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THE POLITICAL PARTIES ACT, 2011
NO. 11 OF 2011

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**THE POLITICAL PARTIES ACT, 2011
NO. 11 OF 2011**

Date of Assent: 27th August, 2011

12 of 2012.

Commencement: 1st November, 2011

AN ACT of Parliament to provide for the registration, regulation and funding of political parties, and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Political Parties Act, 2011 and shall come into operation on such date as the Minister may, by notice in the Gazette, appoint. Short title and commencement.

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

“branch” means any devolved unit of a political party;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to elections;

“coalition” means an alliance of two or more political parties formed for the purpose of pursuing a common goal and is governed by a written agreement deposited with the Registrar;

“Commission” means the Independent Electoral and Boundaries Commission established under Article 88 of the Constitution;

“election” means the act of selecting by vote, of a person or persons from among a number of candidates to fill an office or to membership of any political party and includes a presidential, parliamentary or county election;

“founding members of a political party” means the persons who form a political party and who have contributed or offered to contribute either in cash or in kind to the initial assets of the party in respect of the first year of its existence;

“Fund” means the Political Parties Fund established by section 23;

“Gazette” means the *Kenya Gazette* published by the authority of the national government, or a supplement of the *Kenya Gazette*;

“governing body” means the committee responsible for

administering the affairs of a political party;

“merger” means where two or more political parties consolidate their operations and combine all officers, structure, and other functions of the political parties;

“office holder” in relation to a political party means any person who is elected by the members of the political party to hold office and is registered with the Registrar of Political Parties;

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

“public officer” has the meaning assigned to it under Article 260 of the Constitution;

“Registrar” means the Registrar of political parties appointed under section 33;

“State” when used as a noun, means the collectivity of offices, organs and other entities comprising the government of the Republic under the Constitution; and

“Tribunal” means the Political Parties Disputes Tribunal established under section 39.

PART II—REGISTRATION AND REGULATION OF POLITICAL PARTIES

Formation of political parties.

3. (1) Political parties may, subject to the provisions of the Constitution and this Act, be formed in Kenya to further purposes which are not contrary to the Constitution or any written law.

(2) A citizen of Kenya who has attained the age of eighteen years may, subject to the provisions of this Act and any other written law, contest for an elective position in a political party in which he is a member.

Requirements of a political party.

4. (1) An association of persons or an organisation shall not operate or function as a political party unless it has been registered in accordance with the provisions of this Act.

(2) The Registrar shall not register an association of persons or an organisation as a political party if such association or organisation does not meet the requirements set out in Article 91 of the Constitution.

5. (1) An association of persons or organisation applying to be registered as a political party may apply to the Registrar for provisional registration. Provisional registration of a political party.

(2) Upon application for registration under subsection (1), the Registrar shall, within thirty days of the association or organisation fulfilling the conditions prescribed in section 6, issue that association or organisation with a certificate of provisional registration.

(3) A political party that has been provisionally registered under subsection (2) shall, not later than one hundred and eighty days from the date of provisional registration, apply to the Registrar for full registration.

(4) The Registrar shall, within seven days of receipt of an application under subsection (3), publish a notice in the Gazette and in at least two newspapers having nationwide circulation, inviting objections from any person or any other political party concerning the registration of the name, symbol or colour of the party or any other issue relating to the registration of the political party.

(5) The provisional registration of a political party which has not applied for full registration shall lapse at the expiry of one hundred and eighty days from the date of issue of the certificate of the provisional registration

(6) The provisional registration of a political party which has applied for full registration shall be valid until the political party is issued with a certificate of full registration, or until the application of the political party to be registered has been rejected.

(7) A political party that has been provisionally registered under subsection (2) shall not be entitled to participate in an election.

6. (1) An application for the provisional registration of a proposed political party shall be in writing and be signed by the applicant. Application for provisional registration.

(2) An application for provisional registration shall—

- (a) include signed minutes of the first meeting of the founding members of the political party;
- (b) set out the name of the political party;
- (c) if the political party wishes to use an abbreviation of its name for the purposes of this Act, set out that abbreviation;

- (d) be accompanied by a copy of the constitution of the proposed political party which shall comply with the provisions of section 9;
- (e) include an undertaking to be bound by this Act and the Code of Conduct set out in the First Schedule; and
- (f) be accompanied by the prescribed fee.

(3) An application for provisional registration shall include a request for the registration of the symbol of the political party.

Conditions of full registration.

7. (1) An application for full registration of a political party shall be in writing and shall be signed by an authorised official of the political party.

(2) A provisionally registered political party shall be qualified to be fully registered if—

- (a) it has recruited as members, not fewer than one thousand registered voters from each of more than half of the counties;
- (b) the members referred to in paragraph (a) reflect regional and ethnic diversity, gender balance and representation of minorities and marginalised groups;
- (c) the composition of its governing body reflects regional and ethnic diversity, gender balance and representation of minorities and marginalised groups;
- (d) not more than two-thirds of the members of its governing body are of the same gender;
- (e) it has demonstrated that members of its governing body meet the requirements of Chapter Six of the Constitution and the laws relating to ethics;
- (f) it has submitted to the Registrar—
 - (i) a list of the names, addresses and identification particulars of all its members;
 - (ii) the location of its head office, which shall be a registered office within Kenya and a postal address to which notices and other communication may be sent; and
 - (iii) the location and addresses of the branch offices of the political party, which shall be in more than half of the counties; and

(g) it has undertaken to be bound by this Act and the Code of Conduct set out in the First Schedule.

(3) A person is disqualified from being a member of the governing body if that person—

(a) is an undischarged bankrupt;

(b) has been convicted of a criminal offence and sentenced to imprisonment for a period of not less than six months;

(c) has been suspended for a period of six months for violating the code of conduct of the political party; or

(d) has contravened the provisions of Chapter Six of the Constitution.

(4) The Registrar shall, within thirty days of an application under subsection (2), issue a certificate of full registration to a provisionally registered political party which has fulfilled the conditions of full registration.

(5) A person who is not a citizen of Kenya shall not be appointed to any office or be a member of a political party in Kenya.

8. The Registrar may refuse an application for the registration of a political party if the name of the political party, the abbreviation of the name or the symbol that it wishes to use for the purposes of this Act—

Parties with certain names not to be registered.

