

REPUBLIC OF KENYA



*Approved*  
*SNA*  
*19/6/24*

THE NATIONAL ASSEMBLY  
THIRTEENTH PARLIAMENT – THIRD SESSION – 2024


DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

---



REPORT ON-

THE SENATE AMENDMENTS TO THE  
INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (AMENDMENT) BILL  
(NATIONAL ASSEMBLY BILL NO. 10 OF 2024)

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 19 JUN 2024	DAY: WEDNESDAY
TABLED BY:	CHAIRPERSON, JLA C HON. GEORGE MURUGARA
CLERK-AT THE TABLE:	E. NGUNYO

CLERK'S CHAMBERS  
DIRECTORATE OF DEPARTMENTAL COMMITTEES  
PARLIAMENT BUILDINGS  
NAIROBI

JUNE 2024

## TABLE OF CONTENTS

ANNEXURES.....	2
CHAIRPERSON'S FOREWORD.....	3
CHAPTER ONE .....	4
1 PREFACE .....	4
1.1 Establishment of the Committee.....	4
1.2 Mandate of the Committee.....	4
1.3 Committee Membership.....	6
1.4 Committee Secretariat.....	7
CHAPTER TWO .....	8
2 SENATE AMENDMENTS TO THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (AMENDMENT) BILL ( <i>NATIONAL ASSEMBLY BILL NO. 10 OF 2024</i> ).....	8
2.1 Introduction.....	8
2.2 Amendments proposed by the Senate .....	8
CHAPTER THREE .....	10
3 COMMITTEE OBSERVATIONS.....	10
CHAPTER FOUR.....	11
4 COMMITTEE RECOMMENDATION.....	11

## **ANNEXURES**

Annexure 1: Adoption Schedule

Annexure 2: Speaker's Communication

Annexure 3: Senate's Schedule of Amendments

Annexure 4: The Independent Electoral and Boundaries Commission (Amendment) Bill, 2024 as passed by the National Assembly on 2<sup>nd</sup> May 2024

Annexure 5: Minutes

## CHAIRPERSON'S FOREWORD

This report contains the proceedings of the Departmental Committee on Justice and Legal Affairs on its consideration of the Senate Amendments to the Independent Electoral and Boundaries Commission (Amendment) Bill (*National Assembly Bill No. 10 of 2024*) which was passed by the National Assembly on 2<sup>nd</sup> May 2024 and submitted to the Senate pursuant to the provisions of Standing Order 142 of the National Assembly Standing Orders. The Senate considered and passed the Bill with amendments on 11<sup>th</sup> June, 2024.

The Senate amendments to the Bill were referred to the Departmental Committee on Justice and Legal Affairs for consideration on 18<sup>th</sup> June 2024. The Speaker directed the Committee to table it on Thursday, 20<sup>th</sup> June, 2024.

The Committee held a meeting on Wednesday 19<sup>th</sup> June, 2024 to consider the Senate Amendments to the Independent Electoral and Boundaries Commission (Amendment) Bill (*National Assembly Bill No. 10 of 2024*). The Committee agreed with the amendments proposed by the Senate to Clauses 2, 3 and 7 of the Bill because of various reasons that are provided in Chapter Three of this report.

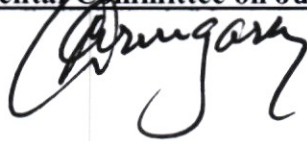
The Committee is grateful to the Offices of the Speaker and Clerk of the National Assembly for the logistical and technical support accorded to it during its consideration of the Bill. The Committee also thanks the Senate for their input into the Bill.

Finally, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who made useful contributions towards the preparation and production of this report.

On behalf of the Departmental Committee on Justice and Legal Affairs and pursuant to provisions of Standing Order 199(6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of Senate Amendments to the Independent Electoral and Boundaries Commission (Amendment) Bill (*National Assembly Bill No. 10 of 2024*).

It is my pleasure to report that the Committee has considered the Senate Amendments to the Independent Electoral and Boundaries Commission (Amendment) Bill (*National Assembly Bill No. 10 of 2024*) and have the honour to report back to the National Assembly with the recommendation that the House adopts the Committee's recommendation on the Senate Amendments.

**Hon. Murugara George Gitonga, CBS, MP**  
**Chairperson, Departmental Committee on Justice and Legal Affairs**



## CHAPTER ONE

### 1 PREFACE

#### 1.1 Establishment of the Committee

1. The Departmental Committee on Justice and Legal Affairs is one of twenty departmental committees of the National Assembly established under **Standing Order 216** whose mandate pursuant to the **Standing Order 216 (5)** is as follows:
  - i. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
  - ii. *To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;*
  - iii. *To, on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
  - iv. *To study and review all legislation referred to it;*
  - v. *To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
  - vi. *To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House;*
  - vii. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);*
  - viii. *To examine treaties, agreements and conventions;*
  - ix. *To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation;*
  - x. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
  - xi. *To examine any questions raised by Members on a matter within its mandate.*

#### 1.2 Mandate of the Committee

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider: -
  - a) The Judiciary;
  - b) Tribunals;
  - c) Access to Justice;
  - d) Public prosecutions;
  - e) Ethics, Integrity and Anti-corruption;
  - f) Correctional services;
  - g) Community service orders and witness protection;
  - h) Constitutional Affairs;
  - i) Sovereign immunity;
  - j) Elections including referenda;
  - k) Human rights;
  - l) Political parties; and

- m) The State Law Office' including insolvency, law reform, public trusteeship, marriages and legal education.
3. In executing its mandate, the Committee oversights the following Ministries, Departments and Agencies:
- a) State Department of Correctional Services;
  - b) State Law Office and Department of Justice;
  - c) The Judiciary;
  - d) Judicial Service Commission;
  - e) Office of the Director of Public Prosecutions;
  - f) Ethics and Anti-Corruption Commission;
  - g) Independent Electoral and Boundaries Commission;
  - h) Commission on Administrative Justice;
  - i) Office of the Registrar of Political Parties;
  - j) Witness Protection Agency;
  - k) Kenya National Commission on Human Rights;
  - l) Kenya Law Reform Commission; and
  - m) Council of Legal Education.

