

(Legislative Supplement No. 24)

LEGAL NOTICE NO. 58

THE EAST AFRICAN LEGISLATIVE ASSEMBLY
ELECTIONS ACT, 2011

IN EXERCISE of the powers conferred by section 12 of the East African Legislative Assembly Elections Act, the Parliament of Kenya makes the following Rules:—

THE EAST AFRICAN LEGISLATIVE ASSEMBLY ELECTIONS
(ELECTION OF MEMBERS OF THE ASSEMBLY) RULES, 2017

PART I—PRELIMINARY

1. These Rules may be cited as the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017.

Citation.

2. In these Rules, the parliamentary words and expressions used have the same meaning as that assigned to them in the Standing Orders of the respective House of Parliament and unless the context otherwise requires—

Interpretation.

“candidate” means a person who is nominated to vie for election to the East African Legislative Assembly;

“election” means an election to the East African Legislative Assembly;

“joint committee” means a committee established by the National Assembly and the Senate for the purposes of elections conducted under these Rules;

“nomination” means nomination as a candidate to vie for election to the East African Legislative Assembly;

“party” means a parliamentary political party or coalition of parliamentary political parties;

“presiding officers” means the Clerk of the National Assembly and the Clerk of the Senate;

“returning officers” means the Speaker of the National Assembly and the Speaker of the Senate; and

“voter” means a member of the National Assembly or the Senate but does not include the Speaker of either House of Parliament.

PART II—QUALIFICATIONS AND NOMINATION OF
CANDIDATES

3. A person shall not qualify to vie for election unless he or she meets the requirements for election set out under Article 50(2) of the Treaty for the Establishment of the East African Community, Article 99 of the Constitution and section 22 of the Elections Act.

Qualification for election.

No. 24 of 2011.

4. Where an election is to be held, the presiding officers shall, by notice in the Gazette and in at least two newspapers of national circulation—
- (a) notify that fact and invite interested qualified persons to apply, within a period of seven days from the date of the notice, for nomination to be elected as a member of the East African Legislative Assembly; and
- (b) appoint a nomination day, which shall be within a period of seven days from the expiry of the period prescribed under paragraph (a) for the receipt of applications for nomination.
5. A person who qualifies for nomination shall submit his or her application for nomination to the specified political party of his or her choice in the manner specified in the notice published under rule 4.
6. (1) A party shall be entitled to nominate for election under these Rules any number of candidates not exceeding three times the figure arrived at by multiplying the number of elected Members of Parliament of that party by such number as Joint Committee shall determine and dividing the result by the total number of elected Members of Parliament.
- (2) In nominating its candidates, each party shall, as much as it is feasible, take into account the need for fair representation of the various shades of opinion, regional balance, gender and other special interest groups in Kenya and shall ensure that at least one third of its nominees are women.
7. The presiding officers may, before the expiry of the period prescribed under rule 4(b) invite the respective leader of the majority party and the leader of the minority party of all parties entitled to nominate candidates for a pre-nomination briefing on the nomination requirements under the Treaty for the Establishment of the East African Community, the East Africa Legislative Assembly Elections Act, 2011 and under these Rules.
8. (1) Upon the nomination of a candidate under these Rules, the respective political party or the nominee, as the case may be, shall submit the particulars of the nominee in the form prescribed in the First Schedule to the presiding officer in the manner prescribed under rule 10.
- (2) The nomination of a candidate by a political party shall not be valid unless the candidate or political party submits to the presiding officer, the prescribed form duly filled and certified by the leader of the majority party or the leader of the minority party, as the case may be, in the manner set out in the form.
- (3) Each party shall nominate candidates through a transparent and democratic process and shall keep a written record of the proceedings at which the final decision to nominate any candidate was made.
9. A person intending to vie for election independent of a political party shall submit his or her duly filled nomination form in the format prescribed in Second Schedule to a presiding officer in the
- Notification of election and nomination date.
- Application for nomination by a political party.
- Number of nominees of each party.
- Pre-nomination briefing.
- Nomination of candidates by a political party.
- Nomination of candidates independent of a political party.

manner specified in the notice published under rule 4 and in accordance with rule 10.

10. On the day of nomination, at any time not later than four o'clock in the afternoon, an independent candidate or a nominee, the leader of the majority party or the leader of the minority party, as the case may be, of all parties entitled to nominate candidates shall deliver nomination papers of the candidate or candidates nominated by the party to the presiding officer.

Delivery of nomination papers.

