

SPECIAL ISSUE

Kenya Gazette Supplement No. 223 (National Assembly Bills No. 58)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2021

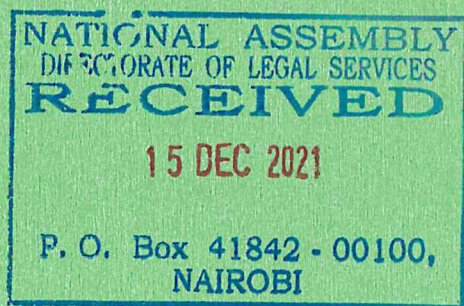
NAIROBI, 3rd December, 2021

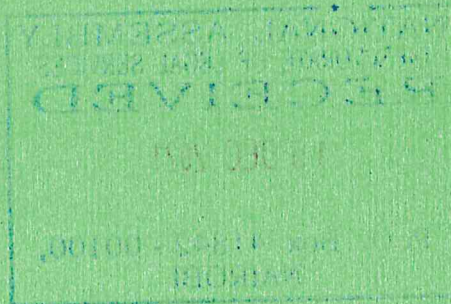
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THE POLITICAL PARTIES (AMENDMENT) (No. 2) BILL, 2021

A Bill for

AN ACT of Parliament to amend the Political Parties Act

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Political Parties (Amendment) (No. 2) Act, 2021.

Short title.

2. The Political Parties Act (in this Act referred to as the “principal Act”) is amended in section 2—

Amendment of
section 2 of No.
11 of 2011.

(a) by inserting the following new definition in the proper alphabetical sequence—

“corporate member” means a registered political party which is a member of another registered political party”;

(b) by inserting the following provision immediately after the definition of “political party”—

“Provided that in the case of a political party whose membership includes corporate members, each corporate member shall be deemed to be a political party within the meaning of this Act”.

3. The principal Act is amended by inserting the following new section immediately after section 11—

Insertion of new
section in No. 11
of 2011.

Corporate
membership.

11A. (1) A political party may become a corporate member of another political party in accordance with the constitution, rules and procedures of the political party.

(2) The decision to become a corporate member of another political party shall be by a resolution of the party organs in a meeting and shall be duly executed by the party officials authorized to execute agreements on behalf of the party.

(3) A copy of the resolution under subsection (2) and the minutes of the meeting shall be deposited with the Registrar within twenty-one days of the signing of the agreement.

(4) The constitution of a political party shall include the rules governing corporate membership.

4. Section 14 of the principal Act is amended by inserting the following new subsection immediately after subsection 6—

Amendment of
section 14 of No.
11 of 2011.

“(6A) Subsections (4) and (5) shall not apply to a corporate member of a political party”.

5. The Second Schedule to the Act is amended—

Amendment of
Second Schedule
to No. 11 of 2011

(a) in paragraph (6) by inserting the following new sub paragraph immediately after sub paragraph (a)—

“(aa) the various categories of party membership including corporate membership”;

(b) by inserting the following new paragraph immediately after paragraph 21A—

“21B. Rules governing corporate membership”.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to provide for corporate membership in the Political Parties Act, 2011. This concept was recognized by the Political Parties Act, 2007 but was not carried over to the Political Parties Act, 2011. The concept of corporate membership is important as it allows a political party to be member of another political party without necessarily merging or forming a coalition and thus retain its identity.

The Bill also seeks to recognise the different categories of membership to a political party. Political parties generally have different levels of membership, for example, life membership. Each membership level has different rights and obligations and there is need to recognise the same in law.

Clause 1 of the Bill provides for the short title.

Clause 2 of the Bill introduces the word “corporate membership” into the Political Parties Act, 2011.

Clause 3 of the Bill introduces a new section into the Act which deals with corporate membership.

Clause 4 of the Bill excludes the application of section 14 (4) and (5) of the Act in the case of a corporate member of a political party.

Clause 5 of the Bill amends the Second Schedule to the Act to provide that the Constitution of a political party should indicate the different membership categories and the rules governing corporate membership.

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

The Bill does not limit fundamental rights and freedoms.

Statement that the Bill concerns county governments

The Bill affects the functions of the county governments and is therefore a Bill concerning counties for purposes of the Standing Orders.

Statement that the Bill is a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill shall not occasion additional expenditure of public funds.

Dated the 1st December, 2021.

JOHN MBADI NG'ONGO,
Leader of Minority, National Assembly.

Section 2 of the Political Parties Act, 2011 which it is proposed to amend—

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

Section 14 of the Political Parties Act, 2011 which it is proposed to amend—

Resignation from Political Party

(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—

- (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 seven days of the resignation.

(3A) Upon receiving the notification under subsection (3), the Registrar shall cause the name of such member to be removed from the membership list of that political party.

(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.

(5A) A political party whose member is deemed to have resigned under subsection (5), shall in accordance with the procedure set out in the constitution of that political party, notify the Registrar of such decision within seven days.

(6) Subject to specific provisions of a coalition or merger agreement, subsection (5)(c), (d) and (e) shall not apply to a member of a political party which enters into a merger or a coalition with another party.

(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.

The Second Schedule to the Political Parties Act, 2011 which it is proposed to amend—

SECOND SCHEDULE

[Section 9(1), Act No. 21 of 2016, s. 23.]

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, disability, 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;
 - (fa) the requirement for continuous updating of the membership register.
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;

- (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 in accordance with Articles 47 and 50 of the Constitution;

- (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 rules and regulations with respect to—
- (a) elections of the party officials;
 - (b) nomination of candidates for elections; and
 - (c) nomination of candidates to political party lists.
20. Provisions for the amendment of the name, symbol, party colours, 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.

21A. Rules for entering into coalitions.

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 in accordance with Article 47 and 50 of the Constitution.

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.

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