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***KENYA GAZETTE SUPPLEMENT***

**ACTS, 1998**

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**NAIROBI, 30th December, 1998**

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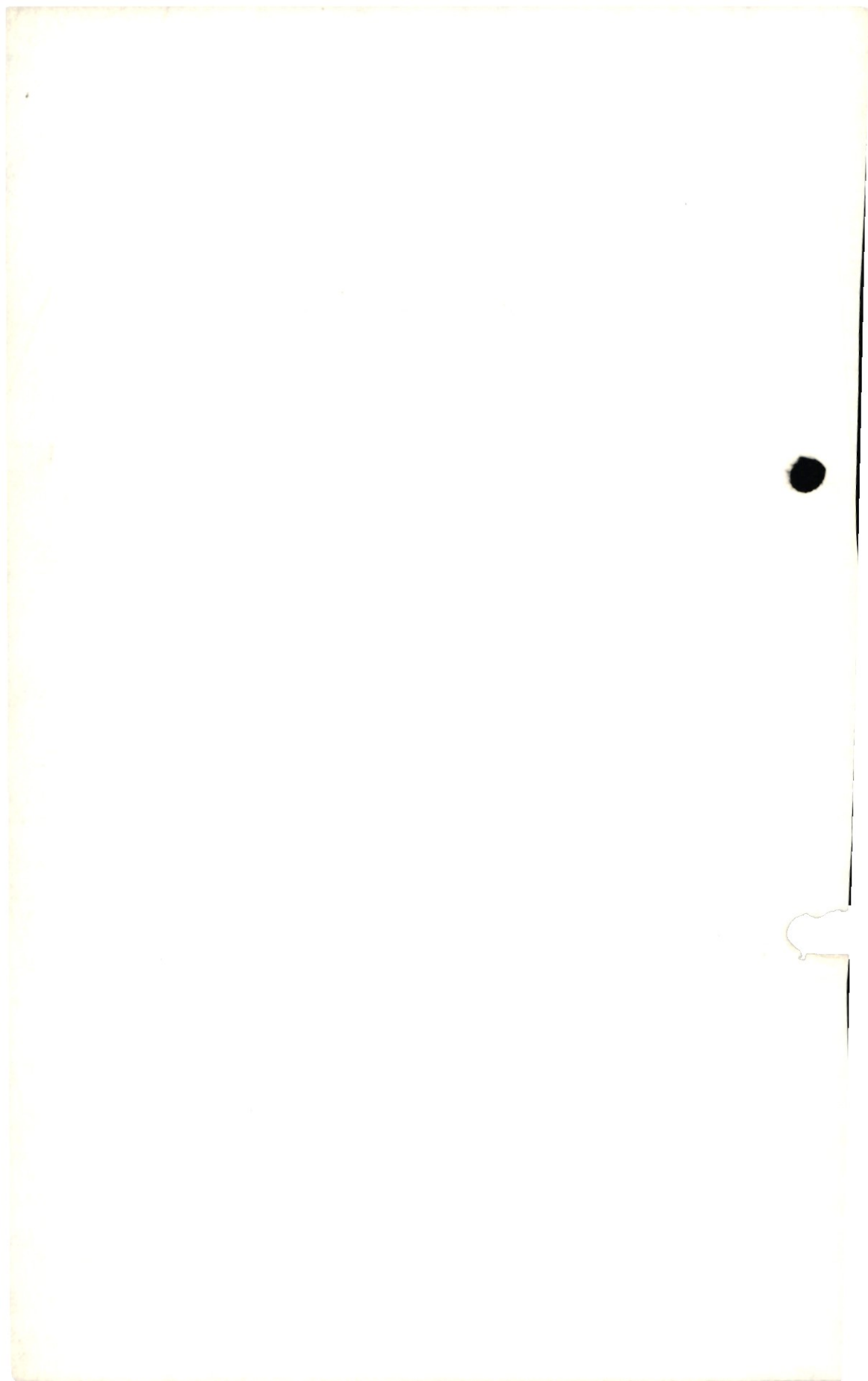
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**THE CONSTITUTION OF KENYA REVIEW ACT, 1997**

**No. 13 of 1997**

*Date of Assent: 7th November, 1997*

*Date of Commencement: By Notice*

**ARRANGEMENT OF SECTIONS**

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- 2-Interpretation.
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FIRST SCHEDULE - Bodies to be represented in the review process.

SECOND SCHEDULE - Oaths and affirmations.

THIRD SCHEDULE - Code of conduct for members of the Commission, District Forums, the National Forum and staff of the Commission.

**AN ACT of Parliament to facilitate the comprehensive review of the Constitution by the people of Kenya and its eventual alteration by Parliament; to provide for the establishment, powers and functions of the Commission, District Constitutional Forums and the National Constitutional Consultative Forum, and for connected purposes**

**ENACTED** by the Parliament of Kenya as follows:-

### **PART I - PRELIMINARY**

1. This Act may be cited as the Constitution of Kenya Review Act, 1997 and shall come into operation on such date as the President shall, by notice in the Gazette, appoint not being later than thirty days from the date of publication. Short title.

