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THE NATIONAL ASSEMBLY
TWELFTH PARLIAMENT- THIRD SESSION (2019)

COMMITTEE ON DELEGATED LEGISLATION

REPORT ON
THE CONSIDERATION OF THE POLITICAL
PARTIES (FUNDING) REGULATIONS, 2019

(Legal Notice No.143 of 2019)

NOVEMBER 2019

Directorate of Committee Services
The National Assembly,
Parliament Buildings,
NAIROBI.

THE NATIONAL ASSEMBLY
PAPERS LAID
DATE: 06 NOV 2019
DAY

THE NATIONAL ASSEMBLY
PAPERS LAID
DATE: 06 NOV 2019
DAY: Wednesday
Hon - Mwangi Githonga
Getnude Chebet

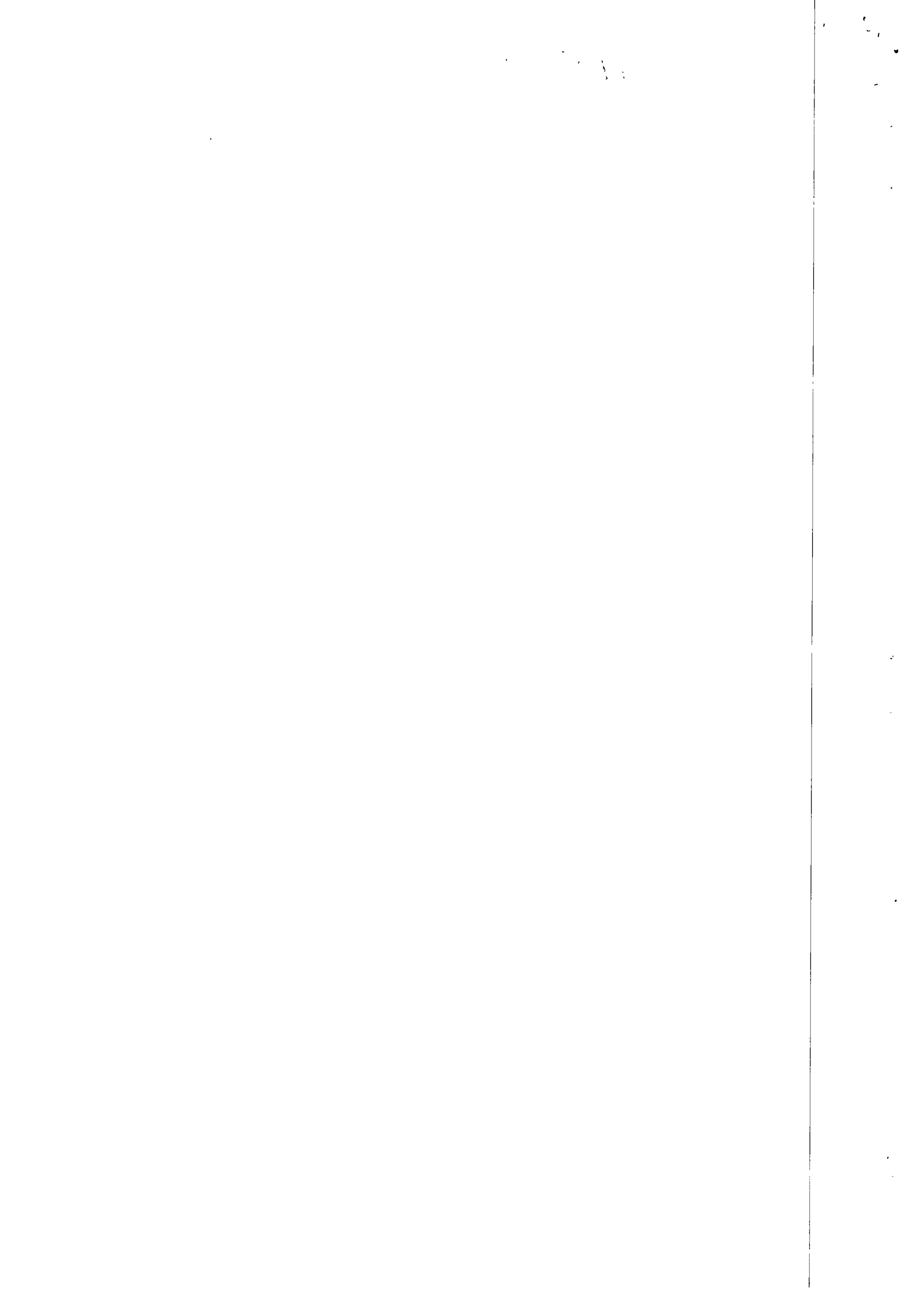


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ABBREVIATIONS

| | |
|------------|-----------------------------|
| LN | Legal Notice |
| RMA | Regulatory Making Authority |
| SI | Statutory Instruments |
| SO | Standing Order |

CHAIRPERSON'S FOREWORD

On the 29th of August, 2019, the Registrar of Political Parties submitted the Political Parties (Registration) Regulations, 2019 and the Political Parties (Funding) Regulations, 2019 for tabling in the National Assembly. The two instruments were tabled on 11th September, 2019, and committed to the Committee on Delegated Legislation for consideration.

The Committee held a meeting on 3rd October, 2019 to consider the Legal Notices from the Registrar of Political Parties. The Committee took into account the previous consultations with the Registrar held on 14th June, 2018 and 30th November, 2018 pursuant to section 16 of the Statutory Instruments Act, 2013.

After careful consideration, the Committee approved the Political Parties (Registration) Regulations, 2019 as it complied with all relevant laws.

The Political Parties (Funding) Regulations, 2019 on the other hand generally complied with all the relevant considerations contained in section 13 of the Statutory Instruments Act except for Regulation 18 which the Committee resolved to annul because it offends sections 13 (m) of the SI Act as it inappropriately delegates legislative powers to the Registrar by giving the Registrar power to set general guidelines, conditions and requirements for the management of the Fund. Guidelines are statutory instruments within the meaning of section 2 of the Statutory Instruments Act and if made by the Registrar, must be submitted to the National Assembly to be considered by the Committee.

In conclusion, I wish to most sincerely thank the Speaker and the Office of the Clerk of the National Assembly for the invaluable support accorded to the Committee in the discharge of its mandate.

On behalf of the Members of the Select Committee on Delegated Legislation and pursuant to section 15 (1) of the Statutory Instruments Act, 2013 and Standing Order 210 (4) (b), it is my pleasure and duty to present to the House the Committee's **Report on the Consideration of the Political Parties (Funding) Regulations (Legal Notice No.143 of 2019)**.

HON. GLADYS BOSS SHOLLEI CBS MP

1.0 PREFACE

1.1 Establishment and Mandate of the Committee

1. The Select Committee on Delegated Legislation is established pursuant to *Standing Order No. 210* and is mandated to consider statutory instruments submitted to Parliament for consideration. The Committee is expected to consider in respect of any statutory instrument, whether it is in accordance with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written laws.
2. The Committee is mandated to consider in respect of any statutory instrument, whether it:
 - a) is in accordance with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written laws;
 - b) infringes on fundamental rights and freedoms of the public;
 - c) contains a matter which in the option of the Committee should more properly be dealt with in an Act of the Parliament;
 - d) contains imposition of taxation;
 - e) directly or indirectly bars the jurisdiction of the court;
 - f) gives retrospective effect to any of the provision in respect to which the Constitution does not expressly give any such power;
 - g) it involves expenditure from the consolidated fund or other public revenues;
 - h) is defective in its drafting or for any reason form or part of the statutory instrument calls for any elucidation;
 - i) appears to make some unusual or unexpected use of the power conferred by the Constitution or the Act pursuant to which it is made;
 - j) appears to have had unjustifiable delay in its publication or laying before Parliament;
 - k) makes rights, liberties or obligations unduly dependent upon non-renewable decisions;
 - l) makes rights, liberties or obligations unduly dependent insufficiently defined administrative powers;
 - m) inappropriately delegates legislative powers;
 - n) imposes a fine, imprisonment or other penalty without express authority having been provided for in the enabling legislation;
 - o) appears for any reason to infringe on the rule of law;
 - p) inadequately subjects the exercise of legislative power to Parliamentary scrutiny; and
 - q) accords to any other reason that the Committee considers fit to examine.

