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## THE CONSTITUTION OF KENYA

### THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION ACT

(No. 9 of 2011)

### THE ELECTIONS ACT

(No. 24 of 2011)

### THE ELECTIONS (GENERAL) REGULATIONS, 2012

### THE ELECTIONS (PARTY PRIMARIES AND PARTY LISTS) REGULATIONS, 2017

#### SUBMISSION OF PARTY LISTS

IN EXERCISE of the powers conferred by Article 90 of the Constitution, sections 34, 35, 36 and 37 of the Elections Act, 2011, and Regulation 54, 55 and 56 of the Election (General) Regulations, 2012 and Regulation 20 and 21 of the Election (Party Primaries and Party Lists) Regulations, 2017, the Independent Electoral and Boundaries Commission gives notice that Political Parties shall submit the Party Lists to the Commission on or before 24th June, 2017.

Notice is given to the public on the law guiding the Party Lists on the nomination of members to the National Assembly, the Senate and the County Assemblies using proportional representation under Articles 97 (1) (c), 98 (1) (b), (c) and (d), and 177 (1) (b) and (c) of the Constitution, respectively, the general rules of submission of these Party Lists and the formula for allocation of seats from the Party Lists by the Commission to the respective assemblies.

#### *Party Lists to be Submitted to the Commission*

Each political party participating in the general election has to submit the following Party Lists to the Commission start date June 10th and end date 24th June, 2017

1. National Assembly Party List—Twelve (12) nominees to the National Assembly [Art. 97(1) (c) of the Constitution].
2. Senate (Women) Party List—Sixteen (16) women nominees to the Senate [Art. 98 (1) (b) of the Constitution].
3. Senate (Youth) Party List—Two (2) youth nominees to the Senate [Art. 98 (1) (c) of the Constitution].
4. Senate (Persons with Disability) Party List—Two (2) persons with disability nominees to the Senate [Art. 98 (1) (d) of the Constitution].

5. County Assembly (Marginalized Group) Party List—47 Lists, each representing a county and separately consisting of eight (8) marginalized group nominees to the County Assembly [Art. 177 (1) (c) of the Constitution].
6. County Assembly (Gender) Party List—47 Lists, each representing a county and separately consisting a number of nominees equal to the number of wards in the respective county [Art. 177(1) (b) of the Constitution]. E.g. for Nairobi County, the Gender List to the County Assembly shall have 85 nominees, for Lamu County – 10 nominees, etc.

#### *General Requirements for Party Lists*

The Party Lists must generally comply with the Constitution 2010, the Elections Act, 2011 as amended by the Statute Law (Miscellaneous Amendment) Act, 2012, the Elections (Amendment) Act, 2012, the Elections (Amendment) (No. 2), the Political Parties Act, 2011 and any other relevant law as well as the party constitution and the party nomination rules.

Article 90 of the Constitution, sections 34-37 of the Elections Act, 2011 as amended by the Elections (Amendment) (No. 2) Act, 2012, the Election Laws (Amendment) Act, 2016 and the Election Laws (Amendment) Act, 2017. The Regulations 54-56 of the Election (General) Regulations, 2012 as amended by the Election (General) (Amendment) Regulations 2017 and the Elections (Party Primaries and Party Lists) Regulations, 2017 prescribe minimum stipulations for submission of Party Lists.

#### *The following requirements apply to all Party Lists—*

- (a) A political party participating in a general election nominates and submits a list of all the persons who would stand elected if party were to be entitled to all the seats on the Party Lists.
- (b) Each Party List comprises of the appropriate number of qualified candidates and alternates between male and female candidates in the priority in which they are listed. However, this criterion does not apply to the Senate (Women) Party List [Article 98(1) (b) of the Constitution], as all 16 nominees are women.
- (c) A political party may, at least two weeks before the party nomination of Party Lists, announce the fees to be levied by the party on every aspiring candidate. The fee shall be made known to the party members, may be graduated or waived to take into account special interest groups and may be different from the fees levied on aspiring candidates in the party primaries.