### 1.3 Committee Membership

4. The Committee was constituted by the House on 27<sup>th</sup> October 2022 and comprises the following Honourable Members:

#### **Chairperson**

Hon. Murugara George Gitonga, CBS, MP  
Tharaka Constituency

#### **UDA Party**

#### **Vice-Chairperson**

Hon. Mutuse Eckomas Mwengi, OGW, MP  
Kibwezi West Constituency

#### **MCCP Party**

#### **Members**

Hon. Maalim Farah, MP  
Dadaab Constituency  
**WDM-Kenya**

Hon. Muriu Wakili Edward, MP  
Gatanga Constituency  
**UDA Party**

Hon. Francis Kajwang' Tom Joseph, MP  
Ruaraka Constituency  
**ODM Party**

Hon. Maina Jane Njeri, MP  
Kirinyaga (CWR)  
**UDA Party**

Hon. Junet Mohamed, CBS, MP  
Suna East Constituency  
**ODM Party**

Hon. Gichohi Kaguchia John Philip, MP  
Mukurweini Constituency  
**UDA Party**

Hon. (Dr.) Otiende Amollo, SC, MP  
Rarieda Constituency  
**ODM Party**

Hon. Mogaka Stephen M, MP  
West Mugirango Constituency  
**Jubilee Party**

Hon. Onyiego Silvanus Osoro, CBS, MP  
South Mugirango Constituency  
**UDA Party**

Hon. Aden Daud, EBS, MP  
Wajir East Constituency  
**Jubilee Party**

Hon. Muchira Michael Mwangi, MP  
Ol Jorok Constituency  
**UDA Party**

Hon. Siyad Amina Udgoon, MP  
Garissa Township (CWR)  
**Jubilee Party**

Hon. Makali John Okwisia, MP  
Kanduyi Constituency  
**FORD-Kenya**

#### 1.4 Committee Secretariat

5. The Committee is well-resourced and facilitated by the following staff:

Mr. Ahmed Salim Abdalla  
**Clerk Assistant I / Head of Secretariat**

Mr. Ronald M. Walala  
**Senior Legal Counsel**

Mr. Abdikafar Abdi  
**Clerk Assistant III**

Ms. Jael Ayiego  
**Clerk Assistant III**

Mr. Isaac Nabiswa  
**Legal Counsel II**

Mr. Omar Abdirahim  
**Fiscal Analyst II**

Ms. Vivienne Ogega  
**Research Officer III**

Ms. Mary Kamande  
**Public Communications Officer III**

Mr. Calvin Karung'o  
**Media Relations Officer III**

Mr. Silas Opanga  
**Hansard Reporter III**

Mr. Dennis Kamau  
**Audio Officer**

Mr. John Nduaci  
**Serjeant-At-Arms**



## CHAPTER TWO

### 2 SENATE AMENDMENTS TO THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (AMENDMENT) BILL (*NATIONAL ASSEMBLY BILL NO. 10 OF 2024*)

#### 2.1 Introduction

6. The Bill is co-sponsored by the Leader of the Majority Party and the Leader of the Minority Party. The Bill sought to give effect to some of the recommendations and views of the public that were submitted to the National Dialogue Committee (NADCO) on the Issues of Electoral Justice and Related Matters; Outstanding Constitutional Matters; Fidelity to Political Parties/Coalitions and the law on multiparty democracy; Entrenchment of the National Government Constituencies Development Fund; the Senate Oversight Fund and the National Government Affirmative Action Fund and Establishment and Entrenchment of State Offices.
7. The Bill was published on 4<sup>th</sup> April 2024 and read a First Time in the House on 5<sup>th</sup> March 2024 was considered and passed with amendments by the National Assembly on 2<sup>nd</sup> May 2024. The Bill, being a Bill concerning counties was forwarded to the Senate for consideration pursuant to Standing Order 142 of the National Assembly Standing Orders.
8. The Bill sought to—
  - (1) Amend the Independent Electoral and Boundaries Commission Act (Cap. 7C) to clean up the Act by deleting obsolete provisions;
  - (2) Make consequential amendments intended to align the Act to the Judgment of the High Court in *Katiba Institute & 3 Others v Attorney-General & 2 Others* [2018] eKLR where the High Court held that certain provisions of the Act were unconstitutional;
  - (3) Amend section 6 of the Act and include experience in accounting or information and communication technology as additional professional qualifications for appointment as a member of the Independent Electoral and Boundaries Commission;
  - (4) Amend the First Schedule to the Independent Electoral and Boundaries Commission Act (Cap. 7C) to increase the number of members of the selection panel from seven to nine in order to accommodate a wide spectrum of stakeholders and interest groups; and
  - (5) Replace the current Fifth Schedule of the Act with a new and updated Schedule.
9. The Senate considered and passed the Bill with amendments on 11<sup>th</sup> June, 2024 and transmitted the amendments to the National Assembly seeking concurrence. The amendments were subsequently referred to the Departmental Committee on Justice and Legal Affairs for consideration, on 18<sup>th</sup> June 2024.

#### 2.2 Amendments proposed by the Senate

The Senate proposed amendments to clauses 2, 3 and 7.

### **Senate Amendment to Clause 2**

10. Clause 2 amended—

- (a) by inserting the following new paragraph immediately after paragraph (e)
  - (g) in the definition of the word “parliamentary committee” by inserting the words “and Senate” immediately after the words “the National Assembly”; and
- (b) In paragraph (f) in the proposed new definition of the word “parliamentary party” by inserting the words “and Senate” immediately after the words “the National Assembly”.

