

**SPECIAL ISSUE**

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REPUBLIC OF KENYA

**KENYA GAZETTE SUPPLEMENT**

**NATIONAL ASSEMBLY BILLS, 2019**

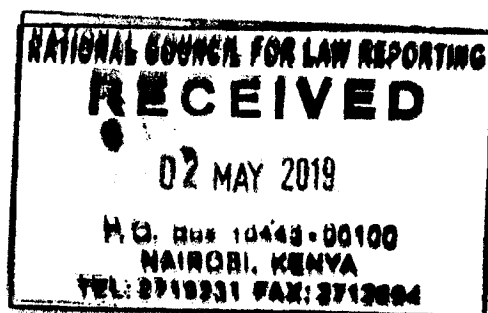
**NAIROBI, 15th April, 2019**

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**THE INDEPENDENT ELECTORAL AND BOUNDARIES  
(AMENDMENT) (NO. 2) BILL, 2019**

**A Bill for**

AN ACT of Parliament to amend the Independent Electoral and Boundaries Commission Act and for connected purposes

**ENACTED** by the Parliament of Kenya, as follows—

**1.** This Act may be cited as the Independent Electoral and Boundaries Commission (Amendment) Act, 2019.

Short title.

**2.** Section 5 of the Independent Electoral and Boundaries Commission Act, 2011, (hereinafter referred to as “the principal Act”) is amended in subsection (1) by deleting the word “six” appearing immediately after the words “a Chairperson and” and substituting therefor the word “four”.

Amendment of section 5 of No. 9 of 2011.

**3.** The First Schedule to the principal Act is amended in subparagraph (2) of paragraph (1) by—

Amendment of the first schedule to No. 9 of 2011.

- (a) deleting the words “the first” appearing immediately after the words “for the purpose of”;
- (b) inserting the words “the Chairperson or” immediately after the words “the first appointment of”.

**4.** The Fifth Schedule to the principal Act is amended—

Amendment of the fifth schedule to No. 9 of 2011.

- (a) by deleting the title of the schedule and substituting therefor the new title “PROCEDURE AFTER DELIMITATION OF ELECTORAL UNITS”;
- (b) by deleting paragraphs (1), (2) and (3);
- (c) by renumbering paragraphs (4), (5), (6), (7), (8) and (9) as paragraphs (1), (2), (3) and (4);
- (d) in paragraph (5), by deleting the words “paragraph 4” appearing immediately after the words “decision made under” and substituting therefor the words “paragraph (1)”;
- (e) in paragraph (6), by deleting the words “paragraph

3” appearing immediately after the words  
“boundaries referred to in” and substituting  
therefor the words “section 36”.

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## **MEMORANDUM OF OBJECTS AND REASONS**

### **Statement of Objects and Reasons of the Bill**

This Bill seeks to amend the Independent Electoral and Boundaries Commission Act to address two issues. First, in order to address the lacuna in the law in terms of the appointment of commissioners when a vacancy arises since paragraph (2) of the First Schedule to the Independent Electoral and Boundaries Commission Act does not provide for the subsequent appointment of commissioners. Secondly, the Bill seeks to amend the Fifth Schedule that is already spent after the first review relating to the delimitation of boundaries of constituencies and wards. Thus, the Fifth Schedule needs to be aligned to section 36 of the Act.

Article 89(2) of the Constitution provides that the Independent Electoral and Boundaries Commission shall review the names and boundaries of constituencies at intervals of not less than eight years, and not more than twelve years. Thus, the second review of constituencies and wards ought to be completed between the years 2020 and 2024. This Bill seeks therefore to resolve obstacles that may hinder this process.

### **Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms**

The Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms.

### **Statement as to whether the Bill concerns county governments**

The Bill does not affect the functions of the county governments and is therefore not a Bill concerning counties for purposes of the Standing Orders.

### **Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution**

The Bill is a money Bill for the purposes of Article 114 of the Constitution as the enactment of this Bill will occasion additional expenditure of public funds.

Dated 28th March, 2019.

JEREMIAH KIONI,  
*Chairperson, Constitutional  
Implementation Oversight Committee.*

*Section 5 of the Independent Electoral and Boundaries Commission Act which it is proposed to amend—*

**Composition and appointment of the Commission**

5. (1) The Commission shall consist of a chairperson and six other members appointed in accordance with Article 250(4) of the Constitution and the provisions of this Act.

(2) The chairperson and members of the Commission shall be appointed in accordance with the procedure set out in the First Schedule.

(3) The process of replacement of a chairperson or a member of the Commission shall commence at least six months before the lapse of the term of the chairperson or member of the Commission.

(4) The procedure set out in the First Schedule shall apply, with the necessary modifications, whenever there is a vacancy in the Commission.

*First Schedule of the Independent Electoral and Boundaries Commission Act which it is proposed to amend—*

**FIRST SCHEDULE**

**PROCEDURE FOR APPOINTMENT OF CHAIRPERSON AND MEMBERS OF THE COMMISSION**

**Selection Panel**

1. (1) At least six months before the lapse of the term of the chairperson or member of the Commission or within fourteen days of the declaration of a vacancy in the office of the chairperson or member of the Commission under the Constitution or this Act, the President shall appoint a selection panel consisting of such persons as Parliament shall determine for the purposes of appointment of the chairperson or member of the Commission.

(2) For the purpose of the first appointment of commissioners upon the commencement of section 5, ~~the selection panel shall consist of —~~

- (a) four persons, being two men and two women, nominated by the Parliamentary Service Commission;
- (b) one person nominated by the Kenya Conference of Catholic Bishops;
- (c) one person nominated by ~~the National Council of Churches of~~ Kenya;