2. In this Act, unless the context otherwise requires - Interpretation.

“Commission” means the Constitution of Kenya Review Commission established under section 3;

“Commissioner” means a Commissioner appointed under this Act;

“the Constitution” means the Constitution of Kenya;

“District Forum” means a District Constitutional Forum established by the Commission under section 12A;

“Kenya Broadcasting Corporation” means the Kenya Broadcasting Corporation established under the Kenya Broadcasting Corporation Act; Cap. 221.

“Kenya National Library Services Board” means the Board established under the Kenya Library Services Board Act; Cap. 225

“National Forum” means the National Constitutional Consultative Forum established under section 16A;

“secretary” means the secretary appointed under section 6;

“youth” means a person below the age of thirty-five years.

Object and  
purpose of  
constitutional  
review.

**2A.** The object and purpose of the review and eventual alteration of the Constitution is to secure provision therein -

- (a) guaranteeing peace, national unity and integrity of the Republic of Kenya in order to safeguard the well-being of the people of Kenya;
- (b) establishing a free and democratic system of Government that enshrines good governance, constitutionalism, the rule of law, human rights and gender equity;
- (c) recognising and demarcating divisions of responsibility among the state organs of the executive, the legislature, and the judiciary so as to create checks and balances between them and to ensure accountability of the Government and its officers to the people of Kenya;
- (d) promoting the peoples’ participation in the governance of the country through democratic, free and fair elections and the devolution and exercise of power;
- (e) respecting ethnic and regional diversity and communal rights including the right of communities to organise and participate in cultural activities and the expression of their identities;

- (f) ensuring the provision of basic needs of all Kenyans through the establishment of an equitable framework for economic growth and equitable access to national resources; and
- (g) promoting and facilitating regional and international co-operation to ensure economic development, peace and stability and to support democracy and human rights.

**2B** (1) The organs through which the review process shall be conducted shall be -

Organs of  
review.

- (a) the Commission;
- (b) District Forums; and
- (c) the National Forum.

(2) The organs specified in sub-section (1) shall not be dissolved except in accordance with section 18.

**2C.** In the exercise of the powers or the performance of the functions conferred by this Act, the organs specified in section 2B shall -

Guiding  
principles.

- (a) be accountable to the people of Kenya;
- (b) ensure that the review process-
  - (i) accommodates the diversity of the Kenyan people including socio-economic status, race, ethnicity, gender, religious faith, age, occupation, learning, persons

- with disabilities and the disadvantaged;
- (ii) provides the people of Kenya an opportunity to actively, freely and meaningfully participate in generating and debating proposals to alter the Constitution;
- (iii) is, subject to this Act, conducted in an open manner;
- (iii) is guided by respect for the universal principles of basic human rights, gender equity and democracy; and
- (c) ensure that the final outcome of the review process faithfully reflects the wishes of the people of Kenya.

## PART II - ESTABLISHMENT AND COMPOSITION OF COMMISSION

Establishment and membership of the Commission.

3.(1) There is established a Commission to be known as the Constitution of Kenya Review Commission.

(2) The Commission shall, subject to subsection (3), consist of -

- (a) the chairperson appointed in accordance with section 5;
- (b) thirteen persons nominated by the political parties represented in the Inter-Parties Parliamentary



- Committee of whom at least two shall be women;
- (c) one person nominated by the Muslim Consultative Council and the Supreme Council of Kenya Muslims;
  - (d) one person nominated by the Kenya Episcopal Conference;
  - (e) one person nominated by the protestant churches in Kenya as represented by –
    - (i) the National Council of Churches of Kenya;
    - (ii) the Seventh Day Adventist Church;
    - (iii) the Church of God;
    - (iv) the Kenya Indigenous Christian Churches;
    - (v) the Evangelical Fellowship of Kenya;
  - (f) five persons nominated by women's organisations through the Kenya Women's Political Caucus of whom at least one shall be a woman with a disability;
  - (g) four persons nominated by the civil society through the National Council of Non-Governmental Organisations, particular regard being had to the youth, the disabled,

professional associations and the pastoralists in Kenya, of whom at least one shall be a person with a disability and one a woman;

- (h) The Attorney-General or his representative who shall be an *ex-officio* commissioner.

(3) The membership of the Commission under subsection (2) shall include at least two representatives from each province in Kenya.

(4) In nominating the members of the Commission, the bodies referred to in subsection (2) shall –

- (a) give preference to persons who, in addition to the qualifications specified in section 4A, hold relevant professional or technical qualifications;
- (b) have regard to Kenya's ethnic, geographical, cultural, political, social and economic diversity;
- (c) save in the case of women's organisations, take into account the principle of gender equity.

(5) In this section –

“civil society” means private voluntary groupings of individuals or associations, including but not limited to those specified in Part D of the First Schedule;

“Inter-Parties Parliamentary Committee” means the committee of Members of Parliament from all parliamentary political parties constituted on the 2<sup>nd</sup> April,

1998 to facilitate consultations on the constitutional review process;

“the Kenya Women’s Political Caucus” means the Kenya Women’s Political Caucus existing at the commencement of this Act, being a network of women’s organisations, including but not limited to those specified in Part C of the First Schedule”;

“the National Council of Non-Governmental Organisations” means the National Council of Non-Governmental Organisations established under the Non-Governmental Organisations Co-ordination Act, 1990.

