTIONS ACT

Election for the Constituency
The Petition of

Your petitioner A is a person who voted (or had a right to vote) at the above election (or who claims to have had a right to be elected at the above election) (or who was a candidate at the above election) and your petitioner B (state in the same manner the right of B).

And your petitioners state that the election was held on the day of, 19....., when X,Y and Z were candidates, and the returning officer has returned X as being duly elected.

And your petitioners say that (state the facts and grounds on which the petitioners rely).

Wherefore your petitioners pray that it be determined that the said X was not duly elected and the election was void (or as the case may be).

Dated, 19..... (Signed) A. B.

5. Evidence need not be stated in the petition, but the election court may, upon application in writing by a respondent order such particulars as may be necessary to prevent surprise and unnecessary expenses and to ensure a fair and effectual trial, upon such terms as to costs and otherwise as may be ordered. Evidence not to be stated in petition.

6. Where more petitions than one are presented relating to the same election all such petitions shall be dealt with as one petition as far as inquiry into the election is concerned. Where more than one petition presented.

7. (1) When a petitioner claims the seat for an unsuccessful candidate, alleging that he had a majority of lawful votes, the party complaining of or defending the election shall within seven days before the day appointed for trial, deliver to the Registrar, and also at the address (if any) given by the petitioner and respondent, as the case may be, a list of the voters intended to be objected to, and of the heads of objection to each such vote. Where seat or nomination claimed by unsuccessful candidate.

(2) The Registrar shall allow inspection of office copies of those lists to all parties concerned; and no evidence shall be given against the validity of any vote, nor upon any head of objection not specified in the list, except by leave of the election court granted for special reasons to be recorded upon such terms as to amendment of the list, postponement of the inquiry and payment of costs as may be ordered.

[Subsidiary]

List of objections in
recriminatory case.

8. (1) The respondent to a petition complaining of an improper return and claiming the seat for some person may lead evidence to prove that the election of that person was improper, and in that case the respondent shall, within seven days before the day appointed for trial, deliver to the Registrar, and also at the address, if any, given by the petitioner, a list of the objections to the election upon which he intends to rely.

(2) The Registrar shall allow inspection of office copies of those lists to all parties concerned; and no evidence shall be given by a respondent of any objection to the election not specified in the list except by leave of the election court, granted for special reasons to be recorded, and upon such terms as to amendment of the list, postponement of the inquiry and payment of costs as may be ordered.

Appointment
of advocate by
petitioner.

9. With the petition the petitioner or petitioners shall leave at the office of the Registrar a notice in writing, signed by him or them, giving the name of an advocate whom he or they authorize to act as his or their advocates or stating that he or they act for himself or themselves, as the case may be, and in either case giving an address in Kenya at which notices may be left; and if no such writing is left all notices may be given by leaving them at the officer of the Registrar.

Appointment
of advocate by
respondent.

10. A person elected may at any time after he is elected send or leave at the office of the Registrar a notice in writing signed by him or on his behalf, appointing an advocate to act as his advocate in case there should be a petition against him, or stating that he intends to act for himself, and in either case giving an address in Kenya at which notices addressed to him may be left or if no such writing is left all notices and proceedings may be given or served by leaving them at the office of the Registrar.

Registrar to keep
book with addresses
and names of
advocates.

11. The Registrar shall cause to be kept a book at his office in which shall be entered all addresses and the names of advocates given under rules 9 and 10, which book shall be open to inspection by any person during office hours.

Security by
deposit of money.

12. (1) The deposit of money by way of security for payment of costs, charges and expenses payable by the petitioner shall be made by payment to the Registrar, and such deposit shall be vested in and drawn upon from time to time by the Chief Justice for the purposes for which security is required by these Rules.

(2) The Registrar shall give a receipt for any such deposit and shall file the duplicate of the receipt, and shall keep a book, open to the inspection of all parties concerned, in which shall be entered from time to time the amount and the petition to which it is applicable.

Return of money
deposited.

13. (1) Money so deposited shall, if and when it is no longer needed for security payment of costs, charges and expenses be returned or otherwise disposed of as justice may require by order of the election court.

(2) The order may be made after such notice of intention to apply and prove that all just claims have been satisfied or otherwise sufficiently provided for as the election court may require.

[Subsidiary]

(3) The order may direct payment either to the party in whose name it is deposited or to any person entitled to receive it.

14. (1) Notice of the presentation of a petition, accompanied by a copy of the petition, shall, within ten days of the presentation of the petition, be served by the petitioner on the respondent. Service of respondent.

(2) Service may be effected either by delivering the notice and copy to the advocate appointed by the respondent under rule 10 or by posting them by a registered letter to the address given under rule 10 so that, in the ordinary course of post, the letter would be delivered within the time above mentioned, or if no advocate has been appointed, or no such address has been given, by a notice published in the Gazette stating that the petition has been presented and that a copy of it may be obtained by the respondent on application at the office of the Registrar.

15. On the expiration of the time limit prescribed for making petitions, the petition shall be deemed to be at issue. When petition to be deemed at issue.

16. (1) The Registrar shall make out the election petition list. List of petitions.

(2) The Registrar shall insert in the list the name of the advocates of the petitioners and respondents appointed under rules 9 and 10 respectively, and the addresses to which notices may be sent, if any.

(3) The list may be inspected at the office of the Registrar at any time during office hours, and shall be affixed for that purpose upon a notice board appropriate to proceedings under the Act and headed "The National Assembly and Presidential Elections Act."

17. The time and place of the trial of each election petition shall be fixed by the election court, and not less than fourteen days' notice thereof shall be given to the petitioner and respondent by letter directed to the address left by the petitioner or respondent with the Registrar, or if no such address has been left, by notice in the Gazette. Time and place of trial.

18. (1) Not less than forty-eight hours before the time fixed by the election court for the trial of an election petition the petitioner shall deliver at the office of the Registrar an affidavit sworn by each witness whom the petitioner intends to call at the trial, setting out the substance of his evidence. Affidavits of the witnesses.