11. (1) A candidate may, not later than four o'clock in the afternoon of the day following the nomination day, withdraw his or her candidature by notice in writing signed and delivered to the presiding officer, and in the case of a candidate nominated by a political party, with a copy to the party leader of the party that nominated the candidate.

Withdrawal or death of a candidate.

(2) No withdrawal of a candidate shall be accepted after the expiry of the period prescribed under sub-rule (1).

(3) Where the presiding officer receives information that a candidate has died and the information is received after four o'clock in the afternoon of the nomination day, and before the election day, the election shall proceed, but the voters shall be informed of such death.

(4) In the case of a party nominee, the party which nominated the candidate who dies or for any other reason ceases to be a candidate before the election day, may notwithstanding rule 10, nominate another person in place of the candidate.

12. Subject to such conditions as the presiding officers may prescribe, any person may, during office hours for two working days from the nomination day, inspect the nomination papers of any candidate and may lodge a complaint with the presiding officers in relation to a candidate's nomination.

Inspection of nomination papers.

13. (1) Within three days after the expiry of the period provided for in rule 10, the presiding officers shall forward to the joint committee, for its consideration, the names and nomination papers of all duly nominated candidates together with any complaint that may have been received under rule 12.

Forwarding of nomination papers to joint committee.

(2) The joint committee may, in considering nomination papers under sub-rule (1), invite to appear before the committee, the respective nominee in order to verify any information affecting his or her qualification to vie for elections under these Rules.

(3) The joint committee may, upon considering the nomination papers of a candidate make a recommendation for the rejection of the papers of the candidate if it is apparent from the contents of the papers that the candidate is not qualified to vie for election.

(4) The joint committee may make a recommendation for the rejection of all nominations and order a fresh nomination if it is apparent from the list of nominees that it shall not be possible, upon the holding of elections, to have, as much as is feasible, a fair representation of the various political parties in Parliament, regional

balance, shades of opinion, gender and other special interest groups in Kenya and to ensure that at least not more than two thirds of the persons elected are of the same gender.

(5) The joint committee shall consider the nomination papers and table its report on the nominees in both Houses of Parliament within a period of seven days from the date of receipt of the papers.

(6) In the event that Parliament approves the recommendation of the joint committee for a fresh nomination, the presiding officer may shorten the periods specified under rule 4.

PART III—ELECTION CAMPAIGNS AND VOTING

14. An aspiring candidate may approach and seek the support of a Member of Parliament entitled to vote before the nomination day and may, if nominated, continue to do so after the nomination day.

Campaigns by nominees.

15. (1) The presiding officers shall, by notice published in the Gazette and in at least two newspapers of national circulation appoint a date and a venue for the holding of the election by the respective Houses of Parliament which shall be not more than fourteen days after the nomination day.

Publication of election date.

(2) The date and time for election appointed under sub-rule (1) shall be the same for the National Assembly and the Senate.

16. (1) Each presiding officer shall prepare and at the time appointed for the election, shall issue to each voter one ballot paper on which shall be written in alphabetical order, the names of all duly nominated candidates, their gender, age and county clustered under the heading of the names of the respective parties that nominated them.

Ballot paper.

(2) A voter shall be required to cast a specified number of votes, which shall be clearly indicated on the ballot paper, in respect of the candidates nominated by each party.

(3) The number of votes cast under sub-rule (2) in respect of each party shall be the figure arrived at by multiplying the number of Members of Parliament of that party by the number determined by the Joint Committee and dividing the result by the total number of Members of Parliament.

17. (1) The voting in each House shall be conducted under the general supervision of the respective Speaker, who shall be the returning officer, in the place appointed by the Speaker.

Voting.

(2) On receiving a ballot paper, a voter shall secretly record his or her votes by putting a mark against the names of the nine candidates that the voter wishes to elect as members of the East African Legislative Assembly, in the respective proportions specified under sub-rule (3) of rule 15.

(3) A voter shall cast as many votes as the number of candidates to be elected and in proportion to the number of candidates required to be elected as shall be determined by the Joint Committee.

(4) Where a voter casts more votes than the number of candidates required to be elected with respect to a category of candidates, the ballot paper of that voter shall be regarded as spoilt.

(5) The ballot paper of a voter shall not be regarded as spoilt where the voter casts a number of votes that falls below the number of candidates to be elected in an election conducted under these Rules.

(6) A voter who accidentally spoils a ballot paper while voting is in progress shall, on surrendering the spoilt ballot paper, be issued with a replacement ballot paper.