### **Senate Amendment to Clause 3**

11. Clause 3 of the Bill be amended by deleting the clause and substituting therefor the following new clause—

Section 6 of the principal Act amended in subsection 2(c) —

- (a) by deleting the introductory clause and substituting therefor the following new clause—
  - (c) has proven knowledge and at least ten years’ experience in any of the following fields—
- (b) by inserting the following new subparagraphs immediately after subparagraph (vi) —
  - (vii) information and communication technology; and
  - (viii) accounting.

### **Senate Amendment to Clause 7**

12. Clause 7 amended in new section 24(B)-

- (a) section 24(B)(5) by inserting the words “in each House of Parliament” immediately after the words “Parliamentary Committee”;
- (b) section 24(B)(6) —
  - i. by inserting the words “in each House of Parliament” immediately after the words “Parliamentary Committee”; and
  - ii. by deleting the words “the National Assembly” appearing immediately after the words “the report in” and substituted therefor the words “the respective House of Parliament”;
- (c) section 24(B)(7) by inserting the words “and the Senate” immediately after the words “the National Assembly”;
- (d) section 24(B)(8) by inserting the words “and the Senate” immediately after the words “the National Assembly”; and
- (e) section 24(B)(9) by inserting the words “and the Senate” immediately after the words “the National Assembly”.

## CHAPTER THREE

### 3 COMMITTEE OBSERVATIONS

13. The Committee having considered the Senate amendments to the Independent Electoral and Boundaries Commission (Amendment) Bill, 2024 observed that:

- a) The amendments seek to include the Senate in the definition of the terms “Parliamentary Party” and “Parliamentary Committee”; and
- b) The proposal to include at least ten years’ experience for one to qualify for appointment as a member of the Commission shall enhance the quality and competence of the members of the Commission.


CHAPTER FOUR

4 COMMITTEE RECOMMENDATION

14. Having considered the Senate amendments to the Independent Electoral and Boundaries Commission (Amendment) Bill, (*National Assembly Bill No. 10 Of 2024*) the Committee recommends that the House approves the Senate amendments to Clauses 2, 3 and 7 of the Bill.

SIGNED.......... DATE..... 19. 6. 024.....

HON. GEORGE GITONGA MURUGARA, CBS, MP  
CHAIRPERSON  
DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 19 JUN 2024	
WEDNESDAY	
TABLED BY:	CHAIRPERSON, ILAC
CLERK-AT-THE-TABLE:	HON. GEORGE MURUGARA
	E. NGINYO

Annexure 1:

# **Adoption Schedule**



THE NATIONAL ASSEMBLY  
13<sup>TH</sup> PARLIAMENT – THIRD SESSION - 2024  
JUSTICE AND LEGAL AFFAIRS COMMITTEE

ADOPTION SCHEDULE

**AGENDA:** Adoption of the Report on the Senate amendments to the Independent Electoral Boundaries Commission (Amendment) Bill, 2024 co-sponsored by Hon. Kimani Ichung'wah, EGH, MP and Hon. Opiyo Wandayi, MGH, CBS, MP

No.	HON MEMBER	SIGNATURE
1.	HON. MURUGARA GEORGE GITONGA, CBS, MP – <i>Chairperson</i>	
2.	HON. MUTUSE ECKOMAS MWENGI, OGW, MP – <i>Vice Chairperson</i>	
3.	HON. MAALIM FARAH, MP	
4.	HON. FRANCIS KAJWANG' TOM JOSEPH, MP	
5.	HON. JUNET MOHAMED, CBS, MP	
6.	HON. ONYIEGO SILVANUS OSORO, CBS, MP	
7.	HON. (DR.) OTIENDE AMOLLO, SC, MP	
8.	HON. MUCHIRA MICHAEL MWANGI, MP	
9.	HON. MAKALI JOHN OKWISIA, MP	
10.	HON. MURIU WAKILI EDWARD, MP	
11.	HON. MAINA JANE NJERI, MP	
12.	HON. GICHOHI KAGUCHIA JOHN PHILIP, MP	
13.	HON. MOGAKA STEPHEN M, MP	
14.	HON. ADEN DAUD, EBS, MP	
15.	HON. SIYAD AMINA UDGOON, MP	

Annexure 2:

# Speaker's Communication



**REPUBLIC OF KENYA**  
**THE NATIONAL ASSEMBLY**  
**THIRTEENTH PARLIAMENT - (THIRD SESSION)**

**MESSAGES**

**MESSAGES FROM THE SENATE**

*(No. 015 of 2024)*

**ON PASSAGE OF THREE SENATE BILLS AND TWO NATIONAL  
ASSEMBLY BILLS**

- 1. Honourable Members,** pursuant to the provision of Standing Order 41(4), I wish to report to the House that I have received five (5) Messages from the Senate regarding passage of three Senate Bills and two National Assembly Bills.
- 2. Honourable Members,** the **first Message** conveys that on 11<sup>th</sup> June 2024, the Senate considered and **agreed** to the National Assembly amendments to the County Licensing (Uniform Procedures) (Senate Bill No. 9 of 2022). You will recall that on 2<sup>nd</sup> May 2024, this House passed the said Bill **with amendments**, following which I referred the Schedule of National Assembly amendments to the Senate for consideration in accordance with Article 110(4) of the Constitution.
- 3. Honourable Members,** the concurrence of the Senate with the National Assembly on the Bill therefore concludes the bicameral consideration of the Bill under Article 110 of the Constitution.
- 4. Honourable Members,** the **second Message** conveys that, on 11<sup>th</sup> June 2024, the Senate considered and passed the County Governments Additional Allocations Bill (Senate Bill No. 19 of 2024), **with amendments**.