(2) Each affidavit shall be enclosed in a sealed envelope together with sufficient certified true copies for each of the judges, all other petitioners in the same petition and the respondents, and shall be opened by the election court when the witness who has sworn the affidavit is called to give evidence.

(3) The affidavit shall be read by or on behalf of the witness and shall form part of the record of the trial and a deponent may be cross-examined by the respondents and re-examined by the petitioner.

(4) Subject to sub-rule (5), a witness shall not be permitted to give evidence for the respondent unless an affidavit sworn by him, setting out the

[Subsidiary]

substance of his evidence, together with sufficient certified true copies for the use of the judges and the petitioner is handed to the election court when called to give evidence.

(5) A witness for the petitioner or the respondent who fails to deliver such affidavit under sub-rule (2) or (4) shall not be permitted to give evidence without the leave of the election court, and the election court shall not grant such leave unless sufficient reason is given for the failure.

(6) An affidavit recorded in language other than English shall be accompanied by a translation into English with sufficient copies for the judges and other parties, certified by the person translating it as having been translated to the best of his knowledge and ability.

Cap. 21.
Cap. 15.

(7) The provision of Order XVIII of the Civil Procedure Rules and the Oaths and Statutory Declarations Act shall apply to affidavits under this rule.

Returning officer to
deliver documents.

19. The returning officer shall deliver to the Registrar not less than forty-eight hours before the date fixed by the election court for the trial the following documents—

- (a) the written statements made by the presiding officers under the provisions of regulation 34 of the Presidential and Parliamentary Elections Regulations;
- (b) written complaints of the candidates and their representatives;
- (c) the packets of spoil papers;
- (d) the marked copy register;
- (e) the packets of counterfoils of used ballot papers;
- (f) the packets of counted ballot papers;
- (g) the packets of rejected ballot papers;
- (h) the statements showing the number of rejected ballot papers;
and
- (i) any statements of the presiding officer made under the provisions of regulations 33 (2) of the Presidential and Parliamentary Elections Regulations.

Sub. Leg.

20. Where, on application by a party or of its own motion, the election court is satisfied that a petitioner or respondent is unnecessarily prolonging the trial it may limit the time within which that petitioner or respondent shall complete his case.

Postponement of
trial.

21. The election court may on the application of a party or of its own motion for sufficient reasons postpone the beginning of the trial to a date

[Subsidiary]

specified by the election court and an order under this rule shall forthwith be published by the Registrar in the Gazette.

22. (1) No formal adjournment of the election court during the trial of an election petition shall be necessary, but the trial shall stand adjourned, and may be continued from day to day until it is concluded. Adjournment and continuation of trial.

(2) If one judge of the judges of the election court is disabled by illness or otherwise during the trial, the trial may be continued and concluded by the other two judges.

23. (1) An election petition shall not be withdrawn without the leave of the election court, and leave may be given upon terms as to the payment of costs and otherwise as the election court may think fit. Withdrawal of petition.

(2) Before leave for the withdrawal of an election petition is granted, there shall be produced affidavits, as required by this rule, by all the parties to the petition and their advocates:

Provided that an election court may, on cause shown dispense with the affidavit of any particular person if it seems to the election court on special grounds to be just so to do.

(3) Each affidavit shall state that, to the best of the deponent's knowledge and belief, no agreement or terms of any kind whatsoever has or have been made, and no under taking has been entered into, in relation to the withdrawal of the petition; but, if any lawful agreement has been made with respect to the withdrawal of the petition, the affidavit shall set forth that agreement, and shall make the foregoing statement subject to what appears from the affidavit.

(4) The affidavits of the applicant and his advocate shall further state the ground on which the petition is sought to be withdrawn.

24. (1) An application for leave to withdraw a petition shall be in writing signed by the petitioner or petitioners, his or their advocate or advocates, and shall state the grounds on which the application is supported. Form of application to withdraw petition.

(2) An application under paragraph (1) shall be in the following form—

IN THE HIGH COURT OF KENYA

THE NATIONAL ASSEMBLY AND PRESIDENTIAL ELECTIONS ACT

The petition of presented the day of, 19.....

The petitioner applies for leave to withdraw his petition upon the following grounds (state grounds). And the petitioner prays that a day may be appointed for hearing his application.

Dated the 19..... (signed)

[Subsidiary]

(3) The application for leave to withdraw an election petition shall be filed at the office of the Registrar.

Copies of and notice of application for withdrawal of petition.

25. A copy of the application shall be served by the petitioner on the respondent, and a notice in the following terms signed by the petitioner shall be published forthwith in the Gazette by the petitioner at his own expense.

IN THE HIGH COURT OF KENYA

THE NATIONAL ASSEMBLY AND PRESIDENTIAL ELECTIONS ACT

In the election petition for the Constituency in which is petitioner and respondent.

Notice is hereby given that the above petitioner did on the day of, 19 lodge at the office of the Registrar of the High Court an application for leave to withdraw the petition, of which application the following is a copy- (set it out).

And take notice that under the National Assembly Elections (Election Petition) Rules any person who might have been a petitioner in respect of the said election may, within seven days after the date of publication of this notice, give notice in writing to the Registrar of the High Court of his intention on the hearing of the application to be substituted as a petitioner.

Dated the, 19..... (signed)

Application to be substituted as petitioner on withdrawal.

26. Any person who might have been a petitioner in respect of the election to which the petition relates may, within seven days after the notice referred to in rule 25 is published by the petitioner, give notice in writing, signed by him or on his behalf, to the Registrar, of his intention to apply at the hearing to be substituted for the petitioner, but the want of a notice shall not defeat the application if in fact made at the hearing.

Time and place of hearing of application.

27. (1) The time and place of hearing the application referred to in rule 24 shall be fixed by the election court but shall not be less than fourteen days after application for leave to withdraw has been left at the office of the Registrar as herein before provided in these Rules.

(2) Notice of the time and place appointed under sub-rule (1) for hearing of the application shall be given to such person or persons, if any, as have given notice to the Registrar of an intention to apply to be substituted petitioners, and otherwise in such manner and at such time as the election court directs.

Substitution of another petitioner.