(a) is obscene or offensive;

(b) is the name, or is an abbreviation of another political party that is registered under this Act; or

(c) so nearly resembles the name or symbol, or an abbreviation of the name of another political party registered under this Act or any other legal entity registered under any other written law.

9. (1) The constitution or rules of every political party shall provide for all the matters specified in the Second Schedule to this Act.

Contents of constitution or rules of a political party.

(2) The Registrar may, by notice in writing, require a political party to amend its name, constitution or rules within three months after the date of the notice to comply with the Constitution, this Act and any other written law.

(3) The notice referred to in subsection (2) shall specify the areas of non-compliance, the nature of the amendment and the reason for

such amendment.

(4) If a political party does not comply with a notice issued under subsection (2), that political party shall be deregistered.

Coalitions.

10. (1) Two or more political parties may form a coalition before or after an election and shall deposit the coalition agreement with the Registrar.

(2) A coalition agreement entered into before an election shall be deposited with the Registrar at least three months before that election.

(3) A coalition agreement entered into after an election shall be deposited with the Registrar within twenty-one days of the signing of the coalition agreement.

(4) A coalition agreement shall set out the matters specified in the Third Schedule.

Mergers.

11. (1) A political party may merge with another political party.

(2) A political party shall not merge with another political party unless the merger is in accordance with the constitution, rules and procedures of the political parties.

(3) The decision to merge shall be in writing and shall be duly executed by the political party officials authorized to execute agreements on behalf of the political parties.

(4) The governing body of each political party that intends to merge under subsection (2) shall—

(a) determine the constitution, rules, regulations and the principles which shall form the basis of the merger and the registration of the new political party; and

(b) sign the merger agreement and the particulars for the new political party to be registered under this Act.

(5) The merger agreement signed under subsection (4) (b) shall be deposited with the Registrar within twenty-one days of the signing of the agreement.

(6) The political parties which have merged into a new political party under this section shall stand dissolved upon registration of the new political party.

(7) Where a political party merges with another political party, a member of the political party that has merged with another political party who is a member of Parliament or of a county assembly, and who does not desire to be a member of the political party formed after the merger shall continue to serve as a member of Parliament or of the county assembly, and may join another political party or choose to be an independent member for the remainder of the term of the member.

12. (1) A public officer shall not—

- (a) be eligible to be a founding member of a political party;
- (b) be eligible to hold office in a political party;
- (c) engage in political activity that may compromise or be seen to compromise the political neutrality of that person's office; or
- (d) publicly indicate support for or opposition to any political party or candidate in an election.

Restrictions on public officers in political a party.

(2) Subsection (1) shall not apply to the President, Deputy President, a Member of Parliament, Governor, Deputy Governor or a member of a county assembly.

(3) Until after the first elections under the Constitution, subsection (2) shall apply to the Prime Minister.

13. A person disqualified from holding public office under the Constitution, this Act or any other written law shall not hold office in the governing body of a political party or be its founding member.

Disqualification from holding office in a political party.

14. (1) A member of a political party who intends to resign from the political party shall give a written notice prior to his resignation to—

Resignation from political party. L.N. 19/2012, 12 of 2012, Sch.

- (a) the political party;
- (b) the Clerk of the relevant House of Parliament, if the member is a member of Parliament; or
- (c) the clerk of a county assembly, if the member is a member of a county assembly.

(2) The resignation of the member of the political party shall take effect upon receipt of such notice by the political party or clerk of the relevant House or county assembly.

(3) The political party of which the person is a member, the member, or the clerk of the relevant House of Parliament or of a county

assembly of which the person is a member shall notify the Registrar of such resignation within three days of the resignation.

(4) A person shall not be a member of more than one political party at the same time.

(5) A person who, while being a member of a political party—

- (a) forms another political party;
- (b) joins in the formation of another political party;
- (c) joins another political party;
- (d) in any way or manner, publicly advocates for the formation of another political party; or
- (e) promotes the ideology, interests or policies of another political party;

shall, notwithstanding the provisions of subsection (1) or the provisions of any other written law, be deemed to have resigned from the previous political party.

(6) Subsection (5) (d) and (e) shall not apply to a member of a political party in relation to the common objective of a coalition.

(7) A member of a political party may only be expelled from that political party if the member has infringed the constitution of the political party and after the member has been afforded a fair opportunity to be heard in accordance with the internal party disputes resolution mechanisms as prescribed in the constitution of the party.

(8) A person who suppresses or attempts to suppress any lawful political activity of another person commits an offence and shall, on conviction be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years or to both.

Rights and privileges
of political party.

15. (1) A political party which has been provisionally registered shall be entitled—

- (a) to hold and address public meetings in any area in Kenya for the purposes of publicising the political party and recruiting members;
- (b) to the protection and assistance of the State security agencies for the purposes of facilitating peaceful and orderly meetings; and

(c) to the provision by the State, of fair opportunity to present the political party's programmes to the public by ensuring equitable access to the State owned media.

(2) Provisional registration shall not entitle any political party to organise or hold public meetings in connection with any election, or to propose or campaign for any candidate in any election.

(3) A political party which contravenes the provision of subsection (2) commits an offence.

16. (1) A political party which has been fully registered under this Act shall be a body corporate with perpetual succession and a common seal and shall be capable, in its own name of—

Corporate status of political party and declaration of assets etc.

- (a) acquiring and disposing of property;
- (b) suing and being sued; and
- (c) doing or performing all such acts and things as a body corporate may by law do or perform.

(2) A political party shall, within sixty days after being issued with a certificate of full registration under section 7, submit to the Registrar a written declaration giving details of all assets and expenditure including, all contributions, donations or pledges of contributions or donations, whether in cash or in kind, made or to be made to the initial assets of the political party by its founding members in respect of the first year of its existence.

(3) A declaration submitted to the Registrar under subsection (2) shall—

- (a) state the sources of all funds and other assets of the political party;
- (b) contain such other relevant particulars as the Registrar may prescribe; and
- (c) be supported by a statutory declaration made by the person designated to issue such a declaration by the governing body of the political party.

(4) The Registrar shall, within thirty days after the receipt of the declaration required under subsection (2), cause the declaration to be published in the Gazette and in at least one daily newspaper having nationwide circulation.