5. The said Bill seeks to provide for additional allocations to county governments for the financial year 2024/2025 and the responsibilities of National Government and county governments pursuant to such allocations.
6. **Honourable Members**, the **third Message** conveys that, on 11<sup>th</sup> June 2024, the Senate passed the County Allocation of Revenue Bill (Senate Bill No. 25 of 2024), **with amendments**. This annual Bill seeks to provide for the equitable allocation of revenue raised nationally among the county governments for the financial year 2024/2025 and the responsibilities of national and county governments.
7. **Honourable Members**, having passed the two (2) Senate Bills, the Senate now seeks the concurrence of the National Assembly pursuant to the provisions of Article 110(4) of the Constitution.
8. **Honourable Members**, the centrality of the said Bills in the budget process and the prescribed statutory timelines call for their expedited passage. In this regard, you will notice that I have directed the Clerk to list the two Bills for First Reading under Order Nos. 11 and 12 in the Supplementary Order Paper for today, Tuesday, 18<sup>th</sup> June, 2024.
9. Thereafter, both Bills will stand committed to the **Budget and Appropriations Committee** for consideration. I urge the Committee to prioritize the Bills and report to the House as soon as is practicable to enable the House to proceed with the next stages of the Bills.
10. **Honourable Members**, the **fourth and fifth Messages** convey that, on 11<sup>th</sup> June 2024, the Senate considered and passed the Statutory Instruments (Amendment) Bill (National Assembly Bill No. 2 of 2023) and the Independent Electoral and Boundaries Commission (Amendment) Bill (National Assembly Bill No. 10 of 2024) **with amendments**.

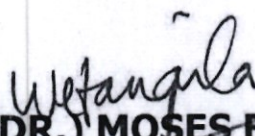
11. The Senate has now referred the two Bills back to the National Assembly for reconsideration pursuant to Article 112(1)(b) of the Constitution.

12. **Honourable Members**, this House is therefore required to consider Senate amendments to the two Bills. In this regard, I direct the Clerk to circulate the schedule of the Senate amendments to the two Bills to all Members. Thereafter, the Senate amendments to the Statutory Instruments (Amendment) Bill, 2023 will stand referred to the **Committee on Delegated Legislation**, while the Senate amendments to the Independent Electoral and Boundaries Commission (Amendment) Bill, 2024 will stand referred to the **Departmental Committee on Justice and Legal Affairs**.

13. The two Committees are expected to expedite consideration of the Senate amendments to the respective Bills and submit their reports to the House. Aware of the nature of the Independent Electoral and Boundaries Commission (Amendment) Bill, I direct that the **Departmental Committee on Justice and Legal Affairs** should table its report on Thursday, 20<sup>th</sup> June, 2024 during the Morning Sitting.

14. The House is accordingly guided.

**I thank you!**

  
**THE RT. HON. (DR.) MOSES F. M. WETANG'ULA, EGH, MP**  
**SPEAKER OF THE NATIONAL ASSEMBLY**

Tuesday, 18<sup>th</sup> June 2024

Annexure 3:

# **Senate's Schedule of Amendments**

REPUBLIC OF KENYA

Telegraphic Address  
'Bunge', Nairobi  
Telephone 2848003  
Fax: 2243694  
E-mail: [clerk.senate@parliament.go.ke](mailto:clerk.senate@parliament.go.ke)



Clerk's Chambers  
The Senate  
Parliament Buildings  
P. O. Box 41842 – 00100  
Nairobi, Kenya

PARLIAMENT OF KENYA  
OFFICE OF THE CLERK OF THE SENATE

**SENATE AMENDMENTS TO THE INDEPENDENT ELECTORAL AND  
BOUNDARIES COMMISSION (AMENDMENT) BILL (NATIONAL ASSEMBLY  
BILLS NO. 10 OF 2024)**

The Senate, on Tuesday, 11<sup>th</sup> June 2024, considered and passed **the Independent Electoral and Boundaries Commission (Amendment) Bill (National Assembly Bills No. 10 of 2024) with amendments** as follows –

**CLAUSE 2**

Clause 2 amended—

(a) by inserting the following new paragraph immediately after paragraph (e)

(g) in the definition of the word “Parliamentary Committee” by inserting the words “and Senate” immediately after the words “the National Assembly”; and

(b) in paragraph (f) in the proposed new definition of the word “parliamentary party” by inserting the words “and Senate” immediately after the words “the National Assembly”.

**CLAUSE 3**

Clause 3 amended by deleting the clause and substituting therefor the following new clause —

3. Section 6 of the principal Act amended in subsection 2(c)—

(a) by deleting the introductory clause and substituting therefor the following new clause —

(c) has proven knowledge and at least ten years' experience in any of the following fields –

(b) by inserting the following new subparagraphs immediately after subparagraph (vi)—

Signature

A handwritten signature in black ink, written over a horizontal line.

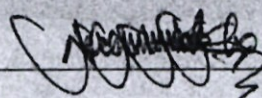
- (vii) information and communication technology; and
- (viii) accounting.

**CLAUSE 7**

Clause 7 amended in new section 24(B)-

- (a) section 24(B)(5) by inserting the words "in each House of Parliament" immediately after the words "Parliamentary Committee";
- (b) section 24(B)(6)—
  - (i) by inserting the words "in each House of Parliament" immediately after the words "Parliamentary Committee"; and
  - (ii) by deleting the words "the National Assembly" appearing immediately after the words "the report in" and substituted therefor the words "the respective House of Parliament";
- (c) section 24B (7) by inserting the words "and the Senate" immediately after the words "the National Assembly";
- (d) section 24B (8) by inserting the words "and the Senate" immediately after the words "the National Assembly"; and
- (e) section 24B (9) by inserting the words "or the Senate" immediately after the words "the National Assembly".

