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The following Paper will be laid on the Table of the House today,
Wednesday, 26th September 2007.

**The Draft Presidential and Parliamentary Elections (Amendment)
Regulations 2007**

(Minister for Justice and Constitutional Affairs)

Copies to: -

The Speaker
The Deputy Speaker
The Clerk
The Hansard Editor
The Hansard Reporters
The Press

Mwag
26/9/07

NOTICE OF MOTION – (Minister for Justice and Constitutional Affairs)

THAT, pursuant to Section 34 of the National Assembly and Presidential Elections Act (CAP 7 Laws of Kenya), this House approves the Draft Presidential and Parliamentary Elections (Amendment) Regulations 2007, Laid on the Table of the House on Wednesday 26th September 2007.

LEGAL NOTICE NO.

**THE NATIONAL ASSEMBLY AND PRESIDENTIAL
ELECTIONS ACT
(Cap.7)**

IN EXERCISE of the powers conferred by section 34 of the National Assembly and Presidential Elections Act, the Electoral Commission makes the following Regulations –

**THE PRESIDENTIAL AND PARLIAMENTARY ELECTIONS
(AMENDMENT) REGULATIONS, 2007**

1. These Regulations may be cited as the Presidential and Parliamentary Elections (Amendment) Regulations, 2