28. (1) On the hearing of the application for withdrawal any person who might have been a petitioner in respect of the election to which the petition relates may apply to the election court to be substituted, as petitioner, for the petitioner desirous of withdrawing the petition.

(2) The election court may substitute any such applicant as petitioner; and may further, if the proposed withdrawal is in the opinion of the election court, induced by any corrupt bargain or consideration, by order direct that the security given on behalf of the original petitioner shall remain as security for any costs that may be incurred by the substituted petitioner, and that to the

[Subsidiary]

extent of the sum named in the security the original petitioner shall be liable to pay the costs of the substituted petitioner.

(3) If no order is made under sub-rule (2) in respect of security given on behalf of the original petitioner, security to the same amount as would be required in the case of a new petitioner, subject to the same conditions shall be given on behalf of the substituted petitioner before he proceeds with his petition and within three days after the order of substitution.

(4) Subject as aforesaid, a substituted petitioner shall stand in the same position, as nearly as may be, and be subject to the same liabilities, as the original petitioner.

(5) If a petition is withdrawn, the petitioner shall be liable to pay the costs of the respondent.

(6) Where there are more petitioners than one, no application to withdraw a petition shall be made except with the consent of all the petitioners.

29. (1) An election petition shall abate on the death of a sole petitioner or of the survivor of several petitioners. Death of petitioner.

(2) The abatement of a petition shall not affect the liability of the petitioner or of any other person to the payment of costs previously incurred.

30. (1) Notice of abatement of a petition, by death of the petitioner or surviving petitioner, shall be given by the party or person interested in the same manner as notice of an application to withdraw a petition, and the time within which an application may be made to an election court for an order to be substituted as a petitioner shall be one month from the day of the publication of the notice of abatement or such further time as, upon consideration of any special circumstances, the court may allow. Application to be substituted as petitioner on abatement.

(2) Any person who might have been a petitioner in respect of the election to which the petition relates may apply to the election court to be substituted as a petitioner.

(3) The election court may substitute as a petitioner any such applicant who is desirous of being substituted and on whose behalf security, to the same amount is given as is required in the case of a new petition.

31. (1) If before the trial of an election petition a respondent dies or vacates his seat in the National Assembly, or gives notice in writing to the Registrar that he does not intend to oppose the petition, the petition shall not be abated but shall continue, whether or not any person applies to be admitted as respondent as hereinafter provided. Death, resignation or notice not to oppose of respondent.

(2) Notice of the fact that a respondent has died or vacated his seat in the National Assembly, or that he has given notice in writing that he does not intend to oppose the petition, shall be published in the Gazette by the Registrar.

(3) Any person who might have been a petitioner in respect of the election to which the petition relates may apply to the election court to be admitted as

[Subsidiary]

a respondent to oppose the petition within ten days after such notice has been published in the Gazette or such further time as the election court may allow.

(4) The manner and time of the respondent's giving notice to the Registrar that he does not intend to oppose the petition, shall be by leaving notice thereof in writing at the office of the Registrar, signed by the respondent not less than six days before the day appointed for trial, exclusive of the day of leaving the notice.

Respondent not opposing petition not to be party.

32. A respondent who has given notice of his intention not to oppose a petition shall not be allowed to appear or act as party against the petition in any proceedings thereon.

Countermanding notice of trial where petition abated, etc.

33. (1) After receiving the petitioner's application for leave to withdraw or notice of the respondent's intention not to oppose, or of the abatement of the petition by death, or of the happening of any of the events mentioned in rule 31, if the notice is received after notice of trial has been given and before the trial has commenced, the Registrar shall forthwith countermand the notice of trial.

(2) The countermand shall be given in the same manner, as nearly as practicable, as the notice of trial.

Costs.

34. All costs of and incidental to the presentation of a petition and to the proceedings consequent thereon shall be defrayed by the parties to the petition in such manner and in such proportions as the election court may determine, regard being had to—

(a) the disallowance of any costs which may, in the opinion of the election court, have been caused by vexatious conduct, unfounded allegations or unfounded objections, on the part either of the petitioner or the respondent; and

(b) the discouragement of any needless expense by throwing the burden of defraying it on the parties by whom it has been caused,

whether such parties are or are not on the whole successful.

Taxation and recovery of costs.

35. (1) Costs shall be taxed by the Registrar upon the order of the election court in the same manner as costs are taxed in the High Court, but subject to such express directions whether general or specific, as the election court may give; and costs when taxed may be recovered in the same manner as the costs in civil proceedings.

(2) The election court may direct that the whole or any part of any moneys deposited by way of security under rule 13 may be applied in the payment of taxed costs.

(3) There shall be paid in respect of all proceedings under these Rules the same court fees as are payable in respect of civil proceedings in the High Court in so far as the same are applicable.

Attorney General to attend trial.

36. The Attorney-General or a person appointed by the Attorney-General shall attend the trial of every election petition.

**THE NATIONAL ASSEMBLY AND PRESIDENTIAL
ELECTIONS (ELECTORAL CODE OF CONDUCT) PRACTICE
RULES, 2002**

[Subsidiary]
L.N. 170/2002.

1. These Rules may be cited as the National Assembly and Presidential Elections (Electoral Code of Conduct) Practice Rules, 2002. Citation.
2. In these Rules, except where the context otherwise requires— Interpretation.
- “code” means the Electoral Code of Conduct being the Third Schedule of the National Assembly and Presidential Elections Act.
- “proceedings” means proceedings instituted in respect of an alleged infringement under paragraph 9 of the Code.
- “applicant” means the Electoral Commission “respondent” person or the political party who is alleged to have infringed the Code.
3. Proceedings under paragraph 9 of the Electoral Code of Conduct shall be instituted by originating summons supported by an affidavit. Form of the Institution of the proceedings.
4. The applicant shall, within seven days of delivery of the originating summons to the court, serve on each of the respondents a copy thereof and a copy of the supporting affidavit. Service on respondent.
5. A respondent who has been duly served with a copy of the originating summons and a copy of the supporting affidavit may file in court and serve on the applicant an affidavit in answer thereto within seven days of such service. Further pleadings.
6. (1) The court shall determine the proceedings from the originating summons and the affidavits filed as hereinbefore. Hearing and Disposal of the further proceedings.
- (2) The court shall deal with the proceedings in priority to all other matters brought before it and ensure that its decision is given before the date of the election concerned in the proceedings.
- (3) In making its decision about the appropriate penalty or sanction, the court shall have regard to any other legal consequences that may result from civil or criminal proceedings instituted by reason of the occurrence complained of.
7. Except as is expressly provided for in these Rules, the provision of Order XXXVI of the Civil Procedure Rules shall apply. Procedure.