Signature



Annexure 4:

**The Independent Electoral and  
Boundaries Commission  
(Amendment) Bill, 2024 as  
passed by the National  
Assembly on 2<sup>nd</sup> May 2024**



---

REPUBLIC OF KENYA

PARLIAMENT

---

**NATIONAL ASSEMBLY BILLS**

*(Bill No. 10 of 2024)*

**THE INDEPENDENT ELECTORAL AND  
BOUNDARIES COMMISSION  
(AMENDMENT) BILL, 2024**

(A Bill published in the Kenya Gazette Supplement No. 46 of 2024 and passed  
by the National Assembly, with amendments, on May 2<sup>nd</sup>, 2024)

**N.A./B/No. 10/2024**

---

**THE INDEPENDENT ELECTORAL AND BOUNDARIES  
COMMISSION (AMENDMENT) BILL, 2024**

**A Bill for**

**AN ACT of Parliament to amend the Independent Electoral  
and Boundaries Commission Act 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, 2024 and shall come into force upon publication in the *Gazette*.

Short title and commencement.

2. Section 2 of the Independent Electoral and Boundaries Commission Act (hereinafter referred to as “the principal Act”) is amended—

Amendment of section 2 of Cap. 7C.

- (a) in the definition of the word “chairperson” by deleting the words “or the vice-chairperson or a member of the Commission when discharging the functions of the chairperson” appearing immediately after the word “Constitution”;
- (b) by deleting the definition of the expression “first review”;
- (c) by deleting the definition of the expression “former Boundaries Commission”;
- (d) by deleting the definition of the expression “former Constitution”;
- (e) by deleting the definition of the expression “issues arising”;
- (f) by inserting the following new definition in proper alphabetical sequence—

“parliamentary party” means a party or coalition of parties consisting of not less than five percent of the membership of the National Assembly;

3. Section 6 of the principal Act is amended in subsection (2)(c) by inserting the following new sub-paragraphs immediately after sub-paragraph (vi)—

Amendment of section 6 of Cap. 7C.



- (vii) information and communication technology;
- (viii) accounting.

4. Section 7A of the principal Act is amended—

Amendment of section 7A of Cap. 7C.

- (a) by deleting sub-section (4);
- (b) by deleting sub-section (5);
- (c) by deleting sub-section (6).

5. Section 10 of the principal Act is amended by deleting sub-section (4) and substituting therefor the following new sub-section—

Amendment of section 10 of Cap. 7C.

(4) The secretary shall hold office for a term of four years and is eligible for re-appointment for one further term of four years.

6. The principal Act is amended by inserting the following new section immediately after section 24—

Insertion of a new section 24A in Cap. 7C.

Review of conduct of general election.

**24A.** (1) The Commission shall, after every general election, review its operations and make the necessary changes required to make its operations more efficient, effective, transparent and accountable.

(2) The review shall be completed within eighteen months after every general election and the Commission shall publish the report in the *Gazette* and submit the report to Parliament.

7. The principal Act is amended by inserting the following new Part immediately after section 24A—

Insertion of a new PART IIIA in Cap. 7C.

### **PART IIIA—DELIMITATION OF ELECTORAL UNITS**

Procedure for delimitation of electoral boundaries.

**24B.** (1) The Commission shall discharge its mandate of the delimitation of boundaries of constituencies and wards in accordance with the Constitution, this Act and any other law.

(2) Subject to the Constitution, matters to be addressed in the delimitation of electoral boundaries are—

- (a) review of the names and boundaries of constituencies;
- (b) review of the number, names and boundaries of wards;
- (c) re-distribution of wards affected by any changes in the boundaries of constituencies; and
- (d) ensuring that the number of inhabitants in each constituency and ward is as nearly as possible, equal to the population quota as provided for by Article 89(5) of the Constitution and that such a process—
  - (i) allows for variation of margin of not more than the limits provided under Article 89(6) of the Constitution in relation to cities, sparsely populated areas and other areas;
  - (ii) takes into account the provisions of Article 89(7)(b) of the Constitution that provides for the progressive realization of the requirement that the number of inhabitants in each constituency and ward to be as nearly as possible, equal to the population quota for the purposes of the each review;

(iii) is subject to the use of enumerated national census figures.

(3) The Commission shall prepare and publish a preliminary report outlining—

(a) the proposed delimitation of boundaries for constituencies and wards; and

(b) the specific geographical demographical details relating to such delimitation; and

(4) The Commission shall ensure that the preliminary report is made available to the public for a period of thirty days and invite representations from the public on the proposals contained in the report during that period.

(5) Upon the expiry of the period provided in subsection (4), the Commission shall, within fourteen days, review the proposed delimitation of boundaries considering the views received and submit the revised preliminary report to the Parliamentary Committee.

(6) The Parliamentary Committee shall, within fourteen days of receipt of the revised preliminary report, table the report in the National Assembly together with its recommendations.

(7) The National Assembly shall, within fourteen days of the tabling of the revised preliminary report, consider the report and forward its recommendations to the Commission.

(8) Within fourteen days of the expiry of the period provided for in subsection (7), the Commission shall upon receipt and considerations of the National Assembly and representations from the public, prepare the final report for publication in the *Gazette*.

(9) Where the National Assembly fails to make recommendations within the period specified in subsection (7), the Commission shall publish its report in accordance with subsection (8).

(10) A person who, being responsible for the publication in the *Gazette* of the final report submitted under this subsection fails to publish the report within the time required by the Commission after the report has been submitted to that person, commits an offence and is liable to imprisonment for a term of one year.

(11) Notwithstanding any other written law, where the final report is not published in accordance with the provisions of subsection (9) the Commission shall, within seven days of the submission of the said report, cause the report to be published in at least two dailies of national circulation and such publication shall have effect as if it were done in the *Gazette*.