1.2 Committee Membership

3. The Committee membership comprises –

Chairperson

Hon. Gladys Boss Shollei CBS MP
Uasin Gishu County Woman Representative

Jubilee Party

Vice- Chairperson

Hon. Fatuma Gedi, MP
Wajir County Woman Representative
Party for Development and Reforms

MEMBERS

Hon. Waihenya Ndirangu, MP
Roysambu Constituency
Jubilee Party

Hon. Alice Wahome, MP,
Kandara Constituency
Jubilee Party

Hon. Robert Mbui, MP
Kathiani Constituency,
Wiper Democratic Movement -Kenya

Hon. Daniel Maanzo, MP
Makueni Constituency
Wiper Democratic Movement -Kenya

Hon. Muriuki Njagagua, MP
Mbeere North Constituency
Jubilee Party

Hon. Timothy Wanyonyi, MP
Westlands Constituency
Orange Democratic Movement

Hon. Ronald Tonui, MP
Bomet Central Constituency
Jubilee Party

Hon. William Kamoti, MP
Rabai Constituency
Orange Democratic Movement

Hon. Martha Wangari, MP
Gilgil Constituency
Jubilee Party

Hon. Gideon Mulyungi, MP
Mwingi Constituency
Wiper Democratic Movement – Kenya

Hon. William Kassait Kamket, MP
Tiaty Constituency
KANU

Hon. (Dr.) Wilberforce Oundo, MP
Funyula Constituency
Orange Democratic Movement

Hon. George G. Murugara, MP
Tharaka Constituency
Jubilee Party

Hon. Jennifer Shamalla, MP
Nominated
Jubilee Party

Hon. Munene Wambugu, MP
Kirinyaga Central Constituency
Jubilee Party

Hon. Muturi Kigano, MP
Kangema Constituency
Jubilee Party

Hon. Patrick Kariuki Mariru, MP
Laikipia West Constituency
Jubilee Party

Hon. Sammy Seroney, MP
Nominated
Wiper Democratic Movement – Kenya

Hon. Tindi Mwale, MP
Butere Constituency
Amani National Congress

Hon. Alfred W. Sambu, MP
Webuye East
Amani National Congress

Hon. Abdi Koropu Tepo, MP
Isiolo South Constituency
Kenya Patriots Party

1.3 Committee Secretariat

4. The secretariat facilitating the Committee comprises -

Ms. Susan Maritim
Senior Clerk Assistant (Team Leader)

Mr. Jimale Mohamed
Second Clerk Assistant

Mr. Wilson Dima Dima
Principal Legal Counsel

Mr. Josphat Motonu
Fiscal Analyst I

Ms. Anne Njeri Kigoro
Research Officer III

Ms. Winnie Kiziah
Media Relations Officer II

Mr. Anthony Wamae
Serjeant at Arms

Mr. Charles Ayari
Superintendent of Electronics

Ms. Mary Otieno
Office Superintendent

2.0 CONSIDERATION OF THE POLITICAL PARTIES (FUNDING) REGULATIONS, 2019

2.1 Introduction

5. The Political Parties (Funding) Regulations, 2019 were made by the Registrar of Political Parties pursuant to section 49 of the Political Parties Act, 2011. The Regulations are vital in giving effect and enhancing implementation of the Political Parties Act, 2011.
6. The Regulations were published in the Kenya Gazette vide *Legal Notice No. 143 of 2019* on 9th August, 2019, received by the Clerk of National Assembly on 29th August, 2019 and tabled in the House on 11th September, 2019.

2.2 Purpose of the Regulations

7. The Regulations are intended to enforce Part III of the Political Parties Act, 2011, section 23 of which establishes the Political Parties Fund to be administered by the Registrar of Political Parties.
8. The Regulations seek to revoke the Political Parties (Funding) Regulations, 2009 (Legal Notice 169 of 2009).
9. The Regulations prescribe the duties of the Registrar of Political Parties in the management, accounting and application of the Fund.
10. The Regulations further provide structured guidelines for the process of application of the Fund by qualified political parties, processing of the applications, allocation and disbursement of the monies from the Fund by the Registrar.
11. The Regulations also prescribe the guidelines for accounting and reporting by the Registrar and political parties. It also provides for the auditing of the Fund in accordance with the Public Audit Act.
12. Regulation 18 requires the Registrar to set guidelines regarding the disbursement of monies from the Fund to any political party, programme or activity, the rules and procedures related to the disbursement and management of funds.

2.3 Scrutiny of the Instrument

13. Pursuant to section 16 of the Act, the Committee held pre-publication consultations with the regulation making authority on 14th June, 2018 and 30th November, 2018 where the Registrar of Political Parties presented the draft Regulations to the Committee and responded adequately to all concerns raised by the Committee Members.
14. With the Regulations having been published on 9th August, 2019 and committed to the Committee on 11th September, 2019 for scrutiny, the Committee scheduled the business on 3rd October, 2019. The Committee took into consideration the pre-publication consultations held with the Office of the Registrar and observed as hereunder –

3.0 COMMITTEE OBSERVATIONS AND GROUNDS FOR RECOMMENDING PART-ANNULMENT

15. The Committee observed THAT –

- (i) **Statutory Timelines– section 11 of the SI Act:** The Regulations were submitted to the National Assembly within the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act having been published on the 9th of August, 2019, received by the Clerk of National Assembly on the 28th of August, 2019 and tabled on the 11th of September, 2019.
- (ii) **Public Participation– section 5, 5A of the SI Act:** Articles 10 and 118 of the Constitution, section 5, 5A and the Schedule to the Act and Standing Order 210 of the National Assembly Standing Orders require the regulation –making authority to conduct public participation and sufficient consultation with the stakeholders and persons likely to be affected by the regulations. The outcomes of such consultations are to be indicated within the explanatory memorandum in detail.

The regulation making authority demonstrated to the Committee that adequate public consultations were undertaken. The following key stakeholder were consulted: Political Parties, the Independent Electoral and Boundaries Commission, the Kenya Law Reform Commission, the Judiciary, the Political Parties Dispute Tribunal, the Office of the Attorney General, the National Gender and Equality Commission and the Kenya National Commission on Human Rights. A total of sixteen stakeholder forums were held.


- (iii) **Regulatory Impact Statement – sections 6, 7 and 8 of SI Act:** The Political Parties (Funding) Regulations, 2019 do not require a Regulatory Impact Statement since they are intended to make provisions for the structured guidelines for the management, the application and disbursements of the Political Parties Fund established under section 23 of the Political Parties Act.
- (iv) **Inappropriate Delegation of Powers – section 13 (m) of SI Act: Regulation 18 inappropriately delegates legislative powers to the Registrar,** giving the Registrar power to set general guidelines, conditions and requirements for the management of the Fund.

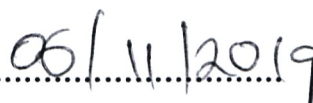
Guidelines are statutory instruments within the meaning of section 2 of the Statutory Instruments Act and if made by the Registrar, must be submitted to the National Assembly to be considered by the Committee. This is in contravention of section 13(m) of the Statutory Instruments Act which requires the Committee during scrutiny to check whether the Regulations inappropriately delegates legislative powers.

- (v) **Conferring with the Committee – section 16 of the SI Act:** The regulation making authority conferred with the Committee pursuant to section 16 of the Act on 14th June, 2018 and 30th November, 2018 prior to publishing the Regulations.

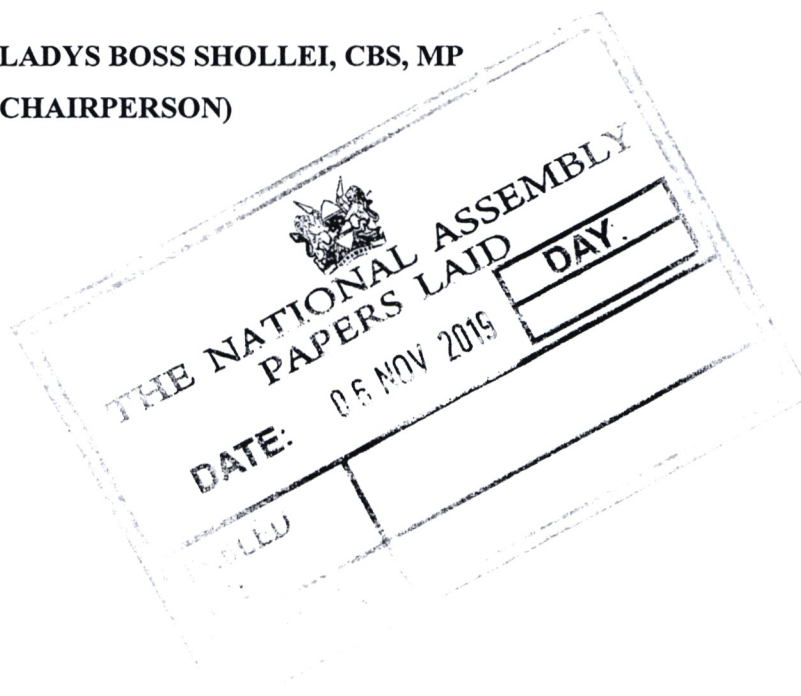
4.0 COMMITTEE RECOMMENDATION

16. Having examined the Political Parties (Funding) Regulations, 2019 against the Constitution of Kenya, the Interpretations and General Provisions Act (Cap 2) Laws of Kenya, the Political Parties Act, 2011 and the Statutory Instruments Act (No 23 of 2013), and pursuant to Standing Order 210 (4) (b) and section 15 (1) of the Statutory Instruments Act, the Committee does not accede to a part of the Political Parties (Funding) Regulations, 2019 and recommends that the House **annuls Regulation 18** of the Political Parties (Funding) Regulations, 2019 as it **inappropriately delegates legislative powers to the Registrar of Political Parties to set general guidelines, conditions and requirements for the management of the Fund, contrary to section 13 (m) of the Statutory Instruments Act.**

Signed.....