(5) Notwithstanding any other penalty prescribed by this Act or any other written law, the Registrar shall, subject to section 21(2) deregister a political party which—

- (a) fails to comply with this section; or
- (b) submits a declaration, which is false in any material particular.

Records of political party.

17. (1) A political party shall maintain at its head office and at each of its county office in the prescribed form, an accurate and authentic record of—

- (a) a register of its members in a form prescribed in the Second Schedule;
- (b) a copy of the constitution of the political party;
- (c) a copy of the policies and plans of the political party;
- (d) particulars of any contribution, donation or pledge of a contribution or donation, whether in cash or in kind, made by the founding members of the political party;
- (e) estimates of the expenditure of the political party in accordance with the laws relating to public finance management;
- (f) particulars of any property that belongs to the political party and the time and mode of acquisition of the property;
- (g) the latest audited books of accounts of the political party which shall be in accordance with the principles of accounting having regard to the purpose of this Act, showing—
 - (i) the sources of the funds of the political party and names, addresses and such other contact details as the Registrar may require of any persons who have contributed thereto;
 - (ii) membership dues paid;
 - (iii) donations in cash or in kind;
 - (iv) indirect contributions to the party and all receipts and disbursements, including income and expenditure transactions of the political party;
 - (v) all the financial transactions and records of assets and liabilities of the political party; and
- (h) such other relevant particulars as the Registrar may prescribe.

(2) A person, who interferes with, damages or destroys the records

of a registered political party commits an offence.

(3) A member of a political party may, during working hours and on payment of the prescribed fee, inspect and obtain copies of the records of a political party maintained at its head office or county office.

18. (1) The Registrar may, issue a written notice, in the prescribed form, to the chairperson or secretary-general of a political party to furnish for inspection by the Registrar, the records required to be maintained under section 17, or such other information as is reasonably required by the Registrar to ensure compliance with the provisions of this Act.

Duty of political party to inform Registrar.

(2) The Registrar may make copies of or take extracts from any records or other information furnished to the Registrar under this section.

(3) The chairperson or secretary-general of a political party shall comply with a notice issued by the Registrar under subsection (1).

(4) A chairperson or secretary-general of a political party who fails to comply with the notice under this section commits an offence.

19. A political party intending to hold a public meeting in any area shall comply with the provisions of the laws relating to public meetings.

Public meetings of political party.

20. (1) Where a fully registered political party intends to change or amend—

Notification of changes, alterations in constitution etc. of political party.

(a) its constitution;

(b) its rules and regulations;

(c) the title, name or address of any party official; or

(d) its name, symbol, slogan or colour,

it shall notify the Registrar of its intention and the Registrar shall, within fourteen days after the receipt of the notification, cause a notice of the intended change or alteration to be published in the Gazette.

(2) The political party giving notification under sub-section (1) shall publish such notification in at least two daily newspapers having nationwide circulation.

(3) Upon the expiry of thirty days from the date of publication of the notice in subsection (1), the political party may, after taking into account any representations received from the public under subsection (1) and (2), effect the change or alteration in accordance with its

constitution and rules.

Deregistration of
political party.

21. (1) The Registrar may deregister a political party if the political party—

- (a) has contravened the provisions of Article 91 of the Constitution;
- (b) does not promote free and fair nomination of candidates;
- (c) does not adhere to the law relating to the nomination of candidates;
- (d) does not respect the national values and principles of the Constitution;
- (e) obtained its registration in a fraudulent manner;
- (f) has instigated or participated in the commission of an election offence; or
- (g) has acted contrary to the provisions of section 26.

(2) The Registrar shall, before deregistering a political party—

- (a) inform the political party, in writing, of the particulars of the breach or contravention;
- (b) inform the political party, in writing, of the intention to deregister the political party; and
- (c) direct the political party to remedy the breach or contravention within ninety days or otherwise show cause why the party should not be deregistered.

(2) The Registrar may suspend the registration of a political party to enable that political party to remedy the breach specified in the notice issued by the Registrar under subsection (2).

(3) A political party that has been suspended under subsection (2) shall not be entitled to any of the rights and privileges specified in section 15.

(4) The Registrar shall deregister a political party which has not remedied the breach or complied with the Act as required by the Registrar under subsection (2).

(5) The Registrar shall deregister a political party which has been declared to be a prohibited organisation under the provisions of any written law.

22. (1) Where a political party is deregistered under this Act, no person shall— Effect of deregistration.

- (a) summon a meeting of members or officers of the political party other than for purposes of winding up the political party or for purposes of challenging the de-registration of the political party;
- (b) attend or make a person attend a meeting in the capacity of a member or officer of the political party;
- (c) publish a notice or advertisement relating to a meeting of the political party except for purposes of a meeting under paragraph (a);
- (d) invite persons to support the political party;
- (e) make a contribution or loan to funds held or to be held by or for the benefit of the political party or accept a contribution or loan; or
- (f) give a guarantee in respect of such funds.

(2) Where a political party that has been deregistered under section 21 had representatives elected to Parliament, or county assembly, such representatives shall continue to serve for the remainder of their term as independents or as members of other political parties.

(3) Notwithstanding subsection (2), where the de-registration of a political party is occasioned by a willful act or willful omission of a person who is a member of Parliament or of a county assembly, that person shall cease to be a member of Parliament or of the county assembly.

PART III—FUNDING AND ACCOUNTS OF POLITICAL PARTIES

23. There is established a Fund to be known as the Political Parties Fund, which shall be administered by the Registrar. Political Parties Fund.

24. (1) The sources of the Fund are— Sources of moneys in the Fund.

- (a) such funds not being less than zero point three per cent of the revenue collected by the national government as may be provided by Parliament; and
- (b) contributions and donations to the Fund from any other lawful source.

(2) The balance of the Fund at the end of the financial year shall be retained for the purposes for which the Fund is established, subject to any law relating to public finance.

Distribution of the Fund.

25. (1) The Fund shall be distributed as follows—

- (a) ninety five per cent of the Fund proportionately by reference to the total number of votes secured by each political party in the preceding general election; and
- (b) five percent for the administration expenses of the Fund.

