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# KENYA NATIONAL ASSEMBLY

**NINTH PARLIAMENT – SIXTH SESSION (2007)**

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**THE DEPARTMENTAL COMMITTEE  
ON  
ADMINISTRATION OF JUSTICE AND LEGAL AFFAIRS**

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**REPORT ON  
THE POLITICAL PARTIES BILL, 2007**

Clerk's Chambers,  
Parliament Buildings,  
**NAIROBI.**

April, 2007

## **PREFACE**

**Mr. Speaker Sir,**

The Departmental Committee on Administration of Justice and Legal Affairs is established under Standing Order No. 151; its mandate pursuant to Standing Order 151(4) is:-

- a) to investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;*
- b) to study the programme and policy objectives of the Ministries and departments and the effectiveness for implementation;*
- c) to study and know all legislation after First Reading, subject to the exceptions under Standing Order 101A (4);*
- d) to study, assess and analyze the relative success of Ministries and departments as measured by the results obtained as compared with its stated objectives;*
- e) to investigate and inquire into all matters relating to all assigned Ministries and Departments as the may deem necessary, and as may be referred to them by he House or a Minister and;*
- f) to make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.*

The Committee comprises:

- (i) Hon. Paul K. Muite, MP – Chairman
- (ii) Hon. Kenneth Marende, MP
- (iii) Hon. Jim Choge, MP
- (iv) Hon. Amina Abdalla, MP
- (v) Hon. Gideon Ndambuki, MP
- (vi) Hon. Moses Cheboi, MP
- (vii) Hon. Macharia Mukiri, MP
- (viii) Hon. Bifwoli Wakoli, MP
- (ix) Hon. Omingo Magara, MP
- (x) Hon. Zaddock Syong’o, MP
- (xi) Hon. Njoki Ndung’u, MP

**Mr. Speaker Sir,** On 4<sup>th</sup> April, 2007, the Political Parties Bill, 2007 was referred to this Committee after its First Reading. This Report contains the deliberations of the Committee on the proposed amendments to the Bill. In compiling this report, the Committee also took into consideration submissions from the Electoral Commission of Kenya.

**Mr. Speaker Sir,** it is now my pleasant duty and privilege, on behalf of the Departmental Committee on Administration of Justice and Legal Affairs, to present and commend this report to the House.

**SIGNED:**.....

**Hon. Paul Muite, MP**  
**Chairman, Departmental Committee on Administration of**  
**Justice and Legal Affairs**

**DATE:** 24/4/07.....

# PROPOSED COMMITTEE STAGE AMENDMENTS TO THE POLITICAL PARTIES BILL, 2007 (BILL NO.3)

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## CLAUSE 1

**THAT** Clause 1 of the Bill be amended by deleting the words "on such day as the President may by notice in the Gazette appoint" and substituting therefor the expression "**not later than ninety days from the date of its enactment**".

## CLAUSE 2

**THAT** Clause 2 of the Bill be amended-

- (a) in the definition of "public officer" by inserting the words "**but does not include a member of parliament or a councilor**" immediately after the word 'unpaid';
- (b) by inserting the following new definition in the proper alphabetical order -

**"Tribunal" means the Political Parties Disputes Tribunal established by section 4A of this Act.**

## CLAUSE 3

- (a) **THAT** Clause 3 of the Bill be amended in sub-clause (1) by deleting the words "**and shall have operational autonomy**" appearing immediately after the word "Commission".
- (b) **THAT** Clause 3 be amended by inserting the following new sub-clause immediately after sub-clause (3) -

**(4) The Registrar shall be responsible for the arbitration of disputes between members of a political party.**

## INSERTION OF NEW PART IIA

**THAT** the Bill be amended by inserting a new **PART IIA** as follows-

### **PART IIA**

**4A. (1) There is hereby established a tribunal to be known as the Political Parties Disputes Tribunal.**

**(2) The Tribunal shall consist of the following members appointed by the Chief Justice, subject to parliamentary approval-**

**(a) a chairman who shall be a person qualified to be appointed as a judge of the High Court;**

**(b) two other members of high moral standing and integrity, one of whom must be an advocate of the High Court of five years standing;**

**(3) A person shall not be qualified to be appointed as a member of the Tribunal if the person is a member of the public service or takes an active part in the activities of a political party.**

**(3) A member of the Tribunal shall hold office for a term of five years and shall be eligible for reappointment for a further one term of five years.**

**4B. The purpose for which the Tribunal is established is to-**

**(a) determine cases of dispute between the members of a political party;**

**(b) determine disputes between political parties forming a coalition;**

**(c) determine appeals emanating from the decisions of the Registrar under this Act;**

**4C. (1) The Tribunal shall determine any case before it expeditiously but in any case shall dispose of any case before it within a period of not more than three months after lodgment of that case.**

**(2) The decisions of the Tribunal shall be final.**

**4D. The Chief Justice shall make rules regulating the procedure of the Tribunal.**

**4E. The Chief Justice may remove a member of the tribunal on the following grounds-**

**(a) if the member becomes an undercharged bankrupt;**

**(b) if the member is convicted of a criminal offence;**

(c) if the members is incapacitated by reason of prolonged physical or mental illness from performing his duties; or

(d) the member is otherwise unable or unfit to discharge the functions of his office.

**4F. The Attorney-General shall designate an officer to be the secretary to the Tribunal.**

**4G. (1) The members of the Tribunal shall be paid such allowances and for expenses as are determined by the Chief Justice.**

**(2) The expenses of the Tribunal, including the allowances and expenses of the members of the Tribunal shall be paid by the Government.**

#### **INSERTION OF NEW CLAUSE 5A**

**THAT** the Bill be amended by inserting a new **Clause 5A** as follows-

**5A. Where two or more political parties resolve to form a coalition before or after an election, the instruments of the coalition agreement shall be deposited with the Registrar for purposes of arbitration between the coalition parties under this Act.**

#### **CLAUSE 7:**

**THAT** Clause 7 of the Bill be amended by inserting the words "**the Kenya Police Force,**" immediately after the words 'Armed Forces'.