- (d) An aspiring candidate shall submit to an Election Board of their party, a duly filled application form together with a signed commitment to the party's constitution, policies and principles, a self-declaration form, copies of the person's national identity card or valid passport (the document used by the nominee to register as a voter), copies of the candidate's academic qualifications (when applicable) from the relevant institutions, an evidence of registration as a member of the party and a receipt or evidence of payment of nomination fee (when applicable).
- (e) An aspiring candidate seeking nomination on the ground that the aspiring candidate is a person with disability shall submit a certification from the National Council for Persons with Disabilities.
- (f) An aspiring candidate seeking nomination on the ground that the aspiring candidate is a youth the person must have attended the age of eighteen years but has not attained the age of thirty-five years and such person shall provide documentary proof of his or her age.
- (g) Where the political party is required to issue a notice to its members regarding any exercise in the party nomination of Party Lists, the party shall notify its members at least seven days before the date of the exercise, the date and the venue of the exercise, the persons eligible to participate in the exercise, the party officials who shall be responsible for the exercise, the duration of the exercise, where any aggrieved may file any grievances regarding the exercise, the party officials who shall hear and determine any appeal and the fee, if any, that should be paid.
- (h) The party nomination of Party Lists must be in compliance with the party nomination rules and procedures.
- (i) The names in the Party List shall be in the order of priority.
- (j) The Party List shall be a closed list, that is, the list may not be amended after it has been submitted to the Commission.
- (k) Each Party List reflects the regional and ethnic diversity of the people of Kenya. This criterion is not applicable in the case of Party Lists for county assembly seats.
- (l) The nominees on the lists must be members of the party.
- (m) The nominees on the list must be registered voters.
- (n) The Party List shall not contain a name of a candidate nominated for an election in any of the single majority electoral constituencies.
- (o) The Party List must be signed by the authorized officials of the political party submitting the Party List.
- (p) The Party List must be submitted in hard copy and such other form that the Commission may specify.
- (q) A political party submitting a Party List shall submit a declaration to that effect that the party has complied with its party nomination rules for nomination of Party Lists.
- (r) Each political Party List nominee shall, after nomination, submit to the Commission a letter stating his or her intention to serve if nominated.
- (s) Each party shall submit the Party List to the Commission on the day designated by the Commission.
- (t) The Commission may reject a nominee submitted by a political party for any elective post if that nominee is not qualified. The rejection of a nominee shall not invalidate the entire list submitted. After rejecting a nominee, the Commission shall inform the party and request the party to submit another name within such time as the Commission shall determine.
- (u) The Commission shall within fourteen days of receipt reject any Party List that does not comply. The political party whose list has been rejected shall resubmit the Party List within seven days.
- (v) Where a political party fails to amend the Party List or resubmit the Party List as directed by the Commission, the Commission shall reject the Party List.

- (w) In the event a Party List has been rejected by the Commission, and the period for submitting revised Party Lists has lapsed, the party shall not be considered in the allocation of seats.

#### *Specific Requirements for Party Lists*

In addition to the general requirements above, the following requirements will apply to each respective Party List.

#### *National Assembly Party List*

The following nomination procedures shall apply to political parties in the preparation of Party List for nomination to the National Assembly Party List—

1. The National Assembly Party List shall have 12 names of qualified nominees.
2. The nominees to the Party List must have similar qualifications as those required of candidates contesting for elections as members of the National Assembly.
3. The Party List must include nominees to represent the youth, persons with disabilities and workers and any other special interests. A party must provide a party definition of any other 'special interests' in accordance with the Constitution and the laws.
4. Among the first four nominees on the list, there shall be a person to represent a youth and person with disability and a worker and any other special interest group identified by the party. One nominee cannot represent more than one special interest. The Party List must indicate the special interest that each nominee represents.
5. In order to meet the gender requirement, the order of the nominees in the Party List shall alternate between women and men candidates.
6. In order to meet the requirement on regional diversity, not more than two nominees in the Party List shall be from the same county. Where two of the nominees in the list are from the same county, they shall not immediately follow each other on the list.
7. In order to meet the requirement of national outlook, not more than two nominees in the Party List shall be from the same ethnic community. Where two of the nominees in the list are from the same ethnic community, they shall not immediately follow each other on the list.