18. (1) Immediately after all voters have cast their votes, the respective returning officer shall appoint two members to act as counting agents for all the candidates.

Counting of votes.

(2) The respective presiding officer shall, in the presence of the counting agents as witnesses, count the votes cast.

19. When the votes have been counted and the results of the election have been ascertained—

Declaration of results.

- (a) each presiding officer shall record the results of the tally and report to the respective House the results of the election together with the number of votes recorded for each candidate under each cluster at the end of the election exercise;
- (b) the returning officer in each House shall the upon reporting the results of the elections under paragraph (a), send a message to the other House communicating the results of the election in the respective House;
- (c) the returning officer shall announce to the respective House, the results of the election in the other House; and
- (d) the returning officer in the National Assembly shall declare to be duly elected as members of the East African Legislative Assembly, nine persons who receive the highest number of votes.

20. Within seven days after the declaration of the duly elected members of the East African Legislative Assembly under rule 19 (d)—

Publication and transmission of names.

- (a) the presiding officers shall publish the names in the *Gazette*; and
- (b) the returning officers shall jointly transmit to the Clerk of the East African Legislative Assembly the names of the elected members as published in the *Gazette*.

21. The presiding officers of the respective Houses of Parliament shall ensure safe custody of all ballot papers and other documents relating to the conduct of the election and shall cause all such documents to be destroyed after the expiration of six months from the election day.

Custody of ballot papers.

PART IV—VOIDANCE OF ELECTION

22. Any question that may arise as to whether a person is an elected member of the East African Legislative Assembly or whether a seat in the Assembly is vacant shall be determined by the High Court.

Determination of validity of candidate's election.

23. The procedure, jurisdiction and grounds for election petitions in respect of a Member of Parliament shall apply *mutatis mutandis* for a

Procedure for voidance of elections.

Member of the East African Legislative Assembly elected under these Rules.

PART V – MISCELLANEOUS

24. Where the seat of a member elected under these Rules becomes vacant, the Speakers shall, upon receipt of notification of the vacancy from the Speaker of the East African Legislative Assembly, facilitate the election of a member to replace the member in accordance with the procedure set out under these Rules.

Filling of vacancy.

25. If any matter arises which is not specifically provided for in these Rules, the respective Speakers shall make a ruling directing what is to be done and in making such a ruling, the Speakers shall be guided by the practice and procedure normally followed in similar situations with regard to the conduct of elections in Parliament.

Matters not specifically provided for.

26. These Rules supercede any previous rules, procedure or practice for the election of members to the East African Legislative Assembly.

Supercession

27. The Treaty for the Establishment of the East African Community (Election of Members of the Assembly) Rules, 2001 and the Treaty for the Establishment of the East African Community (Election of Members of the Assembly) Rules, 2012 are revoked.

Revocation of L.N. 154 of 2001 and L.N. 31 of 2012.

FIRST SCHEDULE (r. 8 (c))

NOMINATION OF PARTY NOMINEE FORM FOR ELECTION OF A MEMBER OF THE EAST AFRICAN LEGISLATIVE ASSEMBLY

I, the undersigned, being the party leader of the party shown below hereby certify the nomination of the under mentioned person as a candidate at the said election.

<i>Candidates name in full</i>	<i>Address</i>	<i>Occupation or description</i>

Full names:

Party:.....

Signature of the party leader:

And I, the aforesaid

do hereby consent to my nomination as a candidate for the election as a member of the East African Legislative Assembly and hereby certify that I am in all respects qualified for nomination as such candidate.

I have attached herewith

- (a) a photocopy of my national identity card/passport; and
- (b) my detailed curriculum vitae showing my educational and other qualifications.

Signature of candidate:

FIRST SCHEDULE (r. 9)

NOMINATION OF INDEPENDENT CANDIDATE FORM FOR
ELECTION OF A MEMBER OF THE EAST AFRICAN
LEGISLATIVE ASSEMBLY

I, the undersigned, being a person independent of a party do hereby present myself as a candidate for election as a member of the East African Legislative Assembly and I do certify that I am in all respects qualified to be elected as such. The following are my particulars—

<i>Name in full</i>	<i>Address</i>	<i>Occupation or description</i>

I have attached herewith

- (a) a photocopy of my national identity card/passport; and
- (b) my detailed curriculum vitae showing my educational and other qualifications.

Signature of candidate:

Dated 12th April, 2017.

EKWEE ETHURO,
Speaker of the Senate.

JUSTIN MUTURI,
Speaker of the National Assembly.