[Subsidiary]

**THE NATIONAL ASSEMBLY AND PRESIDENTIAL ELECTIONS
(REGISTRATION OF ELECTORS)
REGULATIONS, 2002**

ARRANGEMENT OF REGULATIONS

PART I—PRELIMINARY

Regulation

1—Citation.

PART II—ADMINISTRATION

2—Registration officers.

3—Assistant registration officers.

4—Carrying out of duties.

PART III—REGISTERS OF ELECTORS

5—Preparation of register.

6—Changes to register.

7—Other changes requiring notice, etc.

8—Periodic list of changes.

9—Certification of register.

10—Constituency register.

PART IV—CONTINUOUS REGISTRATION

11—Application for new registration.

12—Application for change in registration.

13—When applications not allowed.

14—Consideration by registration officer.

PART V—CLAIMS AND OBJECTIONS

A—Claims

15—Time for making claims.

16—Method of making claim.

17—Notice of claims.

18—Consideration of claims.

19—Time for appealing.

20—Method of appealing.

21—Request to High Court.

22—Hearing of appeal.

23—Changes to register.

[Subsidiary]

*Regulation**B—Objections*

- 24—Time for objecting.
- 25—Method of objecting.
- 26—Notice, objection forwarded to court.
- 27—Determination of objection.
- 28—Changes to register.

PART VI—REVISION OF REGISTER

- 29—Direction from Electoral Commission.
- 30—Notice.
- 31—Applications.
- 32—Revision of register.
- 33—Posting of changes.
- 34—Claims and objections.

PART VII—PREPARATION OF NEW REGISTER

- 35—Direction from Electoral Commission.
- 36—Notice.
- 37—Registrations.
- 38—Preparation of new register.
- 39—Publication of register.
- 40—Claims and objections.

PART VIII—MISCELLANEOUS

- 41—Replacement of elector's cards.
- 42—Summoning witnesses, evidence, etc.
- 43—Service of notices.
- 44—Publication of notices.
- 45—Inaccurate description of places and names.
- 46—Observers of registration, etc.
- 47—Alternatives to signatures.
- 48—Changes in constituencies.
- 49—Repeal of existing regulations.
- 50—Transition—use of form.

SCHEDULE—Forms

[Subsidiary]

L.N. 173/2002.

**THE NATIONAL ASSEMBLY AND PRESIDENTIAL ELECTIONS
(REGISTRATION OF ELECTORS) REGULATIONS, 2002**

PART I—PRELIMINARY

Citation.

1. These Regulations may be cited as the National Assembly and Presidential Elections (Registration of Electors) Regulations, 2002.

PART II—ADMINISTRATION

Registration officers.

2. (1) For each constituency the Electoral Commission shall appoint a registration officer.

(2) A registration officer may be appointed for more than one constituency.

Assistant registration officers.

3. (1) The Electoral Commission may appoint one or more assistant registration officers to assist a registration officer.

(2) An assistant registration officer shall have all the powers and duties of the registration officer whom he is appointed to assist.

Carrying out of duty.

4. (1) Each registration officer and assistant registration officer shall carry out his duties to the best of his abilities.

(2) A person who fails to carry out his duties as required under paragraph (1) is guilty of an offence and is liable on conviction to a fine not exceeding two thousand shillings.

PART III—REGISTERS OF ELECTORS

Preparation of register.

5. Each registration officer shall prepare and maintain a register of electors for his constituency in such form as the Electoral Commission may direct.

Changes to register.

6. A registration officer may make the following changes to the register of electors—

- (a) changes in accordance with Part IV or Part VI;
- (b) changes to carry out a decision relating to a claim or objection;
- (c) changes to correct clerical or other errors; and
- (d) changes to delete a person who the registration officer is satisfied has died.

Other changes requiring notice, etc.

7. (1) A registration officer may also make changes to the register of electors for the following purposes—

- (a) to ensure that no person is incorrectly registered;
- (b) to ensure that no person is registered more than once; and

[Subsidiary]

(c) to ensure that no person is registered if the person is not qualified to be so registered.

(2) Unless a proposed change is authorised under regulation 6 the following provisions shall apply—

(a) the registration officer shall give the person who would be directly affected by the proposed change a notice of the change;

(b) the notice under subparagraph (a) shall be sent to the registered address of the person and the notice shall inform the person of his right to make representations under subparagraph (c);

(c) the registration officer shall give the person an opportunity, within seven days after the date of the notice under subparagraph (b), to make representations with respect to the proposed change; and

(d) after considering any representations the person may make, the registration officer may make the proposed change.

8. (1) At least once every six months each registration officer shall prepare a list of changes to the register of electors for his constituency and post the list at a place at the headquarters of the division within which the constituency is located where the public has access. Periodic list of changes.

(2) The changes included on a list under paragraph (1) shall consist of the changes made since the previous list was prepared under paragraph (1).

(3) The list shall be posted under paragraph (1) for at least thirty days.

(4) The changes included on the first list prepared by each registration officer under paragraph (1) shall consist of the changes made since this regulation came into operation.

9. (1) When, as a result of the operation of section 4A (1) of the Act, the registration of electors may not be carried out, the registration officer shall certify the register of electors in Form A in the Schedule. Certification of register.

(2) The registration officer may amend the register of electors after it is certified to the extent necessary as a result of the determination of any claim, objection or appeal that was pending at the time the register was certified.

(3) The registration officer shall publish the certified register of electors in the following manner—

(a) by making the register available for inspection at the headquarters of the division within which the constituency is located; and

(b) by posting, at a place at the headquarters of the division where the public has access, a notice of the availability of the register for inspection.