#### *Senate (Women) Party List*

The following nomination procedures shall apply to political parties in the preparation of Party List for nomination of Senate (Women) Party List.

1. The Senate (women) Party List must have 16 names of women qualified nominees.
2. The nominees to the Party List must have similar qualifications as those required of candidates contesting for elections as members of the Senate.
3. In order to meet the requirement on regional diversity, not more than two nominees in the Party List shall be from the same county. Where two of the nominees in the list are from the same county, they shall not immediately follow each other on the list.
4. In order to meet the requirement of national outlook, not more than two nominees in the Party List shall be from the same ethnic community. Where two of the nominees in the list are from the same ethnic community, they shall not immediately follow each other on the list.

#### *Senate (Youth) Party List*

The following nomination procedures shall apply to political parties in the preparation of Party List for nomination of Senate (Youth) Party List.

1. The Senate (youth) Party List must have 2 names of qualified youth nominees, being one woman and one man.
2. The nominees to the Party List must have similar qualifications as those required of candidates contesting for elections as members of the Senate.
3. In order to meet the requirement of regional diversity, not more than one nominee in the Party List shall be from the same county.

4. In order to meet the requirement of ethnic diversity, not more than one nominee in the Party List shall be from the same ethnic community.

*Senate (Persons with Disability) Party List*

The following nomination procedures shall apply to political parties in the preparation of Party List for nomination of Senate (Persons with disability) Party List—

1. The Senate (persons with disability) Party List must have 2 names of qualified persons with disability nominees, being one woman and one man.
2. The nominees to the Party List must have similar qualifications as those required of candidates contesting for elections as members of the Senate.
3. In order to meet the requirement of regional diversity, not more than one nominee in the Party List shall be from the same county.
4. In order to meet the requirement of ethnic diversity, not more than one nominee in the Party List shall be from the same ethnic community.

*County Assembly (Marginalized Group) Party List*

The following nomination procedures shall apply to political parties in the preparation of Party List for nomination of County Assembly (Marginalized Group) Party List:

1. The County Assembly (marginalized groups) Party List must have 8 names of qualified marginalized group nominees.
2. The nominees to the Party List must have similar qualifications as those required for candidates contesting for elections as members of the County Assembly.
3. In order to meet the gender requirement, the order of the nominees in the Party List shall alternate between women and men candidates.
4. Among all the 8 nominees, there shall be at least two youth, two persons with disabilities and two persons representing marginalized groups. One nominee cannot represent more than one special interest.

*County Assembly (Gender) Party List*

The following nomination procedures shall apply to political parties in the preparation of Party List for nomination of County Assembly (Gender Top Up) Party List.

1. The County Assembly (Gender Top Up) Party List must have the number of qualified nominees reflecting the number of wards in each of the respective counties.
2. The nominees to the Party List must have similar qualifications as those required of candidates contesting for elections as members of the County Assembly.
3. In order to meet the gender requirement, the order of the nominees in the Party List shall alternate between women and men candidates.

*Formula for Allocation of Special Seats to Political Parties*

In accordance with section 36(4) of the Elections Act, 2011, the Commission is, within thirty (30) days after the declaration of the election results, required to designate from each qualifying list the party representative on the basis of proportional representation.

In accordance with Regulation 56(2) of the Elections (General) Regulations, 2012, the Commission is required to use the following formula in allocating the special seats from the respective Party Lists:

*The formula for allocation of seats to the respective political parties from the Party Lists shall be the number of seats won by a political party divided by the total number of seats multiplied by available seats for allocation in the respective House.*

*Note:*

Where a political party fails to submit its Party List or the Party List submitted is not in accordance with these requirements and procedures, the political party shall not be considered for the allocation of the respective special seats.

All political parties are required to submit Party Lists electronically by uploading the names and particulars of their nominees in the Candidate Registration Management System (CRMS) and thereafter submit the same in hard copy.

The format for submission of Party Lists shall be as per the template governed by Regulation 54 (2) which information shall be provided through the Candidate Registration Management System.

Dated the 7th June, 2017.

W.W. CHEBUKATI,

*Chairperson,  
Independent Electoral and Boundaries Commission.*