(2) Notwithstanding subsection (1), a political party shall not be entitled to receive funding from the Fund if—

- (a) the party does not secure at least five per cent of the total number of votes at the preceding general elections; or
- (b) more than two-thirds of its registered office bearers are of the same gender.

(3) For purposes of subsection (1) (a) and (2) (a), the total number of votes secured by a political party shall be computed by adding the total number of votes obtained in the preceding general election by a political party in the election for the President, members of Parliament, county governors and members of county assemblies.

Purposes of the Fund.

26. (1) Moneys allocated to a registered political party from the Fund shall be used for purposes compatible with democracy including—

- (a) promoting the representation in Parliament and in the county assemblies of women, persons with disabilities, youth, ethnic and other minorities and marginalised communities;
- (b) promoting active participation by individual citizens in political life;
- (c) covering the election expenses of the political party and the broadcasting of the policies of the political party;
- (d) the organisation by the political party of civic education in democracy and other electoral processes;
- (e) bringing the political party's influence to bear on the shaping of public opinion; and
- (f) administrative and staff expenses of the political party which shall not be more than thirty per cent of the moneys allocated to the political party:

Provided that not less than thirty per cent of the moneys allocated to a political party under section 25 shall be used for the purposes referred to in subsection (1) (a).

(2) The moneys allocated to a political party shall not be used for any other purposes other than those specified in this Act.

(3) Moneys allocated to a political party from the Fund shall not be used—

- (a) for paying directly or indirectly remuneration, fees, rewards, allowances or any other benefit to a member or supporter of the political party, other than a member of staff;
- (b) to finance or as a contribution to any matter, cause, event or occasion directly or indirectly in contravention of any code of ethics binding on public officers;
- (c) directly or indirectly for the purposes of establishing any business or acquiring or maintaining any right or financial interest whatsoever in any business or in any immovable property; or
- (d) for any other purpose incompatible with the promotion of a multiparty democracy and the electoral processes, or with the Constitution.

(4) A political party shall ensure accountability and transparency in its procurement processes.

(5) A person who contravenes the provisions of this section commits an offence.

27. (1) The sources of other funds for a political party are—

Other sources of funds.

- (a) membership fees;
- (b) voluntary contributions from a lawful source;
- (c) donations, bequests and grants from any other lawful source, not being from a non-citizen, foreign government, inter-governmental or non-governmental organisation; and
- (d) the proceeds of any investment, project or undertaking in which the political party has an interest.

(2) A foreign agency, or a foreign political party which shares an ideology with a political party registered in Kenya, may provide technical assistance to that political party.

(3) Technical assistance under subsection (2) shall not include provision of any assets to the political party.

(4) A political party shall disclose to the Registrar full particulars of all funds or other resources obtained by it from any source.

Offences related to sources of funds.

28. (1) A political party which receives funds from a non-citizen contrary to section 27 (1) (c) commits an offence.

(2) Subject to subsection (6), no person or organisation shall, in any one year, contribute to a political party an amount, whether in cash or in kind exceeding five percent of the total expenditure of the political party.

(3) The total expenditure referred to in subsection (2) shall be in relation to the audited accounts of the political party, of previous year.

(4) A person who or an organisation which contravenes subsection (2) commits an offence.

(5) A political party that receives an amount exceeding the amount specified in subsection (2) commits an offence and shall, in addition to the penalty imposed by this Act, forfeit that amount to the State.

(6) Subsections (2) and (5) shall not apply to any contribution or donation whether in cash or kind, made by any founding member of the political party as his contribution to the initial assets of the party within the first year of its existence.

(7) An official of a political party or other person required to disclose to the Registrar, on behalf of a political party, the funds or other resources of that political party, who fails to disclose, or gives false information in relation to the funds or resources obtained by the political party, commits an offence and shall on conviction be liable to a fine equal to the amount or the value of the resources not disclosed or in relation to which false information was given, or to imprisonment for a term not exceeding two years or to both.

Publishing sources of funds.

29. (1) A political party shall, within ninety days of the end of its financial year, publish—

(a) the sources of its funds stating—

(i) the amount of money received from the Fund;

(ii) the amount of money received from its members and supporters; and

(iii) the amount and sources of the donations given to the party;

(b) the income and expenditure of the political party; and

(c) the assets and liabilities of the political party.

(2) The publication referred to in subsection (1) shall be in at least two newspapers having nationwide circulation.

(3) A political party which contravenes this section commits an offence.

(4) Notwithstanding the provisions of subsection (3), a political party that fails to comply with this section shall, during the period of non compliance, be disqualified from receiving moneys from the Fund.

30. (1) A political party shall, at least ninety days before a general election, submit to the Registrar a register of its members and a statement of its assets and liabilities in the prescribed form.

Declaration of assets, liabilities and expenditure in relation to elections.

(2) Notwithstanding any other penalty provided in this Act or in any other written law, the Registrar shall deregister a political party which—

(a) fails to comply with this section; or

(b) submits a statement which is false in any material particulars.

31. (1) A political party shall keep proper books and records of account of the income, expenditure, assets and liabilities of the political party.

Audit of political parties accounts.

(2) A political party shall, within three months after the end of each financial year submit to the Auditor-General the accounts of the political party in respect of that year.

(3) The accounts of every political party shall be audited annually by the Auditor-General and shall be submitted to the Registrar and tabled in the National Assembly.

(4) The Registrar may at any time request the Auditor-General to carry out an audit of the accounts of a political party.

(5) Any person shall be entitled, to inspect the audited accounts filed by a political party and, upon payment of a fee prescribed by the Registrar be issued copies of the audited accounts.

Accounts and audit
of the Office of
Registrar

32. (1) The Office of Registrar of Political Parties shall keep proper books of account of the income, expenditure and assets of the Office.

(2) Within a period of three months after the end of a financial year, the Office of Registrar of Political Parties shall submit to the Auditor-General, the accounts of the Office together with—

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

(3) All accounts kept under this Act shall be audited by the Auditor-General at least once in every financial year.

PART IV — OFFICE OF THE REGISTRAR OF POLITICAL PARTIES

Establishment of the
Office of Registrar.

33. (1) There is established the Office of the Registrar of Political Parties which shall be a body corporate with perpetual succession and a seal and which shall be capable of suing and being sued in its corporate name.