(12) Subject to this section, the provisions set out in the Fifth Schedule shall apply during the process of delimitation of electoral units.

8. The principal Act is amended by repealing section 36.

9. The First Schedule to the principal Act is amended—

(a) in paragraph 1—

(i) by deleting the word “seven” appearing immediately after the words “consisting of” appearing in sub-paragraph (1) and substituting therefor the word “nine”;

(ii) by deleting sub-paragraph (2) and substituting therefor the following new sub-paragraph—

“(2) The selection panel shall consist of—

Repeal of  
section 36 of  
Cap. 7C.  
Amendment of  
the First  
Schedule to Cap.  
7C.

- (a) two persons nominated by the Parliamentary Service Commission, representing the majority party or coalition of parties and the minority party or coalition of parties;
  - (b) three persons nominated by the Political Parties Liaison Committee of whom—
    - (i) one shall be from a party other than a parliamentary party or coalition of parties;
    - (ii) one shall be from the majority party or coalition of parties;
    - (iii) one shall be from the minority party or coalition of parties;
  - (c) one person nominated by the Law Society of Kenya;
  - (d) one person nominated by the Institute of Certified Public Accountants of Kenya; and
  - (e) two persons nominated by the Inter-religious Council of Kenya.”
- (iii) by inserting the following new subparagraphs immediately after subparagraph (2A)—
- “(2B) The respective nominating bodies shall select the nominees for appointment through a competitive and transparent process.
- (2C) In nominating, the persons under subparagraph (2)(a), (b) and (e), the respective nominating bodies shall ensure that not more than two-thirds

of the nominees are of the same gender.”

- (iv) in sub-paragraph (3), by deleting the words “sub-paragraphs (2)(b) and (c)” and substituting therefor the words “sub-paragraphs (2)(b), (c), (d) and (e)”;
- (v) by inserting the following new subparagraph immediately after subparagraph (6)—

“(7) The Parliamentary Service Commission shall provide for and meet the expenditure of the selection panel.”

- (b) by deleting paragraph 6 and substituting therefor the following new paragraph—

**“Dissolution of Selection Panel**

6. (1) The selection panel shall finalize the recruitment exercise within ninety days of its appointment and forward the names of the nominees to the President and shall thereafter stand dissolved.

(2) Despite sub-paragraph (1), Parliament may, by resolution passed in both the National Assembly and the Senate, extend the tenure of the selection panel for a specified period.”

**10.** The Second Schedule to the principal Act is amended—

Amendment of  
the Second  
Schedule to Cap.  
7C.

- (a) by deleting paragraph 5 and substituting therefor the following new paragraph—

“5. The quorum for the conduct of business at a meeting of the Commission shall be at least five members of the Commission.”

- (b) by deleting paragraph 7 and substituting therefor the following new paragraph—

“(7) Unless a unanimous decision is reached, a decision on any matter before the Commission shall be by the concurrence of a majority of all the members of the Commission.”

11. The principal Act is amended by deleting the Fifth Schedule and substituting therefor the following new Schedule—

Repeal and replacement of the Fifth Schedule to Cap. 7C.

**FIFTH SCHEDULE (s.24B(12))  
PROCEDURES FOR THE DELIMITATION OF  
ELECTORAL UNITS**

**1. Notice of delimitation of electoral units**

(1) Whenever it is necessary to review the names and boundaries of electoral units in accordance with Article 89(2) and (3) of the Constitution, the Commission shall notify the public of—

- (a) the intended review;
- (b) invite representations from interested parties; and
- (c) specify the period within which the Commission shall publish the preliminary report.

(2) A notice under sub-paragraph (1) shall be accompanied by a preliminary report containing the particulars set out under paragraph 2.

**2. Preliminary report**

The preliminary report shall contain the following particulars—

- (a) the proposed delimitation of boundaries for constituencies and wards including the actual proposed names of every constituency and ward; and
- (b) description of the proposed boundaries showing the specific geographical and demographical details relating to such delimitation including—
  - (i) the population quota for constituencies and wards;
  - (ii) the number of inhabitants in every constituency and ward;

- (iii) a classification in relation to each electoral area indicating whether it is a city, a sparsely populated area or other area; and
- (iv) an indication of the proposed margin of change from the population quota.

### **3. Reference materials**

(1) The Commission shall, use as its primary reference material—

- (a) the final report of the last Electoral and Boundaries Commission on the review of electoral units; and
- (b) the latest official population census report.

(2) The Commission may use as its secondary reference material—

- (a) the reports of County Boundary Review Panels; or
- (b) other relevant data.

(3) The County Boundary Review Panels shall conduct their business as the Commission may, by guidelines determine.

### **4. Ascertainment of the inhabitants of Kenya**

(1) For purposes of determining the population quota, the Commission shall ascertain the number of the inhabitants of Kenya from the figures contained in the latest official national population census report.

(2) Despite sub-paragraph (1), the Commission shall, subject to the timelines set out under Article 89(2) of the Constitution, conduct the delimitation exercise after the national population census.

(3) The Kenya National Bureau of Statistics, shall, as soon as possible after the completion of every national census, submit a copy of the report in the prescribed format to the Commission.

### **5. Publicization of the preliminary report**



(1) The Commission shall—

- (a) publicize the preliminary report in its website and in at least two newspapers of nationwide circulation;
- (b) invite the public to make representations on the proposals contained in the report; and
- (c) put in place administrative mechanisms for receiving representations from the public.

(2) The period set aside for receiving representations from the public on the proposals contained in the report under this paragraph shall be as determined by the Commission.

#### **6. Public sensitization**

(1) The Commission shall, upon notification of the public of the intended delimitation of boundaries under paragraph 1 of this Schedule, provide the framework for sensitization and participation of the public.