[Subsidiary]

Constituency register. 10. The constituency register required under section 4(1) (a) of the Act shall be prepared from the register of electors maintained by the registration officer for the constituency.

PART IV—CONTINUOUS REGISTRATION

Application for new registration. 11. (1) A person who is not already registered as an elector but who wishes to be so registered shall make an application in Form B in the Schedule or in a Kiswahili translation of that Form.

(2) An application under paragraph (1) shall be made to the registration officer for the constituency in which the person wishes to be registered.

Application for change in registration. 12. (1) A person who is already registered as an elector but who wishes to have a change described in paragraph (2) made shall make an application in accordance with this regulation.

(2) The changes referred to in paragraph (1) are—

(a) a change in the particulars of the person's registration; or

(b) a change of the constituency in which the person is registered.

(3) An application for a change described in paragraph (2) (a) shall be made in Form C, or in a Kiswahili translation of the Form, to the registration officer for the constituency in which the person is registered.

(4) An application for a change described in paragraph (2) (b) shall be made in Form D, or in a Kiswahili translation of the Form, to the registration officer for the constituency in which the applicant wishes to be registered.

(5) An applicant under this regulation shall surrender his election card when he makes his application.

When applications not allowed. 13. (1) A person may not make an application under regulation 11 or 12—

(a) during a time in which the registration of electors and revision of the register of electors is not allowed under section 4A (1) of the Act; or

(b) during a period in which the Electoral Commission has suspended, under paragraph (2), the making of applications under regulations 11 and 12.

(2) The Electoral Commission may, by order, suspend the making of applications under regulations 11 and 12 for a period specified in the order.

(3) If the Electoral Commission makes an order under paragraph (2), it shall publish a notice of the order in the Gazette.

Consideration by registration officer. 14. (1) The registration officer to whom an application is made under regulation 11 or 12 shall consider the application and—

[Subsidiary]

(a) in the case of an application for registration under regulation 11, register the applicant if the registration officer is satisfied the applicant is qualified to be registered; or

(b) in the case of an application for a change under regulation 12, make the requested change if the registration officer is satisfied that it is proper to do so.

(2) If the registration officer registers a person or makes a change under paragraph (1) he shall issue an elector's card, in Form E in the Schedule, to the applicant.

PART V—CLAIMS AND OBJECTIONS

A—Claims

15. A claim to a registration officer under section 9(1) of the Act in respect of an application under Part IV may be made within thirty days after the next list of changes is first posted under regulation 8. Time for making claims.

16. A claim shall be in Form F in the Schedule and shall be accompanied by a new application for registration under Part IV. Method of making claim.

17. (1) Within seven days after the expiry of the thirty day period referred to in regulation 15, the registration officer shall post, at the place where the list of changes was posted under regulation 8 (1), a notice of all the claims made to the registration officer. Notice of claims.

(2) The notice of claims under paragraph (1) shall set out the names and addresses of all persons who have made claims.

18. (1) After posting the notice of claims under regulation 17 the registration officer shall consider and determine each claim. Consideration of claims.

(2) For the purpose of considering a claim, the registration officer may require the claimant to attend before the registration officer.

(3) The registration officer shall give the claimant a written notice of the determination of the claim.

19. An appeal, under section 9 (2) of the Act, to the High Court from a determination by a registration officer may be made within ten days after the determination was made. Time for Appealing.

20. (1) To make an appeal, the appellant shall deliver a written request to the registration officer briefly stating the grounds for the appeal. Method of appealing.

(2) The request must be signed by the appellant.

(3) The request must be accompanied by a fee of five hundred shillings, payable to the High Court.

[Subsidiary]

Request to High Court.

21. For each request received under regulation 20, the registration officer shall forward the following to the High Court—

- (a) the request;
- (b) a copy of the claim and new application under regulation 16;
- (c) a copy of the notice of the determination of the claim under regulation 18(3); and
- (d) written reasons for the determination.

Hearing of appeal.

22. (1) This regulation applies with respect to the hearing of an appeal under section 9 (2) of the Act.

(2) The parties to the appeal are the appellant and the registration officer.

(3) The High Court shall cause notice of the hearing of the appeal to be given to the parties at least seven days before the hearing.

(4) The notice of the hearing of an appeal shall set out the time and place of the hearing of the appeal.

(5) The High Court may allow the parties to adduce evidence at the hearing of the appeal.

(6) An appeal shall be heard and determined on a priority basis.

Changes to register.

23. After the High Court has determined an appeal the registration officer shall—

- (a) make any changes to the register of electors that are necessary as a result of the appeal;
- (b) prepare a list of the changes made; and
- (c) post the list at the place where the list of changes was posted under regulation 8(1).

B—Objections

Time for objecting.

24. An objection, under section 10 (1) of the Act, to a registration may be made—

- (a) within thirty days after the list of changes setting out the registration was first posted under regulation 8; or
- (b) in the case of an objection to a claim, within fifteen days after notice of the claim was posted under regulation 17.

Method of objecting.

25. (1) To make an objection, the appellant shall deliver a written objection, in Form G in the Schedule, to the registration officer.

[Subsidiary]

(2) The objection must be accompanied by a fee of five hundred shillings, payable to the court.

26. As soon as is practicable after receiving an objection, the registration officer shall— Notice, objection forwarded to court.

(a) if the objection is in respect of the registration of a person other than the person making the objection, issue a notice of objection in Form H in the Schedule to that other person; and

(b) forward the objection to the court.

27. (1) This regulation applies with respect to the determination of an objection under section 10 (2) of the Act. Determination of objection.

(2) The court shall determine the objection on a priority basis.

(3) The court shall cause notice of the determination of the objection to be given to the following persons at least seven days before the hearing—

(a) the person making the objection; and

(b) if the objection is in respect of the registration of a person other than the person making the objection, that other person.

(4) The notice of a determination shall be in Form I in the Schedule.

(5) If the court disallows an objection and the court is of the opinion that the objection was made without reasonable cause, the court may order the person who made the objection to pay compensation, not exceeding one hundred shillings, to the person whose registration was objected to.