(2) The Registrar shall be deputised by three Assistant Registrars, not more than two of whom shall be of the same gender.

(3) The Office of Registrar shall be a State office within the meaning of Article 260 of the Constitution.

(4) The Office of the Registrar may engage such staff, experts or consultants as are necessary for the proper and effective discharge of its functions under this Act and any other written law.

(5) The Office of Registrar shall be independent and shall not be subject to direction or control of any person or authority.

(6) A person shall be qualified for appointment as Registrar or as an Assistant Registrar if the person—

- (a) holds a degree from a university recognised in Kenya;
- (b) has proven knowledge and experience in any of the following fields—
 - (i) finance;
 - (ii) management;

- (iii) political science;
 - (iv) law;
 - (v) governance; or
 - (vi) public administration;
- (c) has, in the case of the Registrar, at least fifteen years post qualification experience in the relevant areas of expertise and, in the case of an Assistant Registrar, has at least ten years post qualification experience in the relevant area of expertise; and
- (d) is a person of high moral character and integrity and has satisfied the requirements of Chapter Six of the Constitution.

(7) A person shall not be qualified for appointment as a Registrar or Assistant Registrar if the person has, at any time within the preceding five years, held office or stood for election as a member of Parliament or a county assembly or as a member of a governing body of a political party.

(8) The Registrar and Assistant Registrars shall, before assuming office, take and subscribe the oath or affirmation prescribed in the Fourth Schedule.

(9) The Registrar and Assistant Registrars shall serve for a non-renewable term of six years and shall not be eligible for re-appointment.

(10) A person who serves as a Registrar or Assistant Registrar shall not be eligible to contest for election as a member of Parliament or a county assembly, or as a member of a governing body of a political party within five years of the person ceasing to be Registrar or Assistant Registrar.

34. The functions of the Registrar shall be to—

Functions of the Registrar.

- (a) register, regulate, monitor, investigate and supervise political parties to ensure compliance with this Act;
- (b) administer the Fund;
- (c) ensure publication of audited annual accounts of political parties;
- (d) verify and make publicly available the list of all members of

political parties;

- (e) maintain a register of political parties and the symbols of the political parties;
- (f) ensure and verify that no person is a member of more than one political party and notify the Commission of his findings;
- (g) investigate complaints received under this Act; and
- (h) perform such other functions as may be conferred by this Act or any other written law.

35. (*Deleted by 12 of 2012, Sch.*)

Procedure for appointment of the Registrar and Assistant Registrars.

36. The Sixth Schedule shall apply to the procedure for the appointment of the Registrar and Assistant Registrars.

Removal of Registrar or Assistant Registrar.

37. (1) The Registrar or an Assistant Registrar may be removed from office only on grounds of—

- (a) serious violation of the Constitution or of this Act;
- (b) non-compliance with Chapter Six of the Constitution;
- (c) inability to perform the functions of office arising from mental or physical incapacity;
- (d) bankruptcy;
- (e) incompetence; or
- (f) gross misconduct.

(2) A person desiring the removal of the Registrar or an Assistant Registrar shall present a petition to the Public Service Commission which shall be in writing, setting out the alleged facts constituting the grounds for the removal of the Registrar or of the Assistant Registrar.

(3) The Public Service Commission shall consider the petition and, if it is satisfied that it discloses the existence of a ground under subsection (1), it shall send the petition to the President.

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

- (a) suspend the Registrar or Assistant Registrar pending the outcome of the petition; and
- (b) appoint a Tribunal in accordance with subsection (5).

(5) The President shall appoint a Tribunal consisting of—

- (a) a chairperson who shall be nominated by the Judicial Service Commission and who shall be a person who is qualified to hold office as a judge of a superior court;
- (b) two other persons, a man and a woman, who shall be nominated by the Law Society of Kenya and who shall be qualified to hold office as a judge of a superior court;
- (c) two persons, a man and a woman, who shall be nominated by the Association of Professional Societies in East Africa and who have knowledge and experience in public affairs and are competent to assess the facts in respect of the particular ground for removal.

(6) The Tribunal shall investigate the matter expeditiously, report on the facts and make a binding recommendation to the President who shall act in accordance with the recommendation within thirty days.

(7) A person who is suspended under this section shall continue, while on suspension, to receive one-half of the remuneration and benefits of the office.

38. (1) There is established a Political Parties Liaison Committee.

Establishment of
Political Parties
Liaison Committee.

(2) The Political Parties Liaison Committee shall be established at the national and county levels.

(3) The principal function of the Political Parties Liaison Committee is to provide a platform for dialogue between the Registrar, Commission and political parties.

(4) The Political Parties Liaison Committee shall perform such other functions as may be prescribed by the Registrar.

PART VI—THE POLITICAL PARTIES DISPUTES TRIBUNAL

39. (1) There is established a Tribunal to be known as the Political Parties Disputes Tribunal.

Establishment of
Tribunal.

(2) The Tribunal shall consist of the following members, appointed by the Judicial Service Commission—

- (a) a chairperson who shall be a person qualified to be appointed a judge of the High Court; and

(b) four other members one of whom shall be an advocate of the High Court of five years standing.

(3) The Chairperson and members of the Tribunal shall serve on part-time basis.

(4) The Chairperson and the members shall hold office for a non-renewable term of six years.

(5) A person shall not be qualified to be appointed as a member of the Tribunal if that person is a member of the public service or takes an active part in the activities of a political party.

(6) A person shall not qualify for appointment under this section unless the person has met the requirement of Chapter Six of the Constitution.

(7) The quorum of the Tribunal shall be three members one of whom shall be an advocate.

Jurisdiction of
Tribunal.

40. (1) The Tribunal shall determine—

- (a) disputes between the members of a political party;
- (b) disputes between a member of a political party and a political party;
- (c) disputes between political parties;
- (d) disputes between an independent candidate and a political party;
- (e) disputes between coalition partners; and
- (f) appeals from decisions of the Registrar under this Act.

(2) Notwithstanding subsection (1), the Tribunal shall not hear or determine a dispute under paragraphs (a) (b), (c) or (e) unless the dispute has been heard and determined by the internal political party dispute resolution mechanisms.

Determination of
disputes.

41. (1) The Tribunal shall determine any dispute before it expeditiously, but in any case shall determine a dispute within a period of three months from the date the dispute is lodged.