(2) The Commission may engage the media, avail equipment and prepare materials for effective public education and engagement.

#### **7. Public hearings**

(1) The Commission shall conduct boundaries review hearings in every county and may constitute constituencies and wards boundaries review panels in each county for the purposes of facilitating public hearings.

(2) Before engaging in the county boundaries review hearings, the Commission shall notify the public of date, time and place of such hearings.

(3) Representations to the Commission may be made orally or in writing.

(4) The proceedings of all boundary review public hearings shall be recorded, translated and transcribed.

### **8. Preparation of revised report**

(1) Upon completion of the public hearings, the Commission shall review the proposed delimitation of boundaries and submit the report to Parliament.

(2) The revised report shall be based on the feedback received during the public consultative process, subject to the relevant provisions of the law.

### **9. Preparation and dissemination of maps**

(1) The Commission shall prepare and publish maps in its website—

- (a) for all the electoral units in accordance with the final boundary dissemination delimitation report;
- (b) for the respective constituencies in every county; and
- (c) for wards in every constituency.

(2) Despite sub-paragraph (1), the Commission shall provide physical copies of the maps to Parliament.

### **10. Review of the decisions of the Commission**

(1) Pursuant to Article 89(10) of the Constitution, a person may apply to the High Court for review of a decision of the Commission on the delimitation of electoral boundaries.

(2) An application for the review under this paragraph shall be made within thirty days of the publication of the decision in the *Gazette* as required under Article 89(9) of the Constitution and shall be heard and determined within three months of the date on which it is filed.

### **11. Maintenance of records**

The Commission shall ensure that all documents, materials, publications, reports and recommendations arising from the delimitation process are maintained in a form that is accessible and usable by members of the public.

**12. Duty of certain officers to co-operate with the Commission**

It shall be the duty of every state officer or public officer serving in the relevant government ministry, department or agency including the ministry for the time being responsible for Interior and National Administration, Director of Surveys, Director-General of the Kenya National Bureau of Statistics and every other public officer whose services are required by the Commission for purposes of the delimitation of electoral units to provide the necessary information and technical support.

**12. Upon the commencement of this Act—**

Saving and  
transition.

- (a) the selection panel existing immediately before the commencement of this Act shall stand dissolved but—
  - (i) the members of that panel may be nominated to serve in any subsequent panel; and
  - (ii) nothing done by that panel for purposes of executing its functions shall, if done in good faith, render any member of that panel personally liable for any action, claim or demand;
- (b) the respective nominating bodies under paragraph 1(2)(b), (c), (d) and (e) of the First Schedule to the principal Act shall within fourteen days from the date of commencement of this Act submit the names of their nominees to the Parliamentary Service Commission for transmission to the President for appointment to the selection panel under the Act;
- (c) the President shall, within seven days of receipt of the names of the nominees under paragraph 1(2) of the First Schedule to the principal Act from the Parliamentary Service Commission, appoint a selection panel for the purpose of

appointment of the chairperson and members of the Commission; and

- (d) a person holding the office of the secretary of the Independent Electoral and Boundaries Commission shall continue in office for the remainder of the unexpired period of their term.

I certify that this printed impression is a true copy of the Bill passed by the National Assembly on Thursday, 2<sup>nd</sup> May, 2024.

*Clerk of the National Assembly*

Endorsed for presentation to the Senate in accordance with the provisions of Standing Order 142 of the National Assembly.

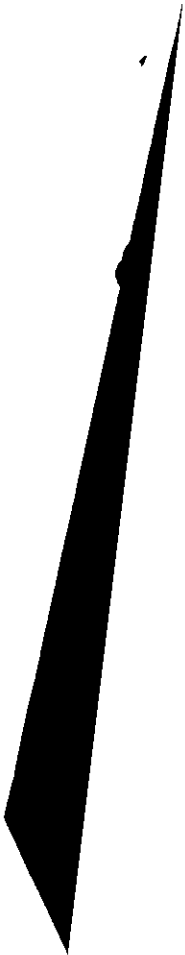
*Speaker of the National Assembly*

**PRINTED BY THE CLERK OF THE NATIONAL ASSEMBLY**

11

12

13



Annexure 5:

# Minutes

**MINUTES OF THE (44<sup>TH</sup>) SITTING OF THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS HELD ON WEDNESDAY, 19<sup>TH</sup> JUNE 2024 AT 10:00 AM IN ROOM 26, 5<sup>TH</sup> FLOOR, BUNGE TOWER, PARLIAMENT BUILDINGS**

**MEMBERS PRESENT**

1. Hon. Murugara George Gitonga, CBS, MP - *Chairperson*
2. Hon. Mutuse Eckomas Mwengi, OGW, MP - *Vice- Chairperson*
3. Hon. Francis Kajwang' Tom Joseph, MP
4. Hon. Onyiego Silavus Osoro, CBS, MP
5. Hon. Gichohi Kaguchia John Philip, MP
6. Hon. Mogaka Stephen M, MP
7. Hon. Makali John Okwisia, MP
8. Hon. Muchira Michael Mwangi, MP - *Virtually*

**MEMBERS ABSENT WITH APOLOGIES**

1. Hon. Maalim Farah, MP
2. Hon. Junet Mohamed, CBS, MP
3. Hon. (Dr.) Otiende Amollo, SC, MP
4. Hon. Muriu Wakili Edward, MP
5. Hon. Aden Daud, EBS, MP
6. Hon. Maina Jane Njeri, MP
7. Hon. Siyad Amina Udgoon, MP