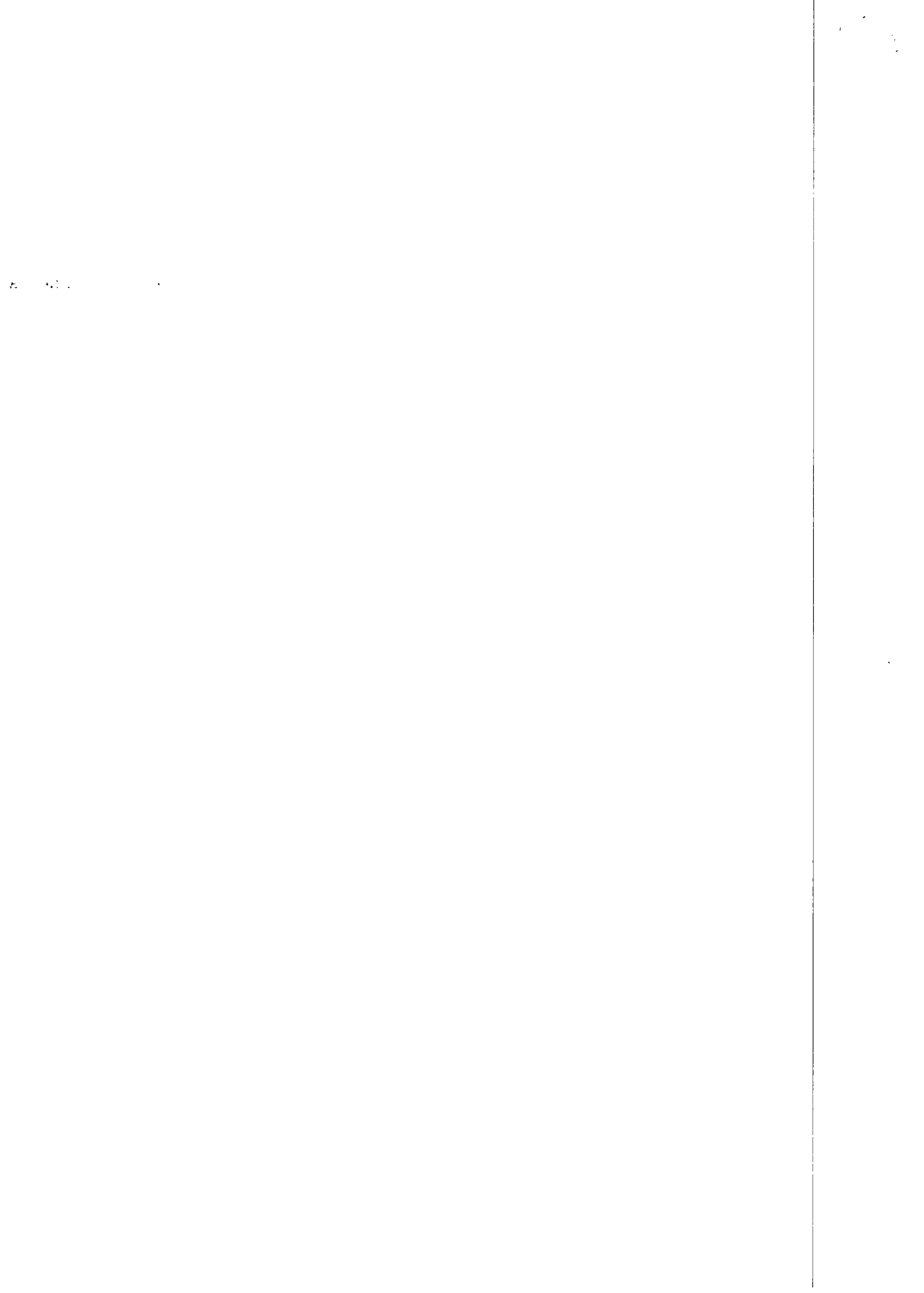
Date.....

HON. GLADYS BOSS SHOLLEI, CBS, MP
(CHAIRPERSON)



ANNEXURES

- 1. Adoption List**
- 2. Legal Notice No. 143 of 2019 and Explanatory Memorandum**
- 3. Committee Minutes**



COMMITTEE ON DELEGATED LEGISLATION

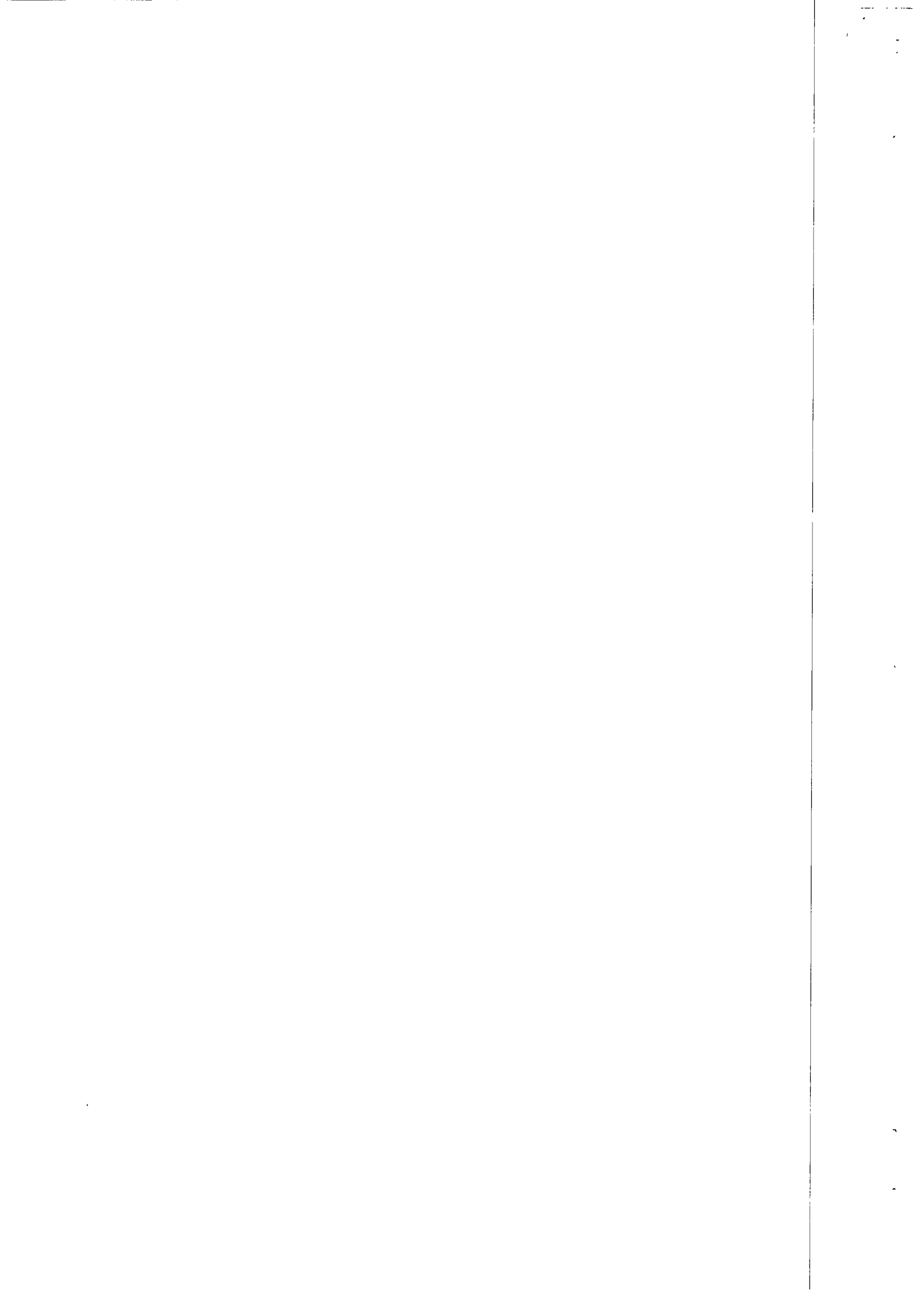
ADOPTION LIST

Report on the Consideration of the Political Parties (Funding) Regulations, 2019

We, the undersigned, hereby affix our signatures to this Report to affirm our approval:

DATE: 2nd Nov, 2019

| | HON. MEMBER | SIGNATURE |
|-----|---|-----------|
| 1. | Hon. Gladys Boss-Shollei CBS MP (Chairperson) | |
| 2. | Hon. Fatuma Ali Gedi, MP (Vice Chairperson) | |
| 3. | Hon. Isaac Waihenya Ndirangu, MP | |
| 4. | Hon. Robert Mbui, MP | |
| 5. | Hon. Alice Wahome, MP | |
| 6. | Hon. Daniel Maanzo, MP | |
| 7. | Hon. Muriuki Njagagua, MP | |
| 8. | Hon. Martha Wangari, MP | |
| 9. | Hon. Timothy Wanyonyi, MP | |
| 10. | Hon. William Kamoti Mwamkale, MP | |
| 11. | Hon. Patrick Kariuki Mariru, MP | |
| 12. | Hon. Ronald Kiprotich Tonui, MP | |
| 13. | Hon. William Kassait Kamket, MP | |
| 14. | Hon. Munene Wambugu, MP | |
| 15. | Hon. George Gitonga Murugara, MP | |
| 16. | Hon. Jennifer Shamalla, MP | |
| 17. | Hon. Muturi Kigano, MP | |
| 18. | Hon. (Dr.) Wilberforce Oundo, MP | |
| 19. | Hon. Sammy Seroney, MP | |
| 20. | Hon. Tindi Mwale, MP | |
| 21. | Hon. Gideon Mulyungi, MP | |
| 22. | Hon. Abdi Tepo, MP | |
| 23. | Hon. Alfred Sambu, MP | |



MINUTES OF THE 46TH SITTING OF THE COMMITTEE ON DELEGATED LEGISLATION HELD ON TUESDAY, 1ST OCTOBER, 2019 AT 11.30 A.M. IN THE IN 2ND FLOOR CONTINENTAL HOUSE BOARD ROOM, PARLIAMENT BUILDINGS

PRESENT

1. The Hon. Fatuma Gedi, MP - Vice Chairperson
2. The Hon. Daniel Maanzo, MP
3. The Hon. Timothy Wanyonyi, MP
4. The Hon. Waihenya Ndirangu, MP
5. The Hon. Patrick Mariru, MP
6. The Hon. George Murugara, MP
7. The Hon. Jennifer Shamalla, MP
8. The Hon. Ronald Tonui, MP
9. The Hon. Munene Wambugu, MP
10. The Hon. Martha Wangari, MP
11. The Hon. Kassait Kamket, MP
12. The Hon. Sammy Seroney, MP

ABSENT WITH APOLOGY

1. The Hon. Gladys Boss Shollei CBS MP - Chairperson
2. The Hon. Alice Wahome, MP
3. The Hon. Robert Mbui, MP
4. The Hon. (Dr.) Wilberforce Oundo, MP
5. The Hon. Gideon Mulyungi, MP
6. The Hon. Muturi Kigano, MP
7. The Hon. Kamoti Mwamkale, MP
8. The Hon. Muriuki Njagagua, MP
9. The Hon. Tindi Mwale, MP

ABSENT

1. The Hon. Alfred Sambu, MP
2. The Hon. Abdi Koropu Tepo, MP

IN-ATTENDANCE

National Assembly Secretariat

1. Ms. Susan Maritim - Senior Clerk Assistant
2. Mr. Jimale Mohamed - Second Clerk Assistant
3. Mr. Dima Dima - Principal Legal Counsel
4. Mr. Charles Ayari - Superintendent of Electronics (Audio)
5. Ms. Mary Otieno - Office Superintendent
6. Mr. Anthony Wamae - Serjeant at Arms
7. Mr. Brian Wechabe - Legal Intern
8. Ms. Millicent Ondече Akhonya - Legal intern

MIN.NO. /NA/CDL/2019/267 PRAYER AND RELIMINARIES

The meeting commenced at 11.45 a.m. with the Prayer.

MIN.NO. /NA/CDL/2019/268 ADOPTION OF THE AGENDA

The Committee resolved to amend the Agenda so as to consider and adopt the Report on the Consideration of the Retirement Benefits (Occupational Retirement Benefits Schemes) (Amendment) Regulations (*Legal Notice 88 of 2019*) and the Insurance (Motor Vehicles Third Party Risks) (Certificate of Insurance) (Amendment) Rules, 2019 (*Legal Notice 92 of 2019*).

MIN.NO. /NA/CDL/2019/269 CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING

Minutes of the previous Sitting held on 26th September, 2019 were confirmed as a true record of the proceedings having been proposed by Hon. Sammy Seroney, MP and seconded by Hon. George Murugara, MP.

MIN.NO. /NA/CDL/2019/270 MATTERS ARISING

Under MIN.NO. /NA/CDL/2019/264 on the Adjustment of Excise Duty Rates for Inflation (Legal Notice No. 109 of 2019), Members sought clarification on the justification for annulment of LN 109. It was clarified that the decision to annul was made to mitigate the **risk** of proliferation of contrabands and counterfeits in the economy owing to a further adjustment of inflation rate after the one published on 1st July, 2019, as proposed in the Finance Bill, 2019.

MIN.NO. /NA/CDL/2019/271 CONSIDERATION AND ADOPTION OF THE REPORT ON THE CONSIDERATION OF LEGAL NOTICES 88 & 92 OF 2019 RELATING TO FY 2019/2020 BUDGET

The Committee Members unanimously adopted the Report on the Consideration of the Retirement Benefits (Occupational Retirement Benefits Schemes) (Amendment) Regulations (*Legal Notice 88 of 2019*) and the Insurance (Motor Vehicles Third Party Risks) (Certificate of Insurance) (Amendment) Rules, 2019 (*Legal Notice 92 of 2019*). The adoption was proposed and seconded by Hon. Munene Wambugu, M.P and Hon. Jennifer Shamalla, MP, respectively.

MIN.NO. /NA/CDL/2019/272 CONSIDERATION OF THE POLITICAL PARTIES (FUNDING) REGULATIONS, 2019 (LN 143 OF 2019);

The Committee was informed that the Registrar of Political Parties made the Political Parties (Funding) Regulations, 2019 *vide* Legal Notice No.143 of 2019 on the 9th of August, 2019. The Regulations were received by the Clerk of National Assembly on 29th August, 2019 and tabled in the House on 11th September, 2019, being within the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act.

The Regulations also seek to revoke the Political Parties (Funding) Regulations, 2009 (Legal Notice 169 of 2009).

Purpose of the Regulations: The Regulations seek to implement Part III of the Political Parties Act, section 23 of the Act which establishes the Political Parties Fund (the fund) to be administered by the Registrar.

Summary of the Regulations

The Regulations prescribe the duties of the Registrar of Political Parties in the management, accounting and application of the Fund. The Regulations further provide structured guidelines for the process of application for the Fund by qualified political parties, processing of the applications, allocation and disbursement of the monies from the Fund by the Registrar.

The Regulations also prescribe the guidelines for accounting and reporting by the Registrar and Political Parties. It also provides for the auditing of the Fund in accordance with the Public Audit Act.

Regulation 18 requires the Registrar to set guidelines regarding the disbursement of monies from the Fund to any political party, programme or activity; the rules and procedures related to the disbursement and management of funds.

Committee Observations

The Committee observed THAT –

1. The Regulations were submitted to the National Assembly within the statutory timeline contemplated under section 11(1) of the Statutory Instruments Act having been published on the 9th of August, 2019, received by the Clerk of National Assembly on the 28th of August, 2019 and tabled on the 11th of September, 2019.
2. Regulation 18 inappropriately delegates legislative powers to the Registrar, giving the Registrar power to set general guidelines, conditions and requirements for the management of the Fund. Guidelines are Statutory Instruments within the meaning of section 2 of the Statutory Instruments Act and if made by the Registrar, must be submitted to the National Assembly to be considered by the Committee. This is contravention of section 13(m) of the Statutory Instruments Act which requires the Committee during scrutiny to check whether the Regulations inappropriately delegates legislative powers.
3. On conferring with the Committee, pursuant to section 16 of the Act, the Committee held a meeting with the regulation making authority in December 2018 where the draft Regulations were presented to the Committee. Members sought to establish the extent of public participation undertaken in developing the Regulations. The Registrar of Political Parties informed the Committee that the Office of the Registrar undertook and continues to undertake continuous consultation with key stakeholders since the enactment of the Political Parties Act 2011. A total of sixteen stakeholder forums were held.
4. On Regulatory Impact Statement, the Political Parties (Funding) Regulations, 2019 do not require a Regulatory Impact Statement within the meaning of Sections 6, 7, and 8 of the Act since they are intended to make provisions for the structured guidelines for the management, the application and disbursements of the Political Parties Fund established under section 23 of the Political Parties Act.

Committee Resolution

Having examined the Political Parties (Funding) Regulations, 2019 and pursuant to SO 210 (4) (b), the Committee resolved to **annul Regulation 18** which inappropriately delegates

legislative powers to the Registrar to set general guidelines, conditions and requirements for the management of the Fund.