(2) An Appeal shall lie from the decision of the Tribunal to the High Court on points of law and facts and on points of law to both the

Court of Appeal and the Supreme Court.

(3) A decision of the Tribunal shall be enforced in the same manner as a decision of a Magistrates Court.

(4) The Tribunal shall apply the rules of evidence and procedure under the Evidence Act (Cap. 80) and the Criminal Procedure Code (Cap. 75), with the necessary modifications, while ensuring that its proceedings do not give undue regard to procedural technicalities.

42. The Judicial Service Commission may remove a member of the Tribunal if the member— Removal of member of Tribunal.

- (a) becomes an undischarged bankrupt;
- (b) is convicted of a criminal offence;
- (c) is incapacitated by reason of prolonged physical or mental illness from performing the duties of the office;
- (d) violates the Constitution; or
- (e) is otherwise unable or unfit to discharge the functions of the office.

43. The Judicial Service Commission shall appoint the Secretary and such other staff of the Tribunal necessary for the proper functioning of the Tribunal. Staff of the Tribunal.

44. (1) The remuneration of the staff of the Tribunal and the expenses of the Tribunal shall be paid out of monies allocated by the National Assembly to the Judiciary Fund. Expenses of the Tribunal.

(2) The Chairperson and members of the Tribunal shall be paid such allowances and be reimbursed such expenses as shall be determined by the Judicial Service Commission on the recommendation of the Salaries and Remuneration Commission.

(3) Pending the establishment of the Salaries and Remuneration Commission, the Chairperson and members of the Tribunal shall be paid such allowances and be reimbursed such expenses as shall be determined by the Judicial Service Commission in consultation with Treasury.

PART VI—GENERAL PROVISIONS

45. (1) A person who— Offences.

- (a) fails to furnish particulars or information required to be

furnished by a political party or by him under this Act;

- (b) makes a statement which he knows to be false or which he has no reason to believe to be true; or
- (c) recklessly makes a false statement under this Act,

commits an offence.

(2) Where a political party commits an offence under this Act, every principal officer of that political party shall also be deemed to have committed the offence.

(3) Where an offence under this Act is committed by a body of persons other than a political party—

- (a) in the case of a body corporate other than a partnership, every director and the secretary of the body corporate shall also be deemed to have committed the offence; and
- (b) in the case of a partnership, every partner shall be deemed to have committed the offence.

(4) A person does not commit an offence under subsection (1) or (2) if that person proves to the satisfaction of the court or tribunal that the act in respect of which such person is charged was committed without his consent or connivance, and that he exercised all diligence to prevent the commission of that act as he ought to have exercised, having regard to all the circumstances.

(5) Where a political party commits an offence under this Act, the Registrar shall have the power to—

- (a) issue a warning and require the political party to conform to this Act within a specified period;
- (b) suspend the registration of the political party for a period not exceeding twelve months; or
- (c) withhold funds to the political party for a period not exceeding twelve months.

(6) Notwithstanding subsection (5), a person who is a member of a political party that has been suspended and is a member of Parliament or of a county assembly, shall continue as a member of Parliament or of the county assembly for the unexpired term.

(7) The Registrar or an employee of the Office of the Registrar

commits an offence where the Registrar or the employee of the Office of the Registrar of Political Parties knowingly subverts the objectives of the Constitution and of this Act.

46. A person convicted of an offence under this Act for which no penalty is prescribed shall be liable, on conviction, to a fine of not less than one million shillings or to imprisonment for a term of not less than two years, or to both. General penalty.

47. An offence under this Act shall be cognizable by the police. Cognizable offence.

48. (1) The Registrar shall, upon the deregistration of a political party or its declaration as a prohibited organisation under any law, notify the Attorney-General. Winding up political party.

(2) The Attorney-General shall, upon receipt of such notice, make an application for the winding up and dissolution of that political party, and the disposition of the property, assets, rights and liabilities of the political party.

(3) The High Court shall make such orders as appear to it to be just and equitable in the circumstances of the case.

49. (1) The Registrar may make regulations generally for the better carrying out of provisions of this Act. Regulations.

(2) In particular and without prejudice to the generality of the power conferred by sub-section (1), the Registrar may make Regulations—

- (a) prescribing the manner of registration of political parties;
- (b) regulating the activities of political parties that are registered under this Act as provided under this Act;
- (c) regulating or restricting the use or changes of names, symbols or colours of political parties;
- (d) prescribing the forms, which may be used for carrying out the provisions of this Act;
- (e) for securing the submission, to the Registrar, of the audited accounts and financial accounts relating to the assets and liabilities, income and expenditure of political parties;
- (f) prescribing the fees in respect of anything to be done under this Act; or
- (g) requiring the submission, to the Registrar, of annual or other periodical returns relating to the constitution, objects and membership of political parties.

Repeal of No. 10 of 2007.

50. The Political Parties Act is repealed.

Transitional provisions.
Corrigenda No. 18/2012

51. (1) Notwithstanding the provisions of this Act—

- (a) a political party existing immediately before the commencement of this Act shall be required to comply with the provisions of this Act, within one hundred and eighty days from the commencement date; but shall be exempt from payment of the initial registration fees;
- (b) section 8 shall not apply to a political party existing immediately before the commencement of this Act;
- (c) the register of Political Parties and the Register of members of the Political parties maintained under the repealed Political Parties Act shall be deemed to have been prepared under this Act;
- (d) the Registrar of Political Parties holding office immediately before the commencement of this Act, shall continue to hold office until a Registrar is appointed under this Act;
- (e) the chairperson and members of the Tribunal appointed under the repealed Act shall continue to hold office for their unexpired term;
- (f) all records, assets and liabilities of the former office of the Registrar and the Tribunal shall be records, assets and liabilities for the respective offices established under this Act;
- (g) all proceedings that were pending before the Tribunal under the repealed Act shall continue as proceedings before the Tribunal established under this Act;
- (h) the provisions of section 9(4) shall not apply until after the first elections after the commencement of this Act;
- (i) the criteria for distribution of the Fund provided under section 30(3) of the Political parties Act, 2007, shall apply until after the first general elections under the Constitution; and
- (j) until after the first elections under the Constitution, references in this Act to the expression “Cabinet Secretary” shall be construed to mean “Minister”.