No.19 of 1990.

4. (1) Within fifteen days of the commencement of this Act, the bodies referred to in subsection (2) of section 3 shall submit to the Attorney-General the names of the persons nominated in accordance with that section for appointment as commissioners.

Procedure for appointing commissioners.

(2) The Attorney-General shall forthwith upon receipt of the names of the nominees submitted under subsection (1), convene a consultative meeting of the nominating bodies specified in subsection (2) of section 3, to verify and ensure the compliance of the nominations with the requirements of this Act and the consultative meeting shall reject any nominations which do not meet the said requirements and require compliance therewith within ten days:

Provided that where any body fails to comply within the specified period, the nominations in respect of that body shall, upon the appointment of the Commission, be deemed to be vacancies on the Commission liable to be filled in accordance with section 9(5).

(3) The Attorney-General shall, within seven days of the consultative meeting convened under subsection (2), compile and submit to the President a list of the nominees verified by the said consultative meeting, for appointment as commissioners.

(4) The President shall, within fifteen days of the receipt of the list of nominees under subsection (3), notify the appointment of the Commissioners so nominated in the Gazette.

Qualifications  
and disquali-  
fications for  
appointment as  
commissioner.

**4A(1)** Subject to subsection (2), a person shall be qualified for appointment as a commissioner if such person is-

- (a) of sound mind;
- (b) a person of integrity, good character and good standing and with learning or experience in public affairs; and
- (c) educated up to a minimum of 'O' level standard or its equivalent.

(2) Notwithstanding the provisions of subsection (1), a person shall not be qualified for appointment as a commissioner if such person -

- (a) is an undischarged bankrupt or;
- (b) has been convicted of an offence, other than an offence of a political nature, and sentenced to imprisonment for a term of six months or more without the option of a fine.

Chairperson  
and vice-  
chairperson.

**5.(1)** There shall be a chairperson and a vice-chairperson of the Commission who shall be nominated by the commissioners and appointed by the President in accordance with this section.

(2) The Attorney-General shall, within fifteen days of the appointment of the commissioners, convene the first meeting of the Commission at which the commissioners shall nominate a chairperson and a vice-chairperson of the Commission.

(3) A person shall be qualified for appointment as the chairperson if such person -

- (a) holds or has held office as a judge of the High Court or the Court of Appeal; or
- (b) is an advocate qualified for appointment as a judge of the High Court under section 61 of the Constitution; or
- (c) has been engaged in the teaching of law in a recognised university in Kenya for at least fifteen years.

(4) Persons qualified for appointment in terms of subsection (3) shall include any commissioners so qualified.

(5) The vice-chairperson shall be nominated from amongst the commissioners.

(6) The Attorney-General shall, within seven days of the nominations under subsection (2), forward the names of the nominees to the President for the appointment of the chairperson and the vice-chairperson.

(7) The President shall, within seven days of the receipt of the nominees under subsection (6), by notice in the Gazette, appoint the persons so nominated to be the chairperson and the vice-chairperson of the Commission respectively.

(8) The chairperson and the vice-chairperson of the Commission shall be of opposite gender.

The Secretariat.

6. (1) There shall be a secretary of the Commission who shall be appointed by the Commission and who shall serve on a full time basis.

(2) There shall be at least three deputy secretaries appointed by the Commission to assist the secretary in administration, research and drafting and other duties or functions of the Commission.

Staff of the Commission, experts and consultants.

7.(1) The staff of the Commission shall comprise -

- (a) such officers and other staff as the Commission may appoint to assist it in the discharge of its functions under this Act; and
- (b) such public officers as may be necessary for the purposes of the Commission as may, upon the request of the Commission, be seconded thereto by the Public Service Commission and such public officers shall, during their secondment, be deemed to be officers of the Commission and subject to the direction and control of the Commission.

(2) The Commission may employ experts or consultants to assist the Commission as appropriate and necessary under this Act.

Oaths of office and affirmations.

8. (1) A commissioner, the secretary and the deputy secretaries appointed under this Act shall, according to their religious or other beliefs -

- (a) make and subscribe to the oath prescribed in the Second Schedule; or
- (b) make the solemn affirmation in the form prescribed in the Second Schedule.

before the Chief Justice, prior to embarking on the duties of the Commission.

(2) Every oath and affirmation made and subscribed to under this section shall be deposited with the secretary and with the Attorney-General.

**8A.**(1) For the better discharge of the functions of the Commission, the District Forums and the National Forum under this Act, the code of conduct prescribed in the Third Schedule shall apply.

Code of  
conduct.

(2) A person who breaches the provisions of the code of conduct shall -

- (a) in the case of a commissioner, the secretary or a member of a District Forum or of the National Forum, subject to the provisions of section 9, be disqualified from holding office as such; and
- (b) in the case of a member of staff of the Commission, be liable to such disciplinary action as the Commission may prescribe.

