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THE TREATY FOR THE ESTABLISHMENT OF THE EAST AFRICAN COMMUNITY (ELECTION OF MEMBERS OF THE ASSEMBLY) DRAFT RULES, 2001

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THE TREATY FOR THE ESTABLISHMENT OF THE EAST AFRICAN COMMUNITY ACT (No.2 of 2000)

IN EXERCISE of the powers conferred by Article 50(1) of the Treaty for the Establishment of the East African Community Act, the National Assembly makes the following rules -

Citation.

1. These Rules may be cited as the Treaty for the Establishment of the East African Community (Election of Members of the Assembly) Rules 2001.

Interpretation.

2. In these Rules, all the Parliamentary words and expressions used shall have the same meaning which is assigned to them in the Standing Orders of the National Assembly and unless the context requires otherwise -

"candidate" means a person who is nominated to stand for election to the East African Legislative Assembly;

"election" means an election to the East African Legislative Assembly;

"nomination" means nomination as a candidate to stand for election to the East African Legislative Assembly;

"party" means a parliamentary political party;

"Returning Officer" means the Clerk of the National Assembly;

"voter" means a Member of Parliament present and voting during an election.

PART 1 - QUALIFICATION OF CANDIDATES

Qualification.

3. No person shall be qualified to be a candidate for election to the East African Legislative Assembly unless he is qualified to be so elected in accordance with Article 50(2) of the Treaty.

PART II - NOMINATION OF CANDIDATES

Nomination day.

4.(1) Where an election is to be held, the Returning Officer shall by notice published in the Gazette notify the fact that the election is to be held and invite all interested persons to apply within a period of fourteen days, for nomination by a party of their choice.

(2) The Returning Officer shall by notice in the Gazette appoint a nomination day which shall be at least fourteen days from the expiry of the period prescribed under sub-rule (1).

Nomination of candidates.

5.(1) In order to be validly nominated as a candidate for an election, a person must be nominated by the party which is sponsoring him.

(2) The nomination shall be in the prescribed form, signed by the candidate and by the Secretary-General of the party nominating him, and shall contain the following particulars –

- (a) the name, educational qualifications, address and occupation of the candidate;
- (b) a certificate signed by the candidate to the effect that he is willing and qualified to stand for election.
- (3) Every nomination paper shall be accompanied by the following –
 - (a) proof of citizenship of the Republic of Kenya;
 - (b) detailed biographical information relating to the candidate showing that the candidate has proven experience or interest in consolidating and furthering the aims and objectives of the Community in terms of Article 50(2)(e) of the Treaty, and signed by the candidate himself;
 - (c) an extract of the nomination proceedings of the party organ which approved the final nomination of the candidate, signed by the chairman and secretary of that organ.

(4) Before accepting the nomination of a candidate, the Returning Officer must be satisfied that the process of nomination of the candidate by a party was transparent and democratic.

(5) A candidate, or an official of the party nominating a candidate shall deliver the nomination papers of the candidate to the Returning Officer at his office not later than four o'clock in the afternoon of the nomination day.

(6) A party which is entitled to sponsor candidates shall submit to the Returning Officer the names of three candidates, at least one of whom shall be a woman, in respect of each seat allocated to that party under any agreement entered into by the parties.

Deposits.

6. A candidate, or an official of a party nominating a candidate shall, at the time of delivering the nomination paper, deposit a non-refundable deposit of ten thousand shillings, to cover the cost of election stationery and other election expenses.

Objections.

7. Objections may be made by the Returning Officer to the nomination of a candidate, if it is apparent to the returning officer from the contents of the nomination papers that the candidate is not qualified to stand for election and in that case the Returning officer shall forthwith reject the nomination papers of the candidate.

PART III - ELECTION PROCEDURE AND VOTING

Election day.

8. The Returning Officer shall, by notice published in the Gazette, appoint an election day, which shall be not more than seven days and not less than three days after nomination day.