**SECRETARIAT**

- |                            |   |                                     |
|----------------------------|---|-------------------------------------|
| 1. Mr. Ahmed Salim Abdalla | - | Clerk Assistant I                   |
| 2. Mr. Ronald M. Walala    | - | Ag. Deputy Director, Legal Services |
| 3. Ms. Jael Ayiego Kilaka  | - | Clerk Assistant III                 |
| 4. Mr. Abdikafar Abdi      | - | Clerk Assistant III                 |
| 5. Mr. Isaac Nabiswa       | - | Legal Counsel II                    |
| 6. Mr. Omar Abdirahim      | - | Fiscal Analyst II                   |
| 7. Mr. Calvin Karungo      | - | Media Relations Officer             |
| 8. Mr. Dennis Kamau        | - | Audio Officer                       |
| 9. Mr. John Nduaci         | - | Serjeant-at-Arms                    |

**AGENDA**

1. Prayers
2. Preliminaries
3. Confirmation of the previous minutes
4. Consideration and Adoption of the Report of the Senate Amendments to the Independent Electoral Boundaries Commission (Amendment) Bill, 2024 Co-sponsored by the Hon. Kimani Ichung'wah, EGH, MP and Hon. Opiyo J. Wandayi, MGH, MP
5. Any Other Business
6. Adjournment/ Date of the Next Meeting



**MIN. NO. JLAC 220/2024:**

**PRELIMINARIES**

The meeting was called to order at twenty-five minutes past ten o'clock by the Chairperson followed by a word of prayer from the Chairperson and introductions. The agenda was adopted having been proposed by Hon. Mutuse Eckomas Mwengi, OGW, MP and seconded by Hon. Makali John Okwisia, MP

**MIN. NO. JLAC 221/2024:**

**CONFIRMATION OF MINUTES**

The agenda was deferred.

**MIN. NO. JLAC 222/2024:**

**CONSIDERATION OF THE SENATE AMENDMENTS TO THE INDEPENDENT ELECTORAL BOUNDARIES COMMISSION (AMENDMENT) BILL, 2024 CO-SPONSORED BY THE HON. KIMANI ICHUNG'WAH, EGH, MP AND HON. OPIYO J. WANDAYI, MGH, MP**

The Committee considered the Senate amendments to the Independent Electoral Boundaries Commission (Amendment) Bill, 2024; co-sponsored by the Hon. Kimani Ichung'wah, EGH, MP and the Hon. Opiyo J. Wandayi, MGH, MP. The Committee noted that the Senate amendments proposed as follows: -

- (1) Amendment of Clause 2 of the Bill to include the Senate in the definition of "Parliamentary Party" and "Parliamentary Committee". The import of the amendments is that under the IEBC Act —
  - (a) a parliamentary party shall consist of at least five percent of the Members of the National Assembly and the Senate; and
  - (b) the IEBC Report on the review of boundaries shall be tabled before the relevant Committees of the National Assembly and the Senate responsible for the IEBC;
- (2) Amendment of Clause 3 of the Bill to increase the qualifications for appointment as a commissioner. For a person to qualify for appointment as a member of the IEBC, they now must have *proven knowledge and at least ten years' experience in electoral matters, management, finance, governance, public administration, law, information and communication technology, or accounting*. In the current section 6, there is no prescribed number of the years of experience required; and
- (3) Amendment of Clause 7 to include the relevant Parliamentary Committee of the Senate in the consideration of the IEBC Report on boundaries review. The Act currently defines "Parliamentary Committee" as the relevant Committee of the National Assembly responsible for the IEBC.

Upon deliberations, and having considered the Senate's amendments together with the legal brief by the National Assembly's Directorate of Legal Services, the Committee observed that:

- 1) The amendments sought to include the Senate in the definition of the terms "Parliamentary Party" and "Parliamentary Committee"; and
- 2) The proposal to include at least ten years' experience for one to qualify for appointment as a Commission shall enhance the quality and competence of the members of the Commission.

**MIN. NO. JLAC 223/2024:**

**ADOPTION OF THE REPORT ON  
CONSIDERATION OF THE SENATE  
AMENDMENTS TO THE INDEPENDENT  
ELECTORAL BOUNDARIES COMMISSION  
(AMENDMENT) BILL, 2024 CO-SPONSORED BY  
THE HON. KIMANI ICHUNG'WAH, EGH, MP  
AND HON. OPIYO J. WANDAYI, MGH, MP**

**Committee Observations**

Upon reviewing the Senate amendments, the Committee made the following observations:

- a) The amendments sought to include the Senate in the definition of the terms “Parliamentary Party” and “Parliamentary Committee”; and
- b) The proposal to include at least ten years’ experience for one to qualify for appointment as a Commission shall enhance the quality and competence of the members of the Commission.

**Committee Recommendations**

The Committee, having considered the Senate amendments to the Independent Electoral and Boundaries Commission (Amendment) Bill, (*National Assembly Bill No. 10 Of 2024*) the Committees resolved to recommend that the House approves the Senate amendments to Clauses 2, 3 and 7 of the Bill.

**Adoption of the Report**

The report was therefore adopted, having been proposed by Hon. Mutuse Eckomas Mwengi, OGW, MP and seconded by Hon. Makali John Okwisia, MP.

**MIN. NO. JLAC 224/2024:**

**ANY OTHER BUSINESS**

- i. The Committee took note of the request from *Kenyans in the Diaspora Technical Working Group* for a virtual meeting. The Committee resolved that the Technical Working Group should send written submissions before engaging the Committee; and
- ii. The Committee took note of a letter and a questionnaire from the Commission on Administrative Justice, requesting for feedback as the Commission embarks on the end term evaluation of the Commission on Administrative Justice Strategic Plan (2019-2023).

**MIN. NO. JLAC 225/2024:**

**ADJOURNMENT**

There being no other business, the meeting was adjourned at thirty minutes past eleven o’clock. The next meeting shall be held on notice.

SIGNED: .....

(CHAIRPERSON: HON. MURUGARA GEORGE GITONGA, CBS, MP)

DATE: .....

19.6.2024