28. After the court has determined an objection the registration officer shall— Changes to register.

(a) make any changes to the register of electors that are necessary as a result of the objection;

(b) prepare a list of the changes made; and

(c) post the list at the place where the list of changes was posted under regulation 8 (1).

PART VI—REVISION OF REGISTER

29. The Electoral Commission may direct that—

Direction from Electoral Commission.

(a) the register of electors for every constituency be revised; or

(b) the register of electors for one or more specified constituencies be revised.

[Subsidiary]

Notice.

30. (1) If the Electoral Commission makes a direction under regulation 29 it shall publish a notice in the Gazette and in one or more of the principal newspapers circulating in Kenya.

(2) The notice shall set out—

(a) a statement calling on the following persons to apply—

- (i) all persons who are not registered but who wish to be registered; and
- (ii) all persons who are registered but who wish to change the particulars of their registration or the constituency in which they are registered; and

(b) a statement specifying where and when applications may be made.

(3) The notice shall be in Form J in the Schedule.

(4) The Electoral Commission may amend a direction under regulation 29 by publishing a notice of the amendment in the Gazette and in one or more of the principal newspapers circulating in Kenya.

(5) The period specified in the notice for making applications shall be thirty days beginning when the notice is published in the Gazette.

(6) The period for making applications may be extended under paragraph (4) but the period of the extension may not exceed thirty days.

Applications.

31. (1) Persons may apply in accordance with the notice published under regulation 30 and, for that purpose, regulations 11, 12 and 14 shall apply with necessary modifications.

(2) Notwithstanding paragraph (1), a registration officer—

- (a) may receive applications for registration at places not specified in the notice published under regulation 30 for making applications; and
- (b) may close a place specified in the notice published under regulation 30 for making applications if, in the opinion of the registration officer, the number of applications made at the place does not warrant keeping it open.

(3) If a registration officer closes a place for making applications under paragraph (2) (b), he shall post a notice at that place indicating the other places at which applications may be made.

32. (1) After the last day for making applications, the registration officer for each constituency in respect of which the direction under regulation 29 was made shall revise the register of electors for the constituency.

[Subsidiary]
Revision of register.

(2) In revising the register, a registration officer shall, in addition to making changes as a result of applications, also make such changes under regulations 6 and 7 as he considers advisable.

33. (1) Within fourteen days after the last day for making applications, the registration officer for each constituency in respect of which the direction under regulation 29 was made shall prepare a list of changes to the register of electors for his constituency and post the list at a place at the headquarters of the division within which the constituency is located where the public has access.

Posting of changes.

(2) The list shall be posted under paragraph (1) for at least thirty days.

34. Part V shall apply with respect to a list posted under regulation 33 and for that purpose a reference in Part V to the posting of the list of changes under regulation 8 shall be deemed to be a reference to the posting of the list under regulation 33.

Claims and objections.

PART VII—PREPARATION OF NEW REGISTER

35. The Electoral Commission may direct that a new register of electors be prepared for a constituency.

Direction from Electoral Commission.

36. (1) If the Electoral Commission makes a direction under regulation 35 it shall publish a notice in the Gazette and in one or more of the principal newspapers circulating in Kenya.

Notice.

(2) The notice shall set out—

(a) a statement calling on all persons who wish to be registered to apply; and

(b) a statement specifying where and when applications may be made.

(3) The notice shall be in Form K in the Schedule.

(4) If the Electoral Commission makes a direction that registers of electors be prepared for more than one constituency, the notices required under this regulation for each constituency may be combined into a single notice.

(5) The Electoral Commission may amend a direction under regulation 35 by publishing a notice of the amendment in the Gazette and in one or more of the principal newspapers circulating in Kenya.

37. (1) Persons may apply in accordance with the notice published under regulation 36 and, for that purpose, regulations 11 and 14 shall apply with necessary modifications.

Registrations.

[Subsidiary]

(2) Notwithstanding paragraph (1), a registration officer—

- (a) may receive applications for registration at places not specified in the notice published under regulation 36 for making applications; and
- (b) may close a place specified in the notice published under regulation 36 for making applications if, in the opinion of the registration officer, the number of applications made at the place does not warrant keeping it open.

(3) If a registration officer closes a place for making applications under paragraph (2) (b), he shall post a notice at that place indicating the other places at which applications may be made.

Preparation of new register.

38. As soon practicable after the last day for making applications to be registered in a constituency, the registration officer shall prepare a new register of electors under regulation 5.

Publication of register.

39. (1) The registration officer shall publish the new register of electors in the following manner—

- (a) by making the register available for inspection at the headquarters of the division within which the constituency is located; and
- (b) by posting, at a place at the headquarters of the division where the public has access, a notice, in Form L in the Schedule, of the availability of the register for inspection.

(2) The notice posted under paragraph (1) (b) shall explain how a person may make a claim or objection under section 9 or 10 of the Act.

Claims and objections.

40. Part V shall apply with respect to the register published under regulation 39 and for that purpose a reference in Part V to the posting of the list of changes under regulation 8 shall be deemed to be a reference to the posting of the notice under regulation 39 (1) (b).

PART VIII—MISCELLANEOUS

Replacement of elector's cards.

41. (1) A registration officer may replace an elector's card that has been lost or destroyed or that has become unserviceable.

(2) The registration officer may require proof, satisfactory to him, that an elector's card has been lost or destroyed.

(3) If an elector's card is replaced because it has become unserviceable, the unserviceable elector's card shall be surrendered to the registration officer.

(4) No elector's card may be replaced on a day fixed for polling.