**9.** (1) The term of office of a commissioner (other than the *ex officio* commissioner) or the secretary shall be from the date of appointment under section 4 and shall, unless the commissioner or the secretary resigns under subsection (2) or the office falls vacant earlier because of any reason specified in subsection (3), terminate on the date of the repeal of this Act under section 18.

Tenure of office  
of commissioners  
and secretary.

- (2)(a) A commissioner or the secretary may, at any time after appointment, resign, by notice in writing to the President through the chairperson of the Commission and the resignation shall take effect from the date the President receives the notice;

- (b) The President shall notify every resignation in the Gazette within fifteen days thereof.

(3) The office of a commissioner, the secretary or a member of a District Forum or the National Forum shall fall vacant if the person -

- (a) dies; or
- (b) resigns from office; or
- (c) is adjudged bankrupt; or
- (d) is convicted of an offence and sentenced to imprisonment for a term of six months or more without the option of a fine; or
- (e) is in breach of the code of conduct prescribed under section 8A; or
- (f) without reasonable excuse, fails to attend eight consecutive meetings of the Commission, the District Forum or the National Forum; or
- (g) is by reason of physical or mental infirmity, unable to discharge his duties as a commissioner or as the secretary or as a member of the District or the National Forum; or
- (h) is for any other reason unable or unwilling to act as a commissioner, the secretary or as a member of the District or the National Forum;

and in any case to which paragraphs (e), (f), (g) and (h) apply, the breach, failure, inability or unwillingness is noted by the Commission, the District Forum or the National Forum in its



records and supported by a resolution of two-thirds majority of the members and the person is informed of the termination of the appointment in writing through the secretary or where the affected person is the secretary, through the chairperson.

(4) Where any vacancy occurs on the Commission under section 4(2) or under this section, the Commission shall, within seven days of such occurrence, notify the President of the vacancy through the Attorney-General.

(5) The Attorney-General shall, within seven days of the notification under subsection (4), seek nomination of a suitable replacement from the body required to nominate the person in respect of whom the vacancy occurs:

Provided that where the body fails to comply within fifteen days of the requirement, the Attorney-General shall seek nomination of a replacement by the Commission and the Commission shall nominate and submit the name of a suitable replacement within fifteen days.

(6) The Attorney-General shall, within seven days of the receipt of the name of the nominee under subsection (5), forward the name to the President for appointment.

(7) The President shall, within fifteen days of the receipt of the name of the nominee under subsection (6), by notice in the Gazette, appoint the person so nominated as a Commissioner.

(8) The Commission may, subject to its rules of procedure, act notwithstanding a vacancy, and its proceedings shall not be invalid by reason of the presence or participation of a person not entitled to be present at or to participate in those proceedings.

Disqualification  
of commissioners  
for election.

**9A.** The office of a commissioner shall be deemed to be an office for the purposes of subsection (1)(f) of section 35 of the Constitution.

### **PART III – FUNCTIONS, POWERS AND PRIVILEGES OF THE COMMISSION AND COMMISSIONERS**

Functions of  
the Commis-  
sion.

**10.** The functions of the Commission shall be-

- (a) to conduct and facilitate civic education in order to stimulate public discussions and awareness on constitutional issues;
- (b) to collect and collate the views of the people of Kenya on proposals to alter the Constitution and on the basis thereof, to draft a Bill to alter the Constitution for presentation to the National Assembly;
- (c) to carry out or cause to be carried out such studies, researches and evaluations concerning the Constitution and other constitutions and constitutional systems as, in the Commission's opinion, may inform the Commission and the people of Kenya on the state of the Constitution of Kenya; and
- (d) without prejudice to paragraphs (b) and (c), to ensure that in reviewing the Constitution, the people of Kenya -
  - (i) examine and recommend the composition and functions of the organs of state, to wit, the executive, the legislature and the judiciary and their operations aiming to maximise their mutual checks and

- balances and secure their independence;
- (ii) examine the federal and unitary systems of government and recommend an appropriate system for Kenya.
  - (iii) examine and recommend improvements to the existing constitutional commissions, institutions and offices and the establishment of additional ones to facilitate constitutional governance and the respect for human rights and gender equity in Kenya as an indispensable and integral part of the enabling environment for economic, social, religious, political and cultural development;
  - (iv) examine and recommend improvements to the electoral system of Kenya;
  - (v) without prejudice to subparagraph (i), examine and make recommendations on the judiciary generally and in particular the establishment and jurisdiction of the courts, aiming at measures necessary to ensure the competence, accountability, efficiency, discipline and independence of the judiciary;
  - (vi) examine and review the place of local government in the constitutional organisation of the Republic of Kenya and the degree of the

devolution of powers to local authorities;

- (vii) examine and review the place of property and land rights, including private, Government and Trust land, in the constitutional framework and the law of Kenya and recommend improvements that will secure the fullest enjoyment of land and other property rights;
- (viii) examine and review the management and use of public finances and recommend improvements thereto;
- (ix) examine and review the right to citizenship and recommend improvements that will, in particular, ensure gender parity in the conferment of the right;
- (x) examine and review the socio-cultural obstacles that promote various forms of discrimination and recommend improvements to secure equal rights for all;
- (xi) examine and review the rights of the child and recommend mechanisms that will guarantee protection thereof;
- (xii) examine and review succession to office and recommend a suitable system for the smooth and dignified transfer of power after an election or otherwise;

- (xiii) examine and recommend on the treaty-making and treaty-implementation powers of the Republic and any other relevant matter to strengthen good governance and the observance of Kenya's obligations under international law;
- (xiv) examine and make recommendations on the necessity of directive principles of state policies;
- (xv) examine and make recommendations on any other matter which is connected with or incidental to the foregoing and achieves the overall objective of the constitutional review process.

