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REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2019

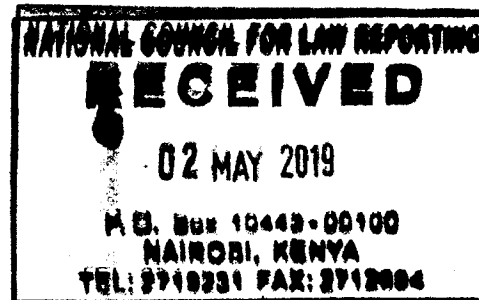
NAIROBI, 29th March, 2019

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PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI

**THE INDEPENDENT ELECTORAL AND
BOUNDARIES COMMISSION (AMENDMENT) BILL,
2019**

A Bill for

**AN ACT of Parliament to amend the Independent
Electoral and Boundaries Commission Act, 2011
and for connected purposes**

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Independent Electoral and Boundaries Commission (Amendment) Act, 2019. Short title.

2. The First Schedule to the Independent Electoral and Boundaries Commission Act, 2011 is amended— Amendment of the
First Schedule to
—No. 9 of 2011.

(a) in paragraph 1—

(i) by deleting the words “the President shall appoint a selection panel consisting of such persons as Parliament shall determine for the purposes of appointment of the chairperson or member of the Commission” appearing in sub-paragraph (1) and substituting therefor the words “the President shall, with the approval of the National Assembly, appoint a Selection Panel consisting of eleven persons for the purposes of appointment of the chairperson or member of the Commission;

(ii) by deleting the opening statement in sub-paragraph (2) and substituting therefor the following new opening statement—

(2) The Selection Pa;

(iii) by inserting the following new sub-paragraph immediately after sub-paragraph (f) —

(g) one person nominated by the National Council for Persons with Disabilities;

(iv) in sub-paragraph (3) by inserting the words—

“within seven days of the declaration of a vacancy in the office of chairperson or member of the Commission” immediately after the words “President for appointment”.

(v) in sub-paragraph (6) by deleting the words—

“The Parliamentary Service Commission” and substituting therefor the words “The Clerks of both Houses of Parliament”.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to amend the First Schedule to the Independent Electoral and Boundaries Commission, 2011 in order to provide for a mechanism of appointing members of the Independent Electoral and Boundaries Commission. As it is presently, the Selection Panel that was established under the First Schedule to the Act stood dissolved upon appointment of the current Members of the Independent Electoral and Boundaries Commission and hence there exists a vacuum as to the mechanism of appointing members of the Independent Electoral and Boundaries Commission in case of a vacancy or lapse of the term of office of any Member of the Commission.

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

The Bill neither delegates legislative powers nor does it contain provisions limiting fundamental rights and freedoms.

Statement on whether the Bill concerns county governments

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

Statement on the financial implications of the Bill

The enactment of this Bill shall occasion additional expenditure of public funds to be provided for in the estimates.

Dated the 25th February, 2019.

JUDE NJOMO,
Member of Parliament.

The First Schedule to the Independent Electoral and Boundaries Commission Act which it is proposed to amend—

FIRST SCHEDULE

PROCEDURE FOR APPOINTMENT OF CHAIRPERSON AND MEMBERS OF THE COMMISSION

Selection Panel

1. (1) At least six months before the lapse of the term of the chairperson or member of the Commission or within fourteen days of the declaration of a vacancy in the office of the chairperson or member of the Commission under the Constitution or this Act, the President shall appoint a selection panel consisting of such persons as Parliament shall determine for the purposes of appointment of the chairperson or member of the Commission.

(2) For the purpose of the first appointment of commissioners upon the commencement of section 5, the selection panel shall consist of—

- (a) four persons, being two men and two women, nominated by the Parliamentary Service Commission;
- (b) one person nominated by the Kenya Conference of Catholic Bishops;
- (c) one person nominated by the National Council of Churches of Kenya;
- (d) one person nominated by the Supreme Council of Kenya Muslims, the National Muslim Leaders Forum and the Council of Imams and Preachers of Kenya;
- (e) one person nominated by the Evangelical Alliance of Kenya; and
- (f) one person nominated by the Hindu Council of Kenya.

(3) The respective nominating bodies under sub-paragraphs (2) (b) to (f) shall submit the names of their nominees to the Parliamentary Service Commission for transmission to the President for appointment.

(4) The selection panel shall, at its first sitting, elect a chairperson and vice-chairperson from amongst its number.

(5) Subject to the provisions of this Schedule, the selection panel shall determine its own procedure.

(6) The Parliamentary Service Commission shall provide the secretariat services and facilities required by the selection panel in the performance of its functions.

Oath or affirmation of office

2. The chairperson and members of the selection panel shall, before assuming office, take and subscribe the oath or affirmation of office prescribed in the Third Schedule.

Selection of nominees

3. (1) The selection panel shall, within seven days of its appointment, invite applications from qualified persons and publish the names of all applicants and their qualifications in the *Gazette*, two newspapers of national circulation and on the website of the Parliamentary Service Commission.

(2) The selection panel shall consider the applications, shortlist and interview the applicants.

(3) The interviews under subparagraph (2) shall be conducted in public.

(4) After conducting interviews under subparagraph (2), the selection panel shall select two persons qualified to be appointed as chairperson and nine persons qualified to be appointed as members of the Commission and shall forward the names to the President for nomination of one person for appointment as the chairperson and six persons for appointment as members.

(5) The President shall, within seven days of receipt of the names under sub-paragraph (4), forward the list of nominees to the National Assembly for approval in accordance with the Public Appointments (Parliamentary Approval) Act.

Appointment by the President

4. The President shall, within seven days of receipt of the names approved by the National Assembly, by notice in the *Gazette*, appoint the Chairperson and the members of the Commission.

Gender equity and regional balance

5. In short listing, nominating or appointing persons as chairperson and members of the Commission, the selection panel, the National Assembly and the President shall ensure that not more than two-thirds of the members are of the same gender and shall ensure regional balance.

Dissolution of Selection Panel

6. The selection panel shall stand dissolved upon the requisite appointments being made under paragraph 4.