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REPUBLIC OF KENYA

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NATIONAL ASSEMBLY BILLS, 2019

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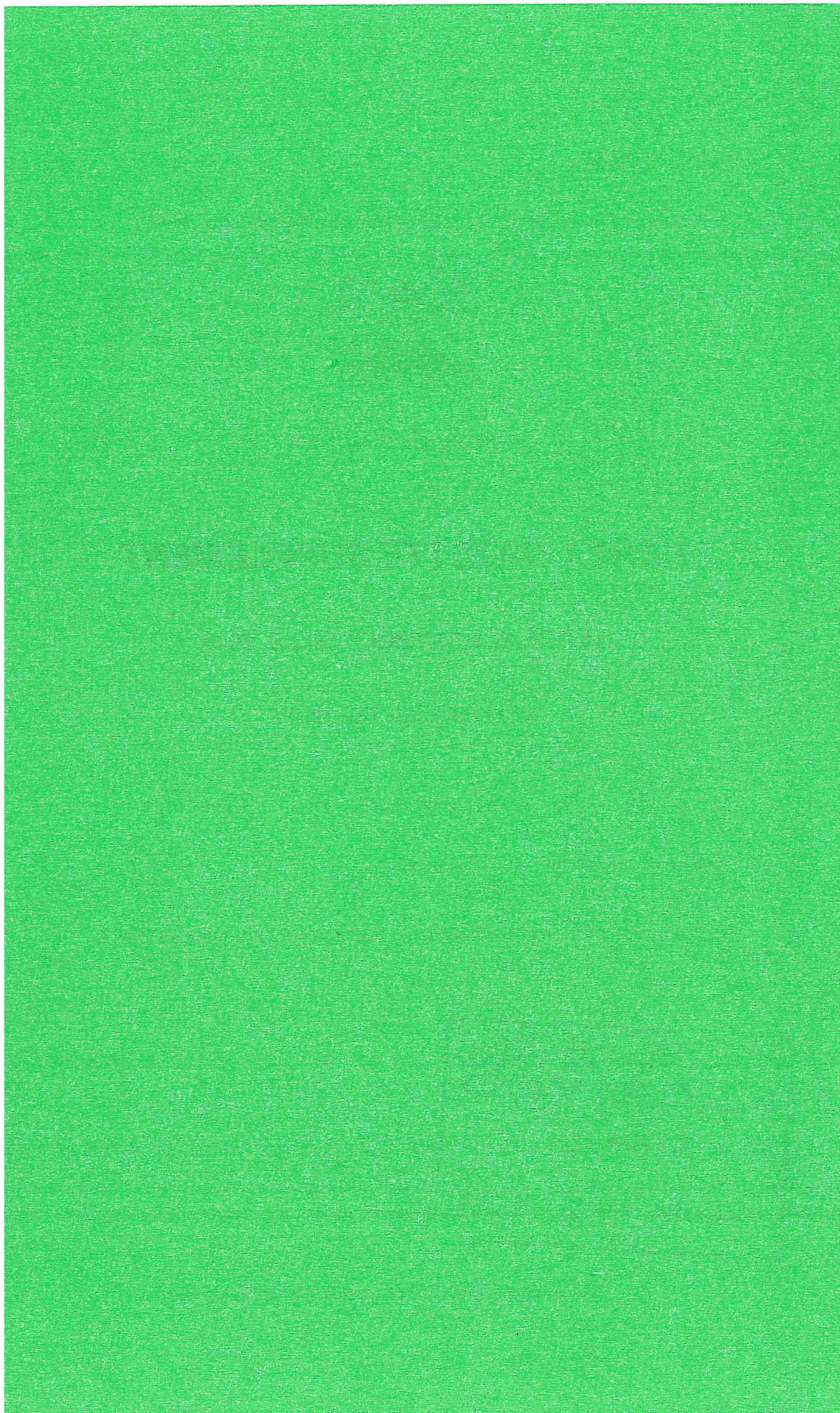
CONTENT

Bill for Introduction into the National Assembly—

PAGE

The Independent Electoral and Boundaries Commission (Amendment) (No. 3)
Bill, 2019 465





**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(1) by deleting the words “such persons as Parliament shall determine” appearing immediately after the words “consisting of” and substituting therefor the words “eleven persons;

(b) by deleting paragraph 1(2) and substituting therefor the following new subparagraph—

(2) 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 Public Service Commission;

(c) one person nominated by the Ethics and Anti-Corruption Commission;

(d) one person nominated by the Law Society of Kenya;

(e) one person nominated by the National Gender and Equality Commission;

(f) one person nominated by the Attorney General ;

(g) one person nominated by the Kenya National Commission on Human Rights; and

(h) one person nominated by the Inter-Religious Council of Kenya.

- (c) by deleting paragraph 1(3) and substituting therefor the following new subparagraph—
- (3) The respective nominating bodies under sub-paragraph (2)(b) to (h) shall, within seven days of the declaration of a vacancy in the office of the chairperson or member of the Commission, submit the names of their nominees to the Parliamentary Service Commission for transmission to the President for appointment.
- (d) in paragraph 1(6) by deleting the words “The Parliamentary Service Commission” and substituting therefor the words “The Clerks 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 Act, No. 9 of 2011, in order to establish a Selection Panel to oversee the filling of vacant positions in the Independent Electoral and Boundaries Commission. The current First Schedule only applied to the recruitment of the current Commissioners and there is therefor need to provide for a selection panel to consider subsequent appointments.

Under the Bill, it is proposed that the selection panel comprises of four persons nominated by the Parliamentary Service Commission and seven other persons nominated by the Public Service Commission, the Ethics and Anti-Corruption Commission, the Law Society of Kenya, the National Gender and Equality Commission, the Attorney General, the Kenya National Commission on Human Rights and the Inter-Religious Council of Kenya.

It is expected that the eleven members selection panel is representative of a cross section of the Kenyan society and its values and that it will ably discharge its core mandate of shortlisting suitable persons for appointment as Commissioners, by the President.

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 not occasion additional expenditure of public funds.

Dated the 12th March, 2019.

WILLIAM CHEPTUMO,
*Chairperson,
Departmental Committee on Justice and Legal Affairs.*

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

1. Selection Panel

(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.

2. Oath or affirmation of office

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.

3. Selection of nominees

(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.

4. Appointment by the President

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.

5. Gender equity and regional balance

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.

6. Dissolution of Selection Panel

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