The decision for part-annulment was proposed by Hon. George Murugara, MP, and seconded by Hon. Martha Wangari, MP for the aforementioned reasons.

MIN.NO. /NA/CDL/2019/272 CONSIDERATION OF THE POLITICAL PARTIES (REGISTRATION) REGULATIONS, 2019 (LN 141 OF 2019);

The Political Parties (Registration) Regulations, 2019 are made by the Registrar of Political Parties pursuant to section 49 of the Political Parties Act, 2011. The Regulations were published in the Gazette as Legal Notice No 141 of 2019 on the 29th of August, 2019 and tabled before the House on 11th September, 2019, being within the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act.

The Regulations are intended to enforce Part II of the Political Parties Act, 2011, which provides for the registration and regulation of political parties. The instrument provides for the structured guidelines for the process of application for provisional and full registration, procedure for entering into coalitions and mergers, deregistration of political parties and other matters connected thereto.

Pursuant to section 16 of the Act, the Committee held a meeting with the regulation making authority in December 2018 where the draft Regulations were presented and views of the Committee given for further modification where necessary.

Committee Observations

1) Statutory Timelines

The Regulations were submitted to the National Assembly within the statutory timeline contemplated under section 11(1) of the Statutory Instruments Act.

2) Consultation / Public participation

Articles 10 and 118 of the Constitution, section 5, 5A and the Schedule to the Act and Standing Order 210 require the regulation –making authority to conduct public participation and sufficient consultation with the stakeholders and persons likely to be affected by the regulations. The outcomes of such consultations are to be indicated within the explanatory memorandum in detail.

The regulation making authority demonstrated to the Committee that adequate public consultations were undertaken. The following key stakeholder were consulted: Political Parties, the Independent Electoral and Boundaries Commission, the Kenya Law Reform Commission, the Judiciary, the Political Parties Dispute Tribunal, the Office of the Attorney General, the National Gender and Equality Commission and the Kenya National Commission on Human Rights.

3) Regulatory Impact Statement

The Political Parties (Registration) Regulations, 2019 do not require a Regulatory Impact Statement within the meaning of Sections 6, 7, and 8 of the Act since they are intended to give effect and enhance implementation of the Political Parties Act, 2011.

Committee Resolution

Having examined the Political Parties (Registration) Regulations, 2019, the Committee satisfied itself that the said statutory instrument is in accord against the Constitution, the Interpretations and General Provisions Act (*Cap 2*) Laws of Kenya, the Political Parties Act, 2011 and the Statutory Instruments Act (*No 23 of 2013*), pursuant to which it is made and therefore approved it.

The decision to approve was proposed by Hon. Timothy Wanyonyi, MP and seconded by Hon. Jennifer Shamalla, MP.

MIN.NO. /NA/CDL/2019/273 ANY OTHER BUSINESS

Members were informed as follows –

- 1) **3 - 6 October, 2019 Retreat, Mombasa:** Members were informed that the retreat will be held at the Pride Inn Paradise Beach Resort in Mombasa County. Meeting to commence at 11am on Friday, 4th October, 2019.
- 2) **Meeting with the Ministry of Petroleum & Mining:** it was reported that the Principal Secretary requested to appear before the Committee on Tuesday, 8th October, 2019 at Parliament Buildings.
- 3) **Retreat with the Kenya Dairy Board, 17th to 20th October, 2019, Mombasa:** the Committee also acceded to the request by the Kenya Dairy Board to attend a joint retreat with the Taskforce on the Dairy Regulations scheduled for in Mombasa.
- 4) **Retreat with the Ministry of Lands & Physical Planning, 31st Oct -3rd Nov, 2019, Mombasa:** the Committee further acceded to the request to consider the *Physical and Land Use Planning (Classification of Strategic National or Inter-County Projects) Regulations, 2019*. The *Land Registration (Electronic Land Transactions) Regulations, 2019* will also be scheduled during the said retreat.
- 5) **Pending Business:** The Committee was informed of the following new business –
 - (i) The County Statutory Instruments Bill, 2018 (Sen. Bill No. 21 of 2018) (*sponsored by the Chairperson, Senate Committee on Delegated Legislation*);
 - (ii) The Statutory Instruments (Amendment) Bill, 2018 (Sen. Bill No. 24 of 2018) (*sponsored by the Chairperson, Senate Committee on Delegated Legislation*);
 - (iii) The Kenya Export Promotion and Branding Agency Order, 2019.

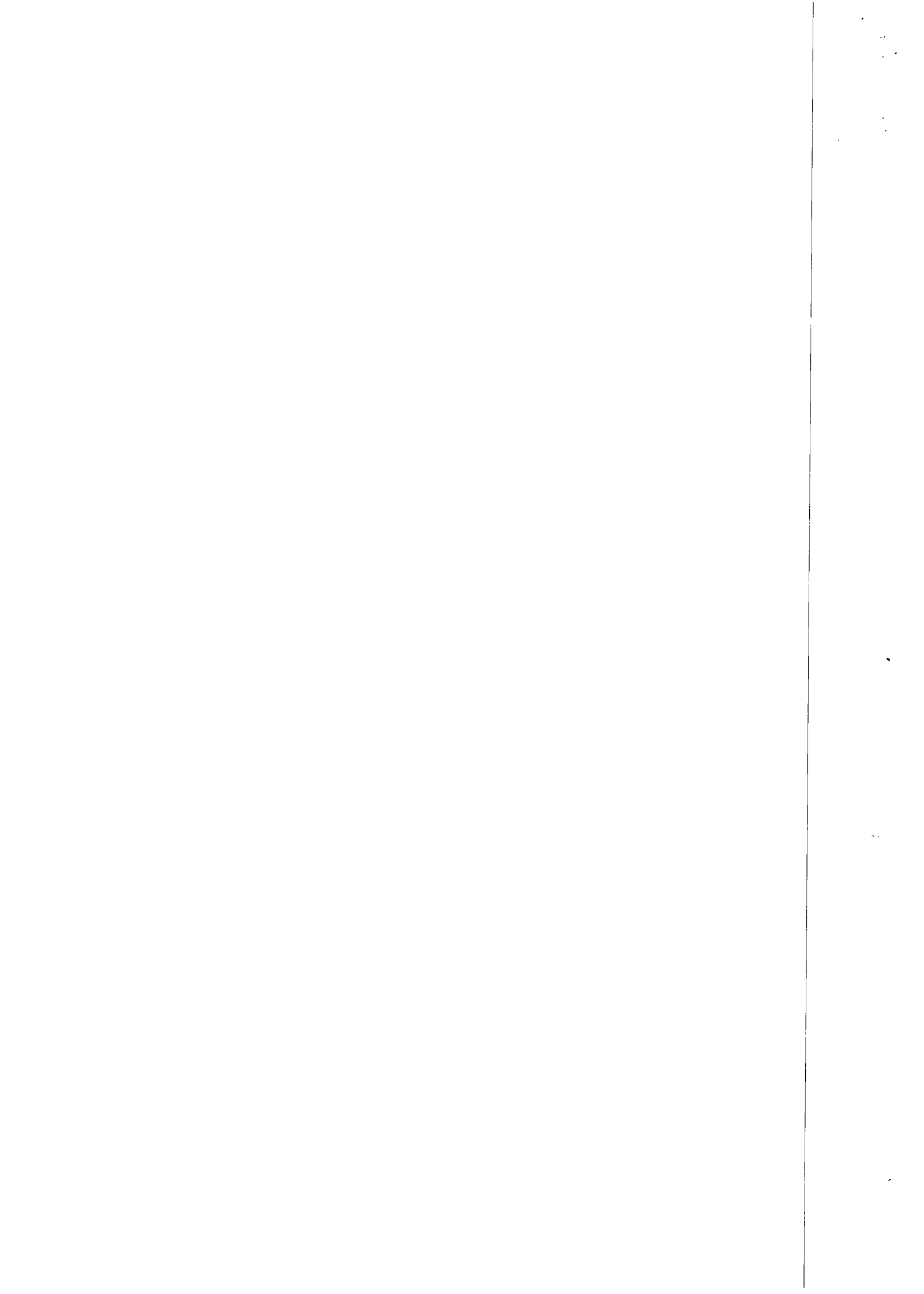
MIN.NO. /NA/CDL/2019/274 ADJOURNMENT AND DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at 12.30 p.m. until Thursday, 3rd October, 2019.

Signed:

Date: 03/10/2019

HON. GLADYS BOSS SHOLLEI CBS MP
(CHAIRPERSON)



delegated

Legal Notice No. 143



DDLP

29/8/19

THE POLITICAL PARTIES ACT
(No. 11 of 2011)

THE NATIONAL ASSEMBLY
PAPERS LAJ

DATE: 11 SEP 2019

DAY: WEDNESDAY

THE POLITICAL PARTIES (FUNDING) REGULATIONS
2019

LEADER OF
MAJORITY

NAME: ANNE SHIBU

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NATIONAL ASSEMBLY
RECEIVED
29 AUG 2019
CLERK'S OFFICE
P.O. BOX 1842, NAIROBI

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LIST OF DOCUMENTS

1. The published, Political Parties (Funding) Regulations, 2019
2. Correspondence from the Attorney General, on the finalized Political Parties (Funding) Regulations, 2019
3. Finalized Political Parties (Funding) Regulations, 2019 from the Office of the Attorney General
4. Explanatory Memorandum for the Political Parties (Funding) Regulations, 2019
5. Reports of reports of stakeholders engagements/proof of public participation

(Legislative Supplement No. 47)

LEGAL NOTICE NO. 143

THE POLITICAL PARTIES ACT

(No. 11 of 2011)

THE POLITICAL PARTIES (FUNDING) REGULATIONS, 2019

ARRANGEMENT OF REGULATIONS

PART I—PRELIMINARY

1—Citation.

2—Interpretation.

PART II—ADMINISTRATION AND MANAGEMENT

3— Management and control of the Fund.

4— Political Parties Fund account.

5— Accounts of political parties.

PART III – FUNDING OF POLITICAL PARTIES

6—Notification by the Registrar.

7— Application for the Fund by political parties.

8— Processing of applications.

9— Decision by the Registrar.

10— Allocation of funds and disbursement.

PART IV—ACCOUNTING AND REPORTING

11— Functions of accounting officer of a political party.

12— Annual accounts.

13— Approval of accounts.

14— Auditing of reports and accounts by Auditor General.

15— Publication of reports by the Registrar.

16— Inspection of audited accounts.

PART V—GENERAL PROVISIONS

17— Declaration before elections.

18— General guidelines on the management of the funds.

19— Administrative and staff expenses.

20—Revocation of L.N. No 169 of 2009.

FIRST SCHEDULE: FORMS

SECOND SCHEDULE: FEES

7. (1) A political party eligible for allocation of monies from the Fund shall make the application contemplated under regulation 6 (b) in Form PPF 2 set out in the First Schedule.

Application for the Fund by Political Parties.

(2) An application under sub-regulation (1) shall include a work plan containing a schedule of the activities and a budget that the political party intends to undertake in that financial year, including an estimate cost and timeframe for every activity.

(3) The activities contained in the work plan referred to in sub-regulation (2) shall conform to the requirements of section 26 of the Act.

8. Upon receipt of the application under regulation 7, the Registrar shall assess the application to ascertain whether the political party meets the requirements of the Act and in particular, whether—

Processing of applications.

- (a) the political party has, in its governing body, representation of special interest groups; and
- (b) all activities in the work plan relate and conform to the purposes for which the Fund should be used.

9. (1) The Registrar shall within fourteen days of the application made under regulation 8, notify the political party of its decision in writing.

Decision by the Registrar.

(2) Where the application under regulation 8 is—

- (a) approved, the Registrar shall notify the political party and effect the disbursement of the funds within fourteen days of such approval;
- (b) declined, the Registrar shall notify the political party giving reasons for the decision and recommendations.

(3) Where an application is declined under sub-regulation (2)(b), the political party may reapply taking into consideration the recommendations under sub-regulation (2)(b).

10. (1) In allocating the monies from the Fund, the Registrar shall in addition to the requirements under section 25 of the Act have regard to—

Allocation of funds and disbursement.

- (a) the approved work-plan of a political party; and
- (b) a clearance certificate from the Auditor General after auditing of funds of the previous financial year.

(2) Upon allocation of funds to a political party, the Registrar shall issue a confirmation letter of the disbursement of funds to the political party and require the political party to acknowledge receipt of the funds.

PART IV—ACCOUNTING AND REPORTING

11. The accounting officer of a political party shall—

- (a) ensure that the political party complies with the Act and these Regulations;

Functions of accounting officer of a political party.

- (b) ensure that the funds allocated to the political party are not used for a purpose not authorized by the Act or these Regulations;
- (c) be accountable to the Registrar for monies allocated to the political party; and
- (d) perform any other duties imposed by any other law or by these Regulations.

12. (1) The accounting officer shall keep separate books and records of accounts in respect of the funds of the political party and all transactions for each financial year. Annual accounts.

(2) The accounting officer of a political party shall, within three months after the end of each financial year and in accordance with section 32 of the Act and any other law, cause to be prepared annual reports and accounts of the political party.

(3) The annual report and accounts prepared under sub-regulation (2) shall be in Form PPF 3 set out in the First Schedule and shall include—

- (a) an income and expenditure statement;
- (b) a statement of assets and liabilities;
- (c) a cash flow statement;
- (d) a summary of activities undertaken within the financial year; and
- (e) any other information as may be required by the Registrar.

13. (1) The governing body of a political party shall be responsible for approving all reports and annual accounts of the political party. Approval of accounts.

(2) The internal auditor of the political party shall express an opinion, in writing, on the accounts based on the results of each audit stating whether—

- (a) all information and explanations considered necessary for the audit were received;
- (b) proper records were maintained of all transactions as required under the generally accepted accounting practices;
- (c) the accounts are in agreement with the records referred to under paragraph (b);
- (d) the accounts reflected fairly the financial position of the political party; and
- (e) there are any recommendations by the auditor.

14. (1) Subject to section 31(2) of the Act, the accounting officer shall concurrently submit the reports and accounts of the political party to the Registrar and the Auditor-General. Auditing of Reports and accounts by Auditor General.

(2) The Registrar shall implement any recommendations of the Auditor-General made pursuant to section 31(3) of the Act.

15. The Registrar may —

(a) publish reports submitted by political parties;

(b) determine the manner and form of publishing such reports.

Publication of reports by the Registrar.

16. Any person shall be entitled to inspect the audited accounts filed by a political party pursuant to section 31 (5) of the Act, and upon payment of the fee set out in the Second Schedule by the Registrar be issued copies of the audited accounts.

Inspection of Audited Accounts.

PART V— GENERAL PROVISIONS

17. Subject to section 30(1) of the Act, the accounting officer shall submit to the Registrar a statement of its assets and liabilities in Form PPF4 set out in the First Schedule.

Declaration before elections.

18. Subject to the provisions of the Act and any other law relating to public funds, the Registrar may from time to time, set general guidelines, conditions and requirements for the management of the Fund including—

General guidelines on the management of the Fund.

(a) the guidelines for the disbursement of monies from the Fund to any political party, programme or activity;

(b) the rules and procedures related to the disbursement and management of funds;

(c) the funding needs to support the objectives of the Fund; and

(d) any other issue related to the operation of the Fund.

19. For purposes of section 26 (1) (f) of the Act, administrative and staff expenses includes the payment of—

Administrative and staff expenses.

(a) office rent and stationery;

(b) office equipment;

(c) property rates;

(d) utility bills;

(e) postage and other forms of communication expenses; and

(f) staff salaries.

20. The Political Parties (Funding) Regulations, 2009 are revoked.

Revocation of LN. 169 of 2009.

FIRST SCHEDULE

FORMS

FORM PPF 1

(r. 5(5))

DECLARATION OF SIGNATORIES TO POLITICAL PARTIES FUND ACCOUNT AND OTHER ACCOUNTS

| | | | | |
|----------------------------|--------------------|----------------|---------------------------|--|
| Name of Political Party: | | | | |
| Full Name of Bank | | | | |
| Account Number | | | | |
| Address | | | | |
| Town/Branch | | | | |
| <i>Name of Signatories</i> | <i>Designation</i> | <i>ID. No.</i> | <i>Specimen Signature</i> | |
| | | | | |
| | | | | |

This declaration is made to the best of our knowledge, information and belief.

Made this day of 20.....

Name and signatures of three political party officials

1. Name
- Signature
- ID/Passport No
2. Name
- Signature
- ID/Passport No
3. Name
- Signature
- ID/Passport No

In the presence of a

Commissioner of Oaths/Magistrate

FORM PPF 2

(r. 7 (1))

APPLICATION FOR FUNDING OF A POLITICAL PARTY

A. Political Party Information:

1. Date of application:
2. Name of Political Party:
3. Registration No:
4. Physical Address:
5. Postal Address:
6. Tel No: Fax:
7. Website URL: Email:

B. Contact Information:*(Please provide contact information of person responsible for programme/project)*

- Name:
- Designation:
- Tel No: Fax:
- Email:

C. Bank account details

- Name of Bank:
- Bank Account No.:
- Bank Account Name:
- Branch:

D. Expenditure Information:

1. Please list the project's budget expense items to be supported by this fund:

| | Type of Expense | Amount | |
|-------|---|--------|--|
| A | Promoting representation of special interest groups. | | |
| B-C-D | Promoting active participation by citizens in political life and civic education. Broadcasting policies and shaping public opinion. Electoral expenses. | | |
| E | Administration | | |
| | TOTAL | | |

E. Workplan Template

| | | Activities | Amount | Total |
|----|---|------------|--------|----------|
| A. | Promoting representation of special interest groups (not less than 30% of the allocation from the Fund) | | | |
| | | | | |
| | | | | Subtotal |

CURRENT LIABILITIES

| | |
|----------------------------------|--|
| Accounts Payable | |
| Wages, Salaries Payable | |
| Short Term Loans Payable | |
| Others (Describe) | |
| TOTAL CURRENT LIABILITIES | |

LONG TERM LIABILITIES

| | |
|------------------------------------|----------|
| Loans Payable | |
| Others (Describe) | |
| TOTAL LONG TERM LIABILITIES | B |
| TOTAL LIABILITIES | C |
| SURPLUS/DEFICIT (A-C) | |

PART 2: STATEMENT OF INCOME AND EXPENDITURE

INCOME

| | |
|--------------------------|----------|
| Political Parties Fund | |
| Membership Fees | |
| Dividends on Shares | |
| Rent Received | |
| Profit on Sale of Assets | |
| Others (Describe) | |
| TOTAL INCOME | A |

EXPENDITURE

| | From Political Parties Fund | From Other Sources | |
|-------------------------------|-----------------------------|--------------------|----------|
| Salaries | | | |
| Rent Paid | | | |
| Transport | | | |
| Electricity Bill | | | |
| Other Administrative expenses | | | |
| TOTAL EXPENDITURE | | | B |
| SURPLUS/DEFICIT (A-B) | | | C |

PART 3: Reporting of activities implemented with the money allocated from the Fund.

| | | ACTIVITES | AMOUNT | TOTAL |
|----|---|-----------|--------|--------------|
| A. | Promoting representation of special interest groups (not less than 30% of the allocation from the Fund) | | | |
| | | | | |
| | | | | Subtotal |
| B. | Promoting active participation by citizens in political life and civic education | | | |
| | | | | |
| | | | | Subtotal |
| C. | Broadcasting policies and shaping public opinion | | | |
| | | | | |
| | | | | Subtotal |
| D. | Electoral expenses | | | |
| | | | | |
| | | | | Subtotal |
| E. | Administration (not more than 30% of the allocation from the Fund) | | | |
| | | | | |
| | | | | Subtotal |
| | | | | TOTAL |

Attach:

- (a) a cash flow statement; and
- (b) a summary of activities undertaken within the financial year.

This declaration is made to the best of our knowledge, information and belief.

Made this..... day of 20.....

Name and signature of three political party officials

- 1. Name.....
Signature.....
ID/Passport No.....
- 2. Name.....
Signature.....
ID/Passport No.....
- 3. Name.....
Signature.....
ID/Passport No.....

In the presence of a
Commissioner of Oaths/Magistrate.

FORM PPF 4

(r. 17)

DECLARATION OF ASSETS AND LIABILITIES OF A POLITICAL PARTY

NAME OF POLITICAL PARTY.....CERT. NO.....

STATEMENT OF ASSETS AND LIABILITIES AS OF

(This date being sixty days before date of election)

CURRENT ASSETS

- Cash on Hand
- Cash on Deposit
- Accounts Receivable
- Bonds, Stocks, Other Investments
- Inventory
- Other (Describe)

| | |
|----------------------|--|
| | |
| | |
| | |
| | |
| | |
| TOTAL CURRENT ASSETS | |

FIXED ASSETS

| | | |
|---------------------------|--|----------|
| Investments | | |
| Furniture and Fixtures | | |
| Office Equipment | | |
| Land and Buildings | | |
| Others (Describe) | | |
| TOTAL FIXED ASSETS | | |
| TOTAL ASSETS | | A |

CURRENT LIABILITIES

| | |
|----------------------------------|--|
| Accounts Payable | |
| Wages, Salaries Payable | |
| Short Term Loans Payable | |
| Others (Describe) | |
| TOTAL CURRENT LIABILITIES | |

LONG TERM LIABILITIES

| | |
|------------------------------------|----------|
| Loans Payable | |
| Others (Describe) | |
| TOTAL LONG TERM LIABILITIES | B |
| TOTAL LIABILITIES | C |
| SURPLUS/DEFICIT (A-C) | |

STATEMENT OF INCOME AND EXPENDITURE

INCOME

| | |
|--------------------------|----------|
| Membership Fees | |
| Dividends on Shares | |
| Rent Received | |
| Profit on Sale of Assets | |
| Others (Describe) | |
| TOTAL INCOME | A |

EXPENDITURE

| | | |
|------------------------------------|-----------------------|---|
| Salaries | | |
| Rent Paid | | |
| Transport | | |
| Electricity Bill | | |
| Stationery, Printing, Photocopying | | |
| Others (Describe) | | |
| | TOTAL EXPENDITURE | B |
| | SURPLUS/DEFICIT (A-B) | C |

This declaration is made to the best of our knowledge, information and belief.

Made this..... day of 20.....

Name and signature of three political party officials

1. Name.....
Signature.....
ID/Passport No.....
2. Name.....
Signature.....
ID/Passport No.....
3. Name.....
Signature.....
ID/Passport No.....

In the presence of a
Commissioner of Oaths/Magistrate.

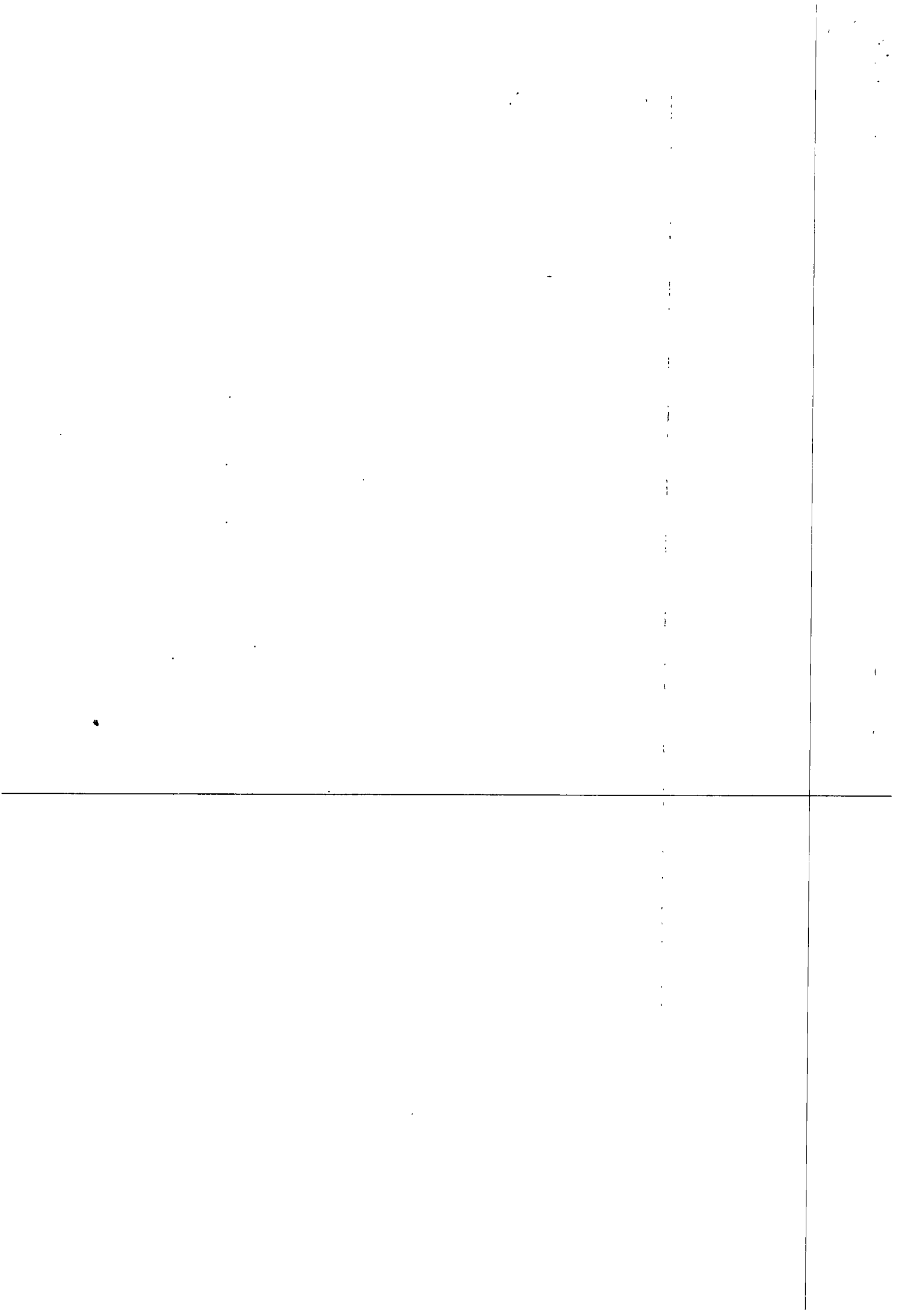
SECOND SCHEDULE

(r.16)

FEES

- | | |
|--|-----|
| 1. Application for official search | 500 |
| 2. Inspection/perusal..... | 500 |

ANNE NDERITU,
Registrar of Political Parties.