11. (1) For the purposes of carrying out of its functions under this Act, the Commission shall have all such powers as are necessary for those functions and, without prejudice to such generality, the Commission –

Powers of the Commission.

- (a) shall, without let or hindrance, receive memoranda, hold public or private hearings throughout Kenya and in any other manner collect and collate the views and opinions of Kenyans, whether resident in or outside Kenya, and for that purpose the Commission may summon public meetings of the inhabitants of any area for the discussion of any matter relevant to the functions of the Commission;
- (b) may summon any public officer to appear in person before it or before a committee or to produce any document or thing or information that may be considered relevant to the functions of the Commission.

Committees of  
the Commission.

**12.** The Commission may establish such committees of the Commission as it may deem necessary for the better carrying out of its functions under this Act.

District  
Forums.

**12A.** (1) Notwithstanding the provisions of any other written law, the county council of every district shall facilitate the establishment by the Commission of a District Forum in the district:

Provided that for the purposes of this section, Mombasa district and the Nairobi Area shall be deemed to comprise two and four districts respectively.

- (2) Each District Forum shall consist of -
- (a) three elected representatives of each location in the district one of whom shall be a woman and one a youth;
  - (b) elected representatives of the major religious organisations in the district who shall comprise not more than ten per cent of the total membership of the District Forum under paragraph (a);
  - (c) two elected representatives of the major organisations of persons with disabilities in the district, of whom at least one shall be a woman;
  - (d) the members of Parliament and the members of every local authority in the district:

Provided that the members under this paragraph shall not count for purposes of quorum at any meeting of the District Forum; and

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- (e) two other persons elected by the members under paragraphs (a), (b) and (c) appointed by the Commission as co-ordinators of the District Forum, who shall be the joint secretaries of the Forum, at least one of whom shall be a woman.

(3) A person shall not be qualified for election as a member of a District Forum under paragraphs (a), (b) or (c) of subsection (2) unless such person is a person of integrity and good character.

(4) A person shall not be qualified for appointment as a co-ordinator under paragraph (e) of subsection (2) unless such person -

- (a) has a minimum of 'O' level standard of education or its equivalent; and
- (b) is a person of integrity and good character.

(5) The members of a District Forum shall, at their first meeting, elect one of their number to be the chairperson.

(6) The functions of District Forums shall be to mobilise communities at the local level for the purpose of civic education in preparation for the Commission's work and to perform such other duties as the Commission may assign.

(7) The members of a District Forum other than the co-ordinators shall serve on a voluntary basis but shall be entitled to such nominal allowances to cover food and transport expenses as the Commission may determine.

(8) Any vacancy in the membership of a District Forum shall be filled through the election of a qualified replacement by the body required under this section to elect the person in respect of whom the vacancy occurs.

(9) The Commission shall, in regulations -

- (a) prescribe the procedure for meetings of District Forums;
- (b) prescribe the manner of discharging the functions of District Forums under this section; and
- (c) provide for the manner of meeting the expenses related to the operations of District Forums.

(10) Subject to any regulations made under subsection (9), the District Forums shall regulate their own procedure.

(11) Subject to subsection (1), the words "county council" and "district" shall, for the purposes of this section, be construed to mean a county council or a district existing at the time of the 1997 general elections.

Procedure.

**13.(1)** Subject to this section, the Commission shall regulate its own procedure and that of its committees.

(2) Subject to subsection (2A), the Commission shall hold such number of meetings in such places, at such times and in such manner as the Commission shall consider necessary for the discharge of its functions under this Act.

(2A) Notwithstanding the provisions of subsection (2), any meeting of the Commission for the collection of the views of the public shall be held in public except on



the written request of any person being heard that the hearing be private.

- (3) The chairperson shall -
- (a) preside over all meetings of the Commission, and in the absence of the chairperson for any cause, the vice-chairperson shall preside; and
  - (b) be the spokesperson for the Commission and in the absence of the chairperson, the vice-chairperson shall be the spokesperson:

Provided that in the absence of both the chairperson and the vice-chairperson for any cause, the commissioners present shall elect one of their number to perform the functions under this subsection during such absence.

(4) The quorum of the Commission and of any of its committees shall be one half of the members.

(5) All questions before the Commission or a committee of the Commission shall be determined by a majority of the members present and voting, and in the event of an equality of votes, the chairperson, or in the absence of the chairperson the vice-chairperson, (or as the case may be the chairperson or vice-chairperson of the committee), shall have a second or a casting vote:

Provided that important decisions of the Commission and any of its committees shall be arrived at by a two-thirds majority of the commissioners where there is no unanimity.