(2) Where this Act requires a nomination or appointment to be made by the President, until after the first general elections held under

the Constitution, the President shall, as provided in the Constitution, nominate or appoint a person after consultation with the Prime Minister”.

FIRST SCHEDULE (s. 6(2)(e))

CODE OF CONDUCT FOR POLITICAL PARTIES

1. Political parties shall, pursuant to Articles 91 and 92 of the Constitution and section 8 of this Act, subscribe and observe this code of conduct.

2. This code of conduct shall regulate the behavior of members and office holders of political parties, aspiring candidates, candidates and their supporters, promote good governance and eradicate political malpractices.

3. Political competition and co-operation shall be regulated under this code of conduct on the basis of rule of law and universally accepted best practices.

4. Political Parties shall—

- (a) promote policy alternatives responding to the interests, the concerns and the needs of the citizens of Kenya;
- (b) respect and uphold the democratic process as they compete for political power so as to implement their policies;
- (c) promote consensus building in policy decision making on issues of national importance.

5. Every political party shall—

- (a) respect the right of all persons to participate in the political process including youth, minorities and marginalized groups;
- (b) respect and promote gender equity and equality, human rights and fundamental freedoms; and
- (c) be tolerant and inclusive in all their political activities.

6. Every political party shall—

- (a) respect, uphold and defend the Constitution of Kenya;

- (b) respect and uphold this Act and any other written law relating to elections and political parties;
- (c) respect, uphold and defend their respective political party constitutions, political party election rules, political party nomination rules and any other political party rules and regulations developed and agreed upon in accordance with this code of conduct;
- (d) respect, uphold and promote human dignity, equity, social justice, inclusiveness and non-discrimination and protection of the marginalized;
- (e) respect, uphold and promote human rights and the rule of law;
- (f) promote national patriotism and national unity;
- (g) respect, uphold and promote democratic values and principles, performing inclusive participation of party members and accountable representation in governance for the development of the country;
- (h) respect, uphold and promote good governance, integrity, respect, tolerance, transparency and accountability;
- (i) promote cooperation in the political competition;
- (j) promote sharing and devolution of power and resources;
- (k) respect, uphold and promote democratic practices through regular free, fair and credible elections within the political party and among others have a democratically elected governing body and political party organs;
- (l) respect, uphold and promote democratic practices through free, fair and credible political party nominations;
- (m) respect, uphold and promote leadership and integrity as prescribed in the constitution of Kenya; and
- (n) perform transparency and accountability in all its legislation and regulations, structures, procedures and performance.

7. A political party shall not—

-
- (a) engage in or encourage violence by its members or supporters;
 - (b) engage in or encourage any kind of intimidation of opponents, any other person or any other political party;
 - (c) engage in influence peddling, bribery or any other form of corruption;
 - (d) accept or use illicit or illegal money;
 - (e) accept or use public resources other than those allocated to the political party through the political party fund;
 - (f) advocate hatred that constitutes ethnic incitement, vilification of others or incitement to cause harm;
 - (g) obstruct, disrupt, break-up or in any other way whatsoever interfere with a meeting, rally or demonstration of another political party or its leadership;
 - (h) establish or maintain a para-military force, militia or similar organisation or having any links with such organizations; and
 - (i) use state resources for partisan campaigns.
8. A political party shall promote inter-party relations by—
- (a) ensuring free competition among political parties in respect of different political views and principles;
 - (b) fostering trust and confidence through mechanisms for co-operation;
 - (c) managing and mitigating political differences through constructive dialogue enhancing harmony among the parties; and
 - (d) promoting national reconciliation and building national unity.

SECOND SCHEDULE

(s. 9(1))

CONTENTS OF THE CONSTITUTION OR RULES OF A POLITICAL PARTY

1. The name of the Political party and any abbreviation.
2. The logo and symbol of the political party and party colours.
3. The objects of the political party.
4. Clearly defined vision, mission, guiding principles and values.
5. The physical and postal address of the registered office.
6. Membership requirements including—
 - (a) the eligibility criteria;
 - (b) subscription fees for joining the party and for being a member of the party;
 - (c) the criteria for resignation from party membership or ceasing to be a member; and
 - (d) the rights and duties of members of the party;
 - (e) membership details to be contained in the register including identification details, region, ethnicity, gender and county; and
 - (f) the procedure for conducting the annual general meeting or the other general meetings of the political party, including matters which may only be decided upon by a meeting of the party members or, as the case may be, of the county representatives of the party.
7. Governing body requirements—
 - (a) the name of the governing body;
 - (b) the eligibility criteria for election to the governing body;
 - (c) the positions, titles and term of office;
 - (d) the rights and duties of members of the governing body;

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- (e) the procedure for the election of members of the governing body and other political party organs, including committees;
 - (f) guidelines for the operations of the governing body and its committees;
 - (g) quorum;
 - (h) frequency of meetings;
 - (i) decision making powers; and
 - (j) guidelines for meetings: procedures of convening meetings; procedure of meetings and the official recording of resolutions passed at meetings.
8. A list of political party management structure of the political party and systems to be documented at the political party offices including—
- (a) the employee details and terms of employment;
 - (b) the party human resource, financial and audit and administration and management policies and procedures; and
 - (c) the party sub- branches within each county.
9. The forming of political party branches, including in the diaspora, and their roles and responsibilities.
10. The financial structure and system including—
- (a) the roles and responsibilities of individual political party officials, organs and governing bodies with regard to the finances of the political party;
 - (b) the annual statutory and other audits; of accounts of the political party; and
 - (c) the purposes for which the funds may be used, and in particular the prohibition against the distribution of funds among members.
11. The general organisation structure and management of the political party, including the county structures and systems and county

governing bodies.

12. The establishment and management of National Assembly, Senate and County Assemblies Caucuses.

13. The disciplinary measures against a member or official of a political party including—

- (a) the methods and procedure of disciplinary action;
- (b) possible disciplinary actions and reasons;
- (c) criteria for various disciplinary actions; and
- (d) consequences of each action for the national and county levels.

14. The right to inspect the books or list of members of the political party by a member of the party or a member of the public.