42. A registration officer may, for the purpose of considering or determining an application or claim—
- (a) summon any person to appear before him to give evidence on oath and administer an oath for that purpose; or
- (b) order the production of any document relevant to an issue that the registration officer is required to consider and determine.
43. All notices required to be given by a registration officer or the court shall be deemed to have been duly given if sent by registered post to the postal address, if any, given in the application, claim, appeal or objection.
44. (1) If a notice is required by these Regulations to be published and, in the opinion of the authority required to publish the notice, the prescribed mode of publication does not give sufficient publicity of the notice, the authority may, in addition to publishing the notice as required, exhibit copies of the notice at prominent places or take such other steps as the authority may deem necessary for giving sufficient publicity to the notice.
- (2) Paragraph (1) also applies, with necessary modifications, to anything that is required by these Regulations to be posted or to be made available for inspection.
45. No misnomer or inaccurate description of a person or place in a register of electors or other document prepared or issued under or for the purposes of these Regulations shall prejudice the validity of the register or document as respects that person or place, if the person or place is so designated as to be commonly understood.
46. (1) Every registered political party shall have the right to observe the registration of electors and the revision of registers of electors through designated representatives.
- (2) A registered party shall notify the Electoral Commission, in writing, of the names of its designated representatives.
- (3) Any person, association or organization may apply to the Electoral Commission to be allowed to observe the registration of electors and the revision of registers of electors.
- (4) Every individual observing the registration of electors and the revision of registers of electors under paragraph (1) or (3) shall comply with any instructions issued by the Electoral Commission respecting the conduct of such observation.
- (5) Representatives of the media shall have the right to be present where electors are registered and where registers of electors are being revised and may publish any matters connected with such registration and revision.
47. If, because of physical incapacity, illness or illiteracy, a person cannot sign an application form, he may do any of the following instead of signing—

[Subsidiary]
Summoning
witnesses, evidence
etc.

Service of notices.

Publication of
notices.

Inaccurate
description of places
and names.

Observers of
registration, etc.

Alternatives to
signatures.

[Subsidiary]

- (a) put the print of his thumb at the appropriate place in the form;
- (b) if the person has no thumb, put, at the appropriate place in the form, the print of any finger or such other mark as the registration officer may allow; or
- (c) if the person is unable to make any mark, signify his approval of the application to the registration officer in such manner as the registration officer may allow.

Changes in constituencies.

48. If a constituency is created or modified, a new register of electors for the new or modified constituency shall be prepared as required from the existing registers of electors.

Repeal of existing regulations.

49. The National Assembly Elections (Registration of Voters) Regulations are repealed.

Transition-use of form.

50. An application in Form B in the Schedule to the regulations repealed by regulation 49 may be used in instances where an application in Form B in the Schedule to these Regulations would otherwise be required.

SCHEDULE

FORMS

FORM A

(r. 9 (1))

**THE NATIONAL ASSEMBLY AND PRESIDENTIAL ELECTION
(REGISTRATION OF ELECTORS) REGULATIONS, 2002**

CERTIFICATION OF REGISTER OF ELECTORS

I hereby certify the document or documents described as follows as the register of electors for the constituency:

.....

Dated the, 20

.....
Registration Officer

[Subsidiary]

FORM B

(r. 11 (1))

THE NATIONAL ASSEMBLY AND PRESIDENTIAL ELECTIONS (REGISTRATION OF ELECTORS) REGULATIONS, 2002

APPLICATION FOR REGISTRATION AS AN ELECTOR

<i>Constituency:</i>		<i>Local Authority Area:</i>	
<i>Name:</i>	..... Surname	..... Other names	
Identity card no./Kenyan passport no.:			
Date of birth		Sex:	
Residential address:			
Postal address:			

I, the applicant, hereby apply to be registered in the register of electors.

PRESIDENTIAL AND NATIONAL ASSEMBLY ELECTIONS

I, the applicant, declare that at the date of this application:-

- (i) I am ordinarily resident in Kenya; and
- (ii) I am qualified to vote in the constituency named in this application.

LOCAL AUTHORITY ELECTIONS

I, the applicant, declare that, at the date of this application, I am qualified to vote in the local authority area named in this application.

DECLARATION

I declare that:-

- (i) I am qualified to be, and not disqualified from being, registered as an elector under the law in respect of the class or classes of election for which I now apply for registration.
- (ii) I am in possession of a national identify card or Kenyan passport with the number indicated in this application.
- (iii) The particulars entered on this form (which I have entered, read or have had read to me) are in every respect true and correct.

Dated: 20.....

.....
Signature or thumbprint of applicant

Declared before me:

Registration Officer/Assistant Registration Officer

[Subsidiary]

FORM C

(r. 12 (3))

THE NATIONAL ASSEMBLY AND PRESIDENTIAL ELECTIONS
(REGISTRATION OF ELECTORS) REGULATIONS, 2002

APPLICATION TO CHANGE PARTICULARS OF REGISTRATION

Name:	..... Surname	..... Other names
Identity card no./Kenyan passport no:		

I, the applicant, am registered in the register of electors for the following constituency:

I wish to change the particulars of my registration as follows:

.....

Dated: 20

.....
Signature or thumbprint of applicant

FORM D

(r. 12 (4))

THE NATIONAL ASSEMBLY AND PRESIDENTIAL ELECTIONS
(REGISTRATION OF ELECTORS) REGULATIONS, 2002APPLICATION TO CHANGE CONSTITUENCY IN WHICH A PERSON
IS REGISTERED

<i>Constituency:</i>		
<i>Name:</i>	..... Surname	..... Other names
Identity card no./Kenyan passport no.:		
Date of birth	Sex:	
Residential address:		
Postal address:		

[Subsidiary]

I, the applicant, am registered in the register of electors for the constituency noted above.

I wish to be registered in the register of electors for the following:

New Constituency:	New Local Authority Area:
-------------------	---------------------------

PRESIDENTIAL AND NATIONAL ASSEMBLY ELECTIONS

I, the applicant, declare that at the date of this application:-

- (i) I am ordinarily resident in Kenya; and
- (ii) I am qualified to vote in the new constituency for which I wish to be registered.

LOCAL AUTHORITY ELECTIONS

I, the applicant, declare that, at the date of this application, I am qualified to vote in the local authority area named in this application.

DECLARATION

I declare that:-

- (i) I am qualified to be, and not disqualified from being, registered as an elector under the law in respect of the class or classes of election for which I now apply for registration.
- (ii) I am in possession of a national identity card or Kenyan passport with the number indicated in this application.
- (iii) The particulars entered on this form (which I have entered, read or have had read to me) are in every respect true and correct.