- (6) The secretary shall be responsible for -
- (a) the day to day administration of the affairs of the Commission;

- (b) the co-ordination of the Commission's studies, research and evaluations;
- (c) the direction and supervision of the staff, experts and consultants;
- (d) the recording of the proceedings;
- (e) the writing of the Commission's report including the preparation of any proposal for a draft Bill to alter the Constitution;
- (f) custody of all records and documents of the Commission.

Publication of Commission's records.

**13A.** (1) Subject to subsection (2A) of section 13, the Commission shall avail the record of the proceedings of every meeting of the Commission within ten days thereof through -

- (a) the documentation centres established under section 13B;
- (b) the libraries provided by the Kenya National Library Services Board throughout the country; and
- (c) through the print and the electronic media.

(2) Notwithstanding the provisions of any other written law, the Kenya Broadcasting Corporation shall, for the purposes of subsection (1)(c), allocate to the Commission free air time on both radio and television as follows: -

- (a) in the case of radio, at least one hour per day on the Kiswahili service and the English

service and such air time as the Corporation may, in consultation with the Commission, deem sufficient on the vernacular services;

- (b) in the case of television, at least one hour per day and shall provide a sign language inset or sub-titles in all news casts, civic educational programmes and in all programmes covering the constitutional review process.

**13B.** (1) Notwithstanding the provisions of any other written law, the county council of every district shall facilitate the establishment by the Commission of a documentation centre in the district for the preservation and dissemination to the public of the records of the deliberations and proceedings of the Commission and such other information as the Commission may direct.

Documentation centres.

(2) Any person may, during working hours, inspect at the documentation centre, any of the records preserved therein and may obtain copies thereof upon payment of such fee as may be prescribed.

**14.** (1) A commissioner or the secretary shall not be liable to any civil action or suit for or in respect of any matter or thing done or omitted to be done in good faith as a commissioner or as the secretary.

Privileges of commissioners and secretary during office and other immunities.

(2) No commissioner or secretary shall be liable to arrest under civil process while proceeding to, participating in, or returning from any meeting of the Commission or of any committee thereof.

(3) No person who appears before the Commission shall, whether such appearance is in pursuance of any summons by the Commission under this Act or not, be liable to any criminal or civil proceedings, or to any penalty or forfeiture whatsoever in respect of

any evidence or information given to the Commission by such person.

Offence to  
ignore summons  
of Commission.

15. A public officer who, without lawful cause or excuse, fails to appear before the Commission pursuant to any summons by the Commission commits an offence and shall be liable on conviction to a fine not exceeding ten thousand shillings, or to imprisonment for a term not exceeding three months, or to both.

#### **PART IV – REPORT OF THE COMMISSION AND ACTION THEREON**

Completion of the  
work, report and  
action thereon.

16.(1) The Commission shall –

- (a) within two months of its appointment, set up its secretariat and appoint the officers and other staff thereof;
- (a) for four months following the establishment of the secretariat, conduct and facilitate civic education in order to stimulate public discussions and awareness of constitutional issues;
- (b) for twelve months following the expiry of the period prescribed in paragraph (b), collect and collate the views of the people on proposals to alter the Constitution; and
- (c) within six months following the expiry of the period prescribed in paragraph (c), compile its report together with a summary of the recommendations and on the basis

thereof, draft a Bill to alter the Constitution.

**16A(1)** There shall be a National Constitutional Consultative Forum comprising - The National Forum.

- (a) all members of Parliament who shall be *ex-officio* members;
- (b) all members of the Commission who shall *ex-officio* members;
- (c) three representatives of each district to be nominated by the District Forums, at least one of whom shall be a woman and one a youth;
- (d) two representatives of each of the bodies specified in the First Schedule; and
- (e) such other members appointed by the Commission to represent interests not adequately represented under the fore-going paragraphs as the Commission may determine:

Provided that the members under paragraphs (d) and (e) shall not exceed one third of the total membership of the Forum under paragraphs (a), (b) and (c).

(2) Any vacancies arising in respect of the members of the forum under paragraphs (c), (d) and (e) shall be filled through the nomination of a qualified replacement by the body required by this section to nominate the member in respect of whom the vacancy occurs.

(3) The Commission may employ such number of experts or consultants as the Commission may consider

necessary for the performance of the functions of the National Forum.

(4) The chairperson of the Commission shall be the chairperson of the National Forum.

(5) The Commission shall, within thirty days after the expiry of the period prescribed in section 16 for the publication and public debate of the report and the draft Bill to alter the Constitution, convene the National Forum and shall, at least twenty-one days before the date of the first meeting thereof, send copies of the report of the Commission together with the draft Bill to all members of the National Forum.

(6)(a) The functions of the National Forum shall be to study the report of the Commission together with the draft Bill to alter the Constitution and to debate, amend and adopt the proposals contained therein.

(b) Important decisions of the National Forum shall be arrived at by a two-thirds majority of the members where there is no unanimity.