15. The authorized officials of a political party shall sign on behalf of the political party—

- (a) documents presented to the Registrar including membership register, mergers, and other reports to the Registrar;
- (b) the accounts and bank accounts of the political party;
- (c) the audited annual accounts and financial statements of the political party;
- (d) any report or document of the political party required under this Act or any other written law; and
- (e) the nomination certificates for any nomination or election of a member of the political party.

16. The policy documents which the political party will develop and on which the political party will perform including the manner and procedures in which they will be developed, approved and implemented.

17. The policy reporting documents and their regularity which the political party will produce including the manner and the procedures in which they will be developed, approved and publicized.

18. Asset management policies and procedures, the custody and investment of the funds and property of the political party, and the designation of the persons responsible for them.

19. The political party nomination rules and regulations with respect to elections of the party and rules governing the preparation of party lists.

20. Provisions for the amendment of the name, constitution, and rules of the political party.

21. Rules for mergers including—

(a) the circumstances and criteria for mergers; and

(b) the procedure and guidelines for such mergers as approved by an annual general meeting of the political party.

22. Provisions on dissolution of the political party, including—

(a) provisions on the disposal of the property of the political party; and

(b) the manner of and procedures to be followed for the dissolution of the political party or any branch of the party.

23. Internal party dispute resolution mechanism.

24. Democratic practices that cover gender, affirmative action for minorities and marginalized groups.

25. Reflect democratic practices covering human rights and gender.

26. The manner of implementing national values and principles of governance as provided in the Constitution.

THIRD SCHEDULE

(s. 10(4))

BASIC REQUIREMENTS FOR COALITION AGREEMENT

1. A Coalition agreement shall adhere to the rules and procedures of the political parties relating to the formation of coalitions.

2. A coalition agreement shall be sanctioned by the governing body of the political parties entering into the coalition and shall—

- (a) be in writing and duly executed by authorized national party officials; and
- (b) be commissioned by a Commissioner of Oaths.

3. A Coalition agreement shall state—

- (a) the parties which are members of the coalition;
- (b) the policies and objectives of the coalition;
- (c) the overall structure of the coalition;
- (d) the general organisation structure and management of the coalition, including the county structures and systems and county governing bodies;
- (e) the criteria or formula for sharing of positions in the coalition structure, roles and responsibilities within the coalition;
- (f) the coalition election rules;
- (g) the coalition nomination rules;
- (h) the decision making structure, rules and procedures;
- (i) the policy initiation, policy consultation and policy decision making structure, rules and procedures;
- (j) the Code of Conduct of the coalition including the values and the principles guiding the performance of the individuals and the members parties within the coalition;
- (k) the dispute resolution mechanisms and procedures;
- (l) the enforcement and sanction mechanisms and procedures for breach of any of the provisions of the agreement;
- (m) procedures for appeal to the Tribunal;
- (n) the role of the governing body and political party organs

of the individual member parties of the coalition in the running of the affairs of the coalition including the links and the mechanisms and procedures accordingly;

- (o) the formula and the mechanisms for sharing of funds from the Political Party Fund to the respective member of the coalition; and
- (p) the grounds upon which the coalition may be dissolved including the mechanisms and procedures to be followed.

FOURTH SCHEDULE

(s. 33(8))

OATH OF OFFICE/ SOLEMN AFFIRMATION OF REGISTRAR OF POLITICAL PARTIES/ ASSISTANT REGISTRAR OF POLITICAL PARTIES/ CHAIRPERSON AND MEMBERS OF THE SELECTION COMMITTEE/ CHAIRPERSON AND MEMBERS OF THE POLITICAL PARTIES DISPUTES TRIBUNAL

I,
having been

appointed as do solemnly (swear/declare and affirm) that I will at all times obey, respect and uphold the Constitution of Kenya and all other laws of the Republic of Kenya, and that I will faithfully and 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.

(So help me God).

Sworn/declared by the said

Before me this day of

Chief Justice

FIFTH SCHEDULE
(Deleted by 12 of 2012, Sch.)

SIXTH SCHEDULE

(s. 36) 12 of 2012, Sch.

PROCEDURES FOR APPOINTMENT OF THE REGISTRAR AND
ASSISTANT REGISTRARS

1. The Public Service Commission shall, within seven days of its appointment and whenever a vacancy arises, by notice in the *Gazette*, in at least two newspapers of national circulation and in at least two radio and television stations with national coverage, declare vacancies in the office of Registrar and the offices of Assistant Registrar.

2. The Public Service Commission shall, within seven days of the end of the period prescribed for receipt of applications under subsection (1), consider the applications, shortlist qualified applicants and interview the shortlisted applicants.

3. The Public Service Commission shall conduct the interviews under paragraph 2 in public.

4. The Public Service Commission shall, following the conclusion of the interviews under paragraph 2, nominate and forward to the President the names of three nominees for appointment to the Office of Registrar of Political Parties and the names of nine nominees for appointment to the office of Assistant Registrar.

5. The President shall, within seven days of receipt of the names of the nominees under paragraph 4, nominate one of the three persons for appointment to the Office of Registrar of Political Parties and three persons for appointment as Assistant Registrar of Political Parties and forward the names of the nominees to the National Assembly for approval.

6. The National Assembly shall, within fourteen days of the receipt of the names of the nominees under paragraph 5, consider the nominees and approve or reject the nominations.

7. Where the National Assembly approves the nominations, the Clerk of the National Assembly shall, within three days of the approval, forward the name of the approved persons to the President for appointment.

8. Where a name is forwarded to the President under paragraph 7, the President shall, within seven days of receipt of the name, by notice

in the Gazette, appoint the person as Registrar of Political Parties or as Assistant Registrar of Political Parties.

9. Where the National Assembly rejects the name of a nominee, the Clerk of the National Assembly shall, within three days of the rejection, communicate the decision of the National Assembly to the President who shall submit a fresh nomination from among the persons nominated under paragraph 4.

10. If the National Assembly rejects a subsequent nomination under paragraph 9, the provisions of paragraphs 1 to 9 shall, with necessary modifications, apply to the process of nomination and approval of a new nominee.

11. For the purposes of the appointment of the Registrar and the Assistant Registrars prior to the first general elections under the Constitution, the President shall, in making a nomination or appointment under this Act, act in consultation with the Prime Minister in accordance with the Constitution.