#### **CLAUSE 8:**

**THAT** Clause 8 of the Bill be amended-

(a) in sub-clause (1) (a) by deleting the words "under the National Assembly and Presidential Elections Act" and substituting therefor the words "**or Councilor**".

(b) in sub-clause (2) (a) by inserting the word "**Councilor;**" immediately after the word "Parliament".

#### **CLAUSE 9**

**THAT** Clause 9 of the Bill be amended-

(a) in sub-clause (2) by deleting the words "or relevant local authority" and substituting therefor the words **"the minister responsible for local government"**

(b) in sub-clause (3) by deleting the words 'two or more' and substituting therefor the words **'more than one'**

(c) in sub-clause (4) by deleting all the words appearing after paragraph (d) and substituting therefor the following words-

**"shall, notwithstanding the provisions of sub-section (2) or the provisions of any other law, be deemed to have resigned from the previous political party.**

(c) by deleting sub-clause (5) and substituting therefor the following new subsection

**(5) A person who by virtue of any written law is for the time being disqualified from being nominated for election as an elected member of Parliament or a councilor shall not be eligible to become a member of a political party during that time that he is so disqualified.**

(d) in sub clause (7) by deleting the words "in a manner as to seriously impair the standing of the party" and substituting therefor the words **'provided the decision to expel the member shall have been arrived at in accordance with the rules of natural justice';**

(e) in sub-clause (8) by deleting the word 'fifteen' and substituting therefor the words **'one hundred'**.

#### **CLAUSE 10:**

**THAT** Clause 10 of the Bill be amended in sub clause (3) by deleting the word 'may' and substituting therefor the word **"shall"**.

#### **CLAUSE 11**

**THAT** Clause 11 of the Bill be amended in sub-clause (4) by deleting the words "and every officer thereof each commit an offence" and substituting therefor the words **"shall be deregistered"**.

#### **CLAUSE 12:**

**THAT** Clause 12 of the Bill be amended in paragraph (d) by inserting the words **"or any other legal entity registered under any other law"** at the end thereof.

## **CLAUSE 15**

**THAT** Clause 15 of the Bill be amended in sub-clause (1) be amended by -

(i) deleting the words "reasonably require" appearing in paragraph (d) and substituting therefor the word "**prescribe**";

(ii) deleting the words "within the capital city of Kenya" appearing in paragraph (e).

## **CLAUSE 16**

**THAT** Clause 16 of the Bill be amended-

(a) in sub-clause (3) (b) by deleting the words 'in writing direct' and substituting therefor the word "**prescribe**";

(b) in sub-clause (6) be amended by deleting the words "electoral proposals" and substituting therefor the word '**candidates**' and by inserting the words "**or if it fails to so participate at the next general election following its full registration, whichever is earlier**".

## **CLAUSE 18**

**THAT** Clause 18 (e) be amended by deleting the expression 'five percent of the national vote' and substituting therefor the expression '**one member of parliament and or ten councilors**'.

## **DELETION OF CLAUSE 19**

That the Bill be amended by deleting clause 19.

## **CLAUSE 22**

**THAT** Clause 22 be amended by deleting (1) (a) and substituting therefor the following new paragraph-

(a) such funds as may be provided by Parliament;

## **CLAUSE 23**

**THAT** Clause 23 be amended -



(a) in sub-clause (1) be amended by deleting the word "ten" appearing in paragraph (f) and substituting therefor the expression "**twenty-five**"

(b) in sub-clause (3)-

(i) by deleting the words "The moneys allocated by Parliament under this section" and substituting therefor the words "**The Fund**";

(ii) by deleting the expression "twenty-five" appearing in paragraph (a) and substituting therefor the word "**fifteen**";

(iii) by deleting the expression "seventy-five" appearing in paragraph (b) and substituting therefor the word "eighty" and by inserting the word '**general election by the party's presidential**' immediately before the word 'parliamentary' and also by inserting the words '**and civic candidates**' immediately after the word 'parliamentary';

(iv) by inserting a new paragraph (c) as follows-

**(c) five percent for administration expenses of the Fund.**

(c) by inserting the following new sub-clause immediately after sub-clause (3)-

**(4) No political party shall benefit from the Fund if its registered national office bearers does not reflect at least a third of either gender.**

## **CLAUSE 24**

**THAT** Clause 24 be amended in sub-clause (3) by deleting the words 'one million' wherever it appears and substituting therefor the words '**five million**'.

## **CLAUSE 25**

**THAT** Clause 25 of the Bill be amended-

(a) in sub-clause (1) by deleting the word "twenty one" and substituting therefor the word "**ninety**"

(b) in sub-clause (2) by deleting the word "forty" and substituting therefor the word "**ninety**"

**CLAUSE 27**

**THAT** Clause 27 be amended in sub-clause (1) by inserting the words **“provided that the Registrar may at any time request the Director of Internal Audit to carry out an audit’** at the end thereof.

**CLAUSE 28**

**THAT** Clause 28 be amended in sub-clause (1) by deleting the words **“require with respect of the foregoing or other matters”** appearing in paragraph (e) and substituting therefor the word **“prescribe”**.

**CLAUSE 37**

**THAT** Clause 37 of the Bill be amended by inserting a new sub-clause (9) as follows-

**37.(9)Every original party shall be accorded an opportunity to comply with Section 23(4) of this Act within three years of the enactment of this Act.**

**XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX**