Dated: 20

.....
Signature or thumbprint of applicant

Declared before me:
Registration Officer/Assistant Registration Officer

[Subsidiary]

FORM E

(r. 14 (2))

THE NATIONAL ASSEMBLY AND PRESIDENTIAL ELECTIONS
(REGISTRATION OF ELECTORS) REGULATIONS, 2002

ELECTOR'S CARD

ELECTOR'S CARD	REPUBLIC OF KENYA
Elector's Number:	
Elector's Name:	
Elector's ID Card/passport number:	
Constituency:	
Elections at which Elector is entitled to vote: Presidential/National Assembly/Local Authority	
Note.- You must produce this card and your identity card or Kenyan passport in order to vote. You are not entitled to vote unless your name appears in the register of electors.	

FORM F

(r. 16)

THE NATIONAL ASSEMBLY AND PRESIDENTIAL ELECTIONS
(REGISTRATION OF ELECTORS) REGULATIONS, 2002

CLAIM UNDER SECTION 9 (1) OF THE ACT

To the Registration Officer, Constituency

Name of claimant	..... Surname	..... Other names
Residential address:		
Postal address:		

I, the claimant, applied to be registered in the register of electors but have not been so registered.

I hereby make a claim under section 9 (1) of the Act to be registered.

A new application for registration is attached.

Dated: 20

.....
Signature or thumbprint of claimant

[Subsidiary]

FORM G

(r. 25 (1))

THE NATIONAL ASSEMBLY AND PRESIDENTIAL ELECTIONS (REGISTRATION OF ELECTORS) REGULATIONS, 2002

OBJECTION UNDER SECTION 10 (1) OF THE ACT

To the Registration Officer, Constituency

Name of Objector:	..... Surname	..... Other names
Elector's number:		
Residential address:		
Postal address:		

I, the objector, am registered in the register of electors for the above noted constituency.

I hereby object, under section 10 (1) of the Act, to-

1. My registration.*

OR

2. The registration of (Elector's number, if any:)*

The grounds for my objection are as follows:

.....
.....

This objection is accompanied by the required fee of five hundred shillings.

Dated:, 20.....

.....
Signature or thumbprint of objector

* Delete item 1 or 2.

[Subsidiary]

FORM H

(r. 26)

THE NATIONAL ASSEMBLY AND PRESIDENTIAL ELECTIONS (REGISTRATION OF ELECTORS) REGULATIONS, 2002

NOTICE OF OBJECTION

To:

Constituency:

TAKE NOTICE that I have received an objection to your registration as an elector in the register of electors for the above-named constituency.

The grounds for the objection are as follows:

.....
.....
.....

AND FURTHER TAKE NOTICE that, unless you appear at the determination of the objection by the court and show cause why you should be or remain registered as an elector, the court may make such order in your absence as to it may seem just.

Dated the, 20

.....
Registration Officer

FORM I

(r. 27 (4))

THE NATIONAL ASSEMBLY AND PRESIDENTIAL ELECTIONS (REGISTRATION OF ELECTORS) REGULATIONS, 2002

NOTICE OF DETERMINATION OF OBJECTION

To:

Constituency:

IN RELATION TO:

The objection by
to the registration of

TAKE NOTICE that the objection described above will be determined by the Court at at a.m/p.m. on the day of, 20

Dated the, 20

.....

[Subsidiary]

FORM J

(r. 30 (3))

THE NATIONAL ASSEMBLY AND PRESIDENTIAL ELECTIONS (REGISTRATION OF ELECTORS) REGULATIONS, 2002

NOTICE—REGISTER OF ELECTORS TO BE REVISED

NOTICE is hereby given that the register of electors for will be revised.

The following persons should apply:

- 1. All persons who are not registered but who wish to be registered.
2. All persons who are registered but who wish to change the particulars of their registration or the constituency in which they are registered.

Applications may be made on or after, 20 but not later than, 20

Applications may be made at the places listed in the Schedule to this notice.

If a place listed in the Schedule is closed before the last day for making applications, a notice will be posted at that place indicating the other places where applications may be made.

Forms for application may be obtained at any place of registration, while it is open.

SCHEDULE

PLACES WHERE APPLICATIONS MAY BE MADE

Dated the, 20

ELECTORAL COMMISSION

Chairman

Secretary

[Subsidiary]

FORM K

(r. 36 (3))

THE NATIONAL ASSEMBLY AND PRESIDENTIAL ELECTIONS
(REGISTRATION OF ELECTORS) REGULATIONS, 2002

NOTICE- REGISTER OF ELECTORS TO BE REPLACED

NOTICE is hereby given that a new register of electors will be compiled for the following constituency:

All persons who wish to be registered as electors should apply.

Applications may be made on or after, 20
.....but not later than, 20.....

Applications may be made at the places listed in the Schedule to this notice.

If a place listed in the Schedule is closed before the last day for making applications, a notice will be posted at that place indicating the other places where applications may be made.

Forms for application may be obtained at any place of registration, while it is open.

SCHEDULE

PLACES WHERE APPLICATIONS MAY BE MADE

Dated the, 20

Electoral Commission

.....
Chairman

.....
Secretary

[Subsidiary]

FORM L

(r. 39 (1))

THE NATIONAL ASSEMBLY AND PRESIDENTIAL ELECTIONS
(REGISTRATION OF ELECTORS) REGULATIONS, 2002

NOTICE OF AVAILABILITY OF REGISTER FOR INSPECTION

Date of posting of notice:

NOTICE is hereby given that the new register of electors for the
..... Constituency has been completed and is available
for inspection.

The register may be inspected at during
the following times:

How to make a claim:

A person who claims that he should be included in the register may
make a claim to the registration officer within thirty days after the
posting of this notice. The claim must be made in the prescribed
Form.

How to make an objection:

A person who is registered and who wishes to object to his own
registration or the registration of another may make an objection to
the court within thirty days after the posting of this notice.

A person who is registered and who wishes to object to a claim
of another may make an objection to the court within fifteen days
after the claim was posted.

An objection must be made in the prescribed form and must be
accompanied by a fee of five hundred shillings.

Dated the, 20

.....
Registration Officer