Withdrawal or
death of a candidate.

9.(1) A candidate may, not later than four o'clock in the afternoon of the day following the nomination day, withdraw his candidature by notice in writing signed and delivered by him to the Returning Officer with a copy to the Secretary-General of the party sponsoring him.

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

(3) Where any candidate dies after four o'clock in the afternoon of the nomination day, and before the election day, the election process shall continue and shall not be affected by such death.

Election campaign.

10.(1) An aspiring candidate may introduce himself to the voters, individually, and seek their support before the nomination day, and may continue to do so after the nomination day.

(2) Before the votes are cast on election day, each candidate shall be permitted to appear before the Members of Parliament assembled in an extra-ordinary sitting of the National Assembly convened and chaired by the Speaker in such place as the Speaker may determine and address the Members of Parliament in English or Kiswahili for such length of time, and answer such number of questions if any, as may be determined by the Speaker for that purpose.

Voting procedure.

11.(1) The voting shall be conducted under the general supervision of the Speaker in the place appointed by the Speaker under rule 10.

(2) The Returning Officer shall issue only one ballot paper to each voter.

(3) Subject to rules 7 and 9, the ballot paper shall contain all the names of the candidates submitted to the Returning Officer under sub rule (6) of rule 5, arranged alphabetically in the following groups –

(a) Group A: Candidates nominated to represent gender.

(b) Group B: Candidates nominated to represent parties, shades of opinion and other special interest groups.

(4) A voter shall be required to cast a specified number of votes, to be announced by the Speaker, in each of the groups specified in subrule (3).

(5) On receiving a ballot paper, each voter shall secretly record his votes by putting a mark against the names of the nine candidates he wishes to vote for.

(6) Each voter shall be required to cast as many votes as there are vacancies, otherwise his whole ballot paper shall be regarded as spoilt.

(7) A voter who has accidentally spoiled his ballot paper while the voting is still in progress may surrender the spoilt ballot paper to the Returning Officer and obtain a replacement thereof.

Counting of votes.

12.(1) Immediately after all the ballots have been collected, the Speaker shall appoint two counting agents, one from the ruling party and the other from the opposition, to act as counting agents for all the candidates.

(2) When all the voters have cast their votes, the Returning Officer shall, with the assistance of the Clerk Assistants, and before the two counting agents as witnesses, count the votes so cast.

Declaration of results.

13. When the votes have been counted and the results of the election have been ascertained, the Returning Officer shall –

(a) report to the National Assembly the results of the election together with the number of votes recorded for each candidate in each group set forth in subrule (3) of rule 11;

(b) announce to the National Assembly the names of the nine persons receiving the majority number of votes and shall declare those persons to have been elected as Members of the East African Legislative Assembly.

Custody of
ballot papers.

14.(1) The Returning Officer shall ensure the safe custody of all ballot papers and other documents relating and pertaining to the conduct of the election.

(2) The Returning Officer shall cause all documents to which this rule applies to be destroyed after the expiration of six months from the election day.

PART IV - VOIDANCE OF ELECTION

Determination of
validity of a
candidate's
election.

15. Pursuant to the provisions of Article 52(1) of the Treaty, the election of a candidate as a Member of the East African Legislative Assembly may be declared void only on an election petition.

Procedure for
avoidance of
election.

16. The procedure, jurisdiction and grounds for declaring void the election of a Member of the East African Legislative Assembly, shall be the same as that provided by law for election petitions in respect of Members of Parliament.

PART V - MISCELLANEOUS

Matters not
provided for.

17. If any matter arises which is not specifically provided for in these Rules, the Speaker shall make a ruling directing what is to be done and in making such a ruling, the Speaker shall be guided by the practice and procedures normally followed in similar situations with regard to parliamentary elections.

Amendments.

18. These Rules may be amended at any time by resolution of the National Assembly.

Dated the, 2001.

SAMUEL NDINDIRI,
Clerk of the National Assembly.