REPUBLIC OF KENYA

OFFICE OF THE ATTORNEY-GENERAL
&
DEPARTMENT OF JUSTICE

Our Ref: 1113/2/5

26th July, 2019

ANN N. NDERITU, MBS,
Registrar of Political Parties,
Lion Place, 1st Floor,
Off Waiyaki Way,
P.O Box 1131-00606,
NAIROBI.



RE: PUBLICATION OF THE POLITICAL PARTIES ACT, 2011, REGULATIONS

We refer to your letter dated 11th January, 2019 and Ref No: RPP/ORG/035/44 and our various correspondences on the above captioned matter.

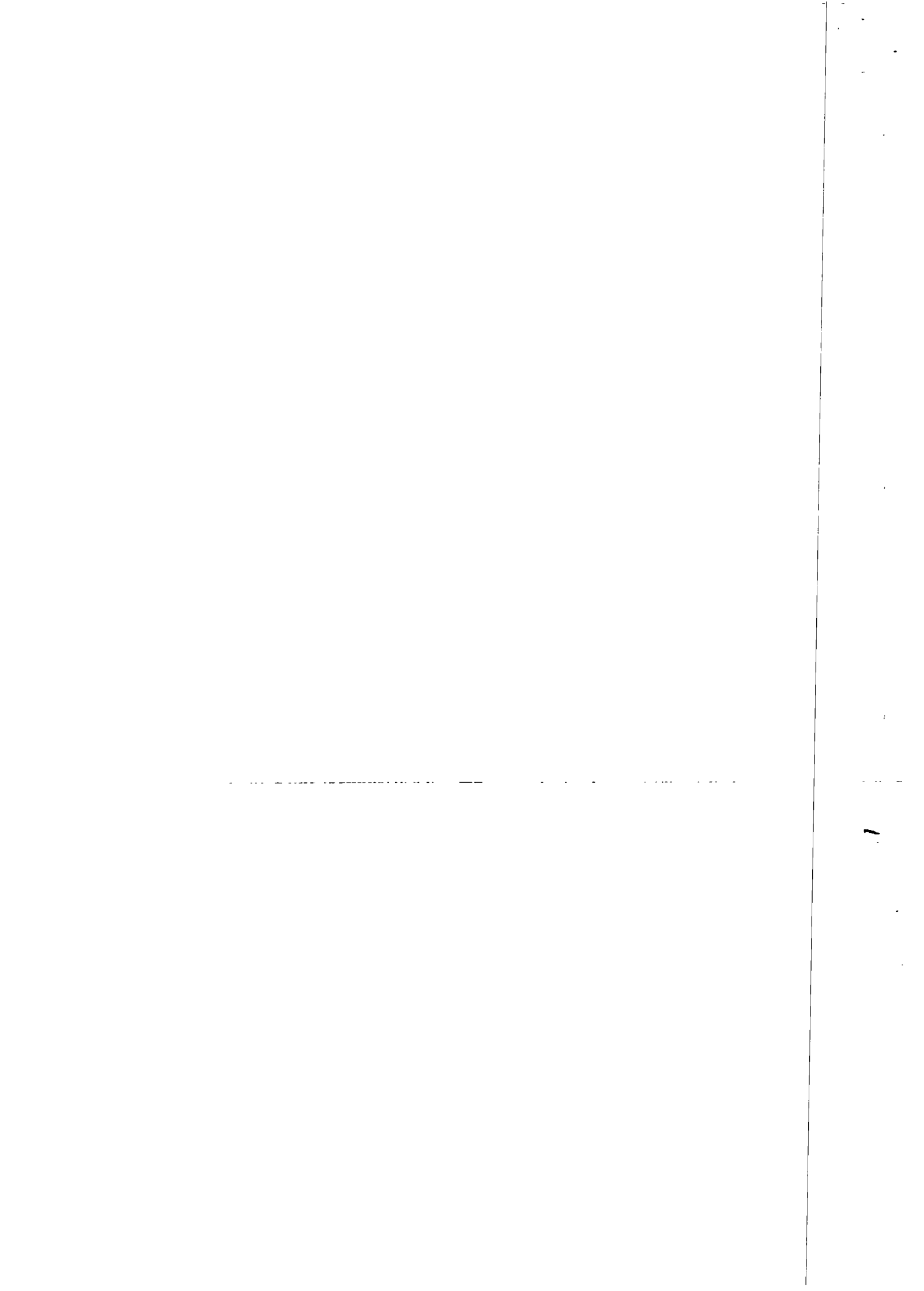
Enclosed herewith, please find the final draft Registration and Funding Regulations, one original and three copies of each, for your signature, if you approve.

Kindly let us have the signed original and two copies of each of the Notices for publication.


L.M. MURILA
CHIEF STATE COUNSEL
FOR: ATTORNEY-GENERAL

Copy to: 1. P. Kihara Kariuki
Attorney General.

2. Kennedy Ogeto, EBS,
Solicitor General.



EXPLANATORY MEMORANDUM TO THE PROPOSED POLITICAL PARTIES (FUNDING) REGULATIONS OF 2018

PART I

Name of Statutory Instruments

Political Parties (Funding) Regulations, 2018

Name of the Parent Act:

Political Parties Act, 2011

Enacted pursuant to:

Section 49 of the Political Parties Act, 2011

Name of the Ministry /Department:

Attorney General's Office and the Department of Justice

Gazetted on:

Tabled on:

PART II

1. Purpose of the Statutory Instrument

The Political Parties (Funding) Regulations is intended to enforce Part III of the Political Parties Act, 2011, Section 23 of which establishes the Political Parties Fund to be administered by the Registrar. This instrument provides for the structured guidelines for the management, purpose of the fund as well as the process of application of the funds and other matters connected thereto.

The Regulations are divided into five parts –

Part I – Preliminary

Part II – Administration and Management

Part III – Funding of political parties

Part IV – Accounting and Reporting

Part V – General Provisions

2. Legislative Context

Pursuant to the promulgation of the Constitution in 2010, Parliament was mandated to enact legislation to govern political parties under Article 92 of the same. The Political Parties Act, 2011 therefore came into effect in November 2011 to govern the registration, regulation and funding of political parties and for connected purposes. The proposed regulations are vital to give effect and enhance implementation of the Political Parties Act, 2011.

3. Policy Background

The Political Parties Act, 2011 repealed the Political Parties Act, 2007. However the regulations subsisting at the time continued to be in operation. The regulations enacted under the former Act have been in operation with alterations, adaptations and qualifications to bring it into conformity with the Constitution and the Political Parties Act, 2011. However, there is need to legislate the alterations hence informing the drafting of the proposed regulations. The proposed regulations provide precise procedures for implementation of the Act. The regulation was developed following

various consultative meetings with fully registered political parties and stakeholders where the need to have the regulation was underscored.

4. Consultation Outcome

The consultation process has taken place since the enactment of the parent Act in 2011, with key stakeholders being the political parties, Independent Electoral and Boundaries Commission, Kenya Law Reform Commission, The Judiciary, The Political Parties Dispute Tribunal, the Office of the Attorney General, the National Gender and Equality Commission and Kenya National Commission on Human Rights. There have been a total of sixteen stakeholder forums held with the final one held on 30th August 2016. All stakeholder recommendations were consolidated and drafters from the Office of the Attorney General and Kenya Law Reform Commission came up with initial draft regulations. The Office of the Registrar of Political Parties then tabled the regulations before the Parliamentary Committee on Delegated legislation in September 2016 where the members of the Committee approved the Regulations.

5. Guidance

The ORPP has developed and published simplified versions of the Act and Regulation in the form of manuals which have been disseminated to all political parties, key stakeholders and the general public.

6. Impact

6.1 Impact on fundamental rights and freedoms

This regulation will enhance the rights of citizens to make political choices stipulated under Article 38 of the Constitution.

6.2 On private sector

It will be a long term benefit to the private sector since the political environment will be effectively regulated and fair to promote peace during the electoral cycle. This will enhance achievement of the Kenya Vision 2030 Political objectives.

6.3 Public sector

The Kenyan citizenry will be aware of their political rights, the management of political parties and the importance of political parties in promoting democracy.

7. Monitoring and Review

The Office of the Registrar of Political Parties will undertake continuous monitoring and evaluation in line with the mandate conferred to the Office vide Section 34 of the Political Parties Act, 2011.

8. Contact

Ann N. Nderitu, MBS

Registrar of Political Parties

Office of the Registrar of Political Parties

Lion Place 1st Floor Westlands, off Waiyaki Way

P.O Box 1131-00606

Nairobi, Kenya.

Telephone: +254(020)4272000, Email: rpp@iebc.or.ke