(7) The National Forum may, if it deems it necessary, refer any matter arising from the report or the draft Bill back to the Commission for further study, investigation or inquiry and the Commission shall, upon such reference, conduct the necessary study, investigation or inquiry and report back to the Forum within the period prescribed for the completion of the Forum's work under subsection (8).

(8) The National Forum shall complete its work within three months and shall on the expiry thereof, submit the report and the draft Bill as adopted by the Forum, with or without amendments, to the Commission.

(9) The chairperson of the Commission shall forward the report and the draft Bill as adopted by the

National Forum to the Attorney-General for introduction to the National Assembly.

(10) The Attorney-General shall, after the receipt of the report and the draft Bill under subsection (9), table it before the National Assembly within thirty days of the day the Assembly next sits after the report is received.

## PART V - EXPENSES OF THE REVIEW PROCESS

17.(1) The expenses of the constitutional review process incurred by the Commission, the District Forums and the National Forum in accordance with this Act shall be charged on and issued out of the Consolidated Fund without further appropriation than this Act.

Funds for expenses of the review process.

(2) Without prejudice to sub-section (1), there may be made to the organs specified in subsection (1), through the Permanent Secretary to the Treasury, grants, gifts, donations or bequests towards the achievement of the objects of the review process specified in section 2A:

Provided that no grant, gift, donation or bequest shall be made on any condition that the said organs perform any function or discharge any duty or obligation other than duties under this Act aimed at achieving the objects of the constitutional review process.

17A.(1) There is established a Fund to be known as the Constitution of Kenya Review Fund which shall be administered, on behalf of the Commission, by the secretary.

Constitution of Kenya Review Fund.

(2) There shall be paid into the Fund -

- (a) such monies as may be appropriated out of the Consolidated Fund for the constitutional review process pursuant to this Act; and
- (b) any grants, gifts, donations or bequests received under section 17(2).

(3) There shall be paid out of the Fund all payments in respect of any expenses incurred in pursuance of the provisions of this Act.

Cap.412 (4) The secretary shall, in administering the Fund, consult with the Permanent Secretary to the Treasury and, subject to provisions of the Exchequer and Audit Act, manage the Fund in such manner as promotes the object and purpose of the review process.

(5) Upon the dissolution of the Commission under section 18, any assets standing to the credit of the Constitution of Kenya Review Fund shall, subject to any condition of a gift, donation or bequest, be credited to the Consolidated Fund.

Accounts and  
Audit.

Cap.412 **17B.** The accounts of the Constitution of Kenya Review Fund shall be kept, audited and reported upon to the National Assembly in accordance with section 18 and 19 of the Exchequer and Audit Act



## PART VI - DISSOLUTION OF ORGANS OF REVIEW AND FINAL PROVISIONS

18.(1) Notwithstanding anything to the contrary in this Act or in any other written law-

Dissolution of the organs of review and repeal of Act.

- (a) the submission of the report and the draft Bill to alter the Constitution to the Attorney-General under subsection (8) of section 16A shall operate to dissolve the District Forums and the National Forum;
- (b) the enactment of the Bill to alter the Constitution tabled before the National Assembly under subsection (9) of section 16A shall operate to repeal this Act and to dissolve the Commission and the terms of office of the commissioners shall expire from the date of enactment save that the secretary and such number of staff as shall be necessary, shall remain in office for such period as may be necessary to conclude the financial and administrative affairs of the Commission.

19. (1) The Commission may make Regulations generally for the better carrying out of its functions under this Act.

Regulations.

(2) Without prejudice to the generality of subsection (1), regulations under this section may -

- (a) prescribe anything required by this Act to be prescribed;
- (b) subject to this Act, prescribe the procedure for -

- (i) nominating the chair-person, the vice-chairperson and the members of the Commission and any members of the National Forum required by this Act to be nominated;
- (ii) electing the members of District Forums,  
  
and for the filling of any vacancies arising in respect thereof; and
- (c) prescribe the disciplinary procedures applicable to the staff of the Commission.

**FIRST SCHEDULE**

(ss.3(5), 16A)

**BODIES TO BE REPRESENTED IN THE REVIEW PROCESS****PART A***Political Parties*

Kenya African National Union.  
 Democratic Party of Kenya.  
 National Development Party.  
 Ford-Kenya.  
 Social Democratic Party.  
 Shirikisho Party of Kenya.  
 Kenya Social Congress.  
 Ford-People.  
 Ford-Asili.  
 Safina.  
 Non-Parliamentary Political Parties.

**PART B***Religious Organisations*

Kenya Episcopal Conference.  
National Council of Churches of Kenya.  
Evangelical Fellowship of Kenya.  
Anglican Church of Kenya.  
Methodist Church of Kenya.  
Church of God in East Africa.  
Seventh Day Adventists.  
Supreme Council of Kenya Muslims.  
Muslim Consultative Council.  
Hindu Council of Kenya.

**PART C***Women's Organisations*

Kenya Women's Political Caucus.  
Maendeleo Ya Wanawake.  
League of Kenya Women Voters.  
Collaborative Centre for Gender and Development.  
Kenya Widows and Orphans Association.  
Federation of Women Lawyers (Kenya Chapter).  
National Council of Women of Kenya.  
Muslim Consultative Council (Sisters Network).

**PART D***Civil Society*

Central Organization of Trade Unions.  
Kenya National Union of Teachers.  
Law Society of Kenya.  
Association of Professional Societies of East Africa.  
International Commission of Jurists (Kenya Chapter).  
Kenya Human Rights Commission.  
Kenya Medical Association.  
Kenya National Association of the Deaf.

United Disabled Persons of Kenya.  
 Kenya Society for the Disabled.  
 Kenya Alliance for Advancement of Children.  
 Kenya National Students Union.  
 Kenya National Youth Alliance.  
 Kenya Law Students Society.  
 Media Institute.  
 Kenya National Farmers Union.  
 Kenya National Federation of Co-operatives.  
 Federation of Kenya Employers.  
 Kenya Association of Manufacturers.  
 National Chamber of Commerce and Industry.  
 Kenya Pastoralist Forum.  
 National Council of Non-Governmental Organizations.  
 Citizens Coalition for Constitutional Change (4Cs).  
 National Convention Executive Council.  
 Association of Local Government Authorities of Kenya.

**SECOND SCHEDULE**

(s.8)

**OATH OFFICE OF A COMMISSIONER**

I ..... being appointed  
 a commissioner under the Constitution of Kenya Review Commission Act, 1997  
 do solemnly swear that I will faithfully and fully, impartially and to the best of  
 my ability discharge the trust and perform the functions and exercise the powers  
 devolving upon me by virtue of this appointment without fear, favour, bias,  
 affection, ill-will or prejudice and to the end that in the exercise of the functions  
 and powers as such commissioner I shall not be influenced by any political  
 party, religious society or other organisation or person which may have  
 nominated me for appointment. So help me God.

.....  
**COMMISSIONER**

.....  
**CHIEF JUSTICE**

**SOLEMN AFFIRMATION OF A COMMISSIONER**

I ..... being appointed a commissioner under the Constitution of Kenya Review Commission Act, 1997 do solemnly declare and affirm that I will faithfully and fully, impartially and to the best of my ability discharge the trust and perform the functions and exercise the powers devolving upon me by virtue of this appointment without fear, favour, bias, affection, ill-will or prejudice and to the end that in the exercise of the functions and powers as such commissioner I shall not be influenced by any political party, religious society or other organisation or person which may have nominated me for appointment.

.....  
**COMMISSIONER**

.....  
**CHIEF JUSTICE**

**OATH OF OFFICE OF THE SECRETARY OR A DEPUTY SECRETARY**

I ..... being appointed the secretary/a deputy secretary under the Constitution of Kenya Review Commission Act, 1997 do solemnly swear that I will faithfully and fully, impartially and to the best of my ability discharge the trust and perform the functions and exercise the powers devolving upon me by virtue of this appointment without fear, favour, bias, affection, ill-will or prejudice and to the end that in the exercise of the functions and powers as such secretary/deputy secretary I shall not be influenced by any political, religious or other interest, or by any person. So help me God.

.....  
**SECRETARY/DEPUTY SECRETARY**

.....  
**CHIEF JUSTICE**

**SOLEMN AFFIRMATION OF THE SECRETARY AND A DEPUTY  
SECRETARY**

I ....., being appointed the secretary/a deputy secretary under the Constitution of Kenya Review Commission Act, 1997 do solemnly and sincerely declare and affirm that I will faithfully and fully, impartially and to the best of my ability discharge the trust and perform the functions and exercise the powers devolving upon me by virtue of this appointment without fear, favour, bias, affection, ill-will or prejudice and to the end that in the exercise of the functions and powers as such secretary/deputy secretary I shall not be influenced by any political, religious or other interest, or by any person.

.....  
**SECRETARY/DEPUTY SECRETARY**

.....  
**CHIEF JUSTICE**

**THIRD SCHEDULE ( s.8A)**

**CODE OF CONDUCT FOR MEMBERS OF THE COMMISSION,  
DISTRICT FORUMS, THE NATIONAL FORUM AND STAFF OF  
THE COMMISSION**

*Impartiality and Independence of Members*

1. (1) Every member of the Commission, a District Forum or the National Forum shall serve impartially and independently and perform the functions of his office in good faith and without fear, favour or prejudice.
2. (1) No member of the Commission, a District Forum or the National Forum shall, during tenure of office, be eligible for appointment or nomination to any political office.

- (2) No member of the Commission, a District Forum or the National Forum may -
  - (a) by his or her membership, association, statement, conduct or in any other manner jeopardize the perceived independence of the member, or in any other manner prejudice the credibility, impartiality, independence or integrity of the Commission, the District Forum or the National Forum;
  - (b) make private use of or profit from any confidential information gained as a result of being a member of the Commission the District Forum or the National Forum.

*Disclosure of Conflicting Interests*

3. If a member of the Commission is directly or indirectly interested in any contract, proposed contract or other matter before the Commission, such member shall disclose the fact and shall not take part in the consideration or discussion of, or vote on, any question with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.
4. This Code shall apply with necessary modifications to the staff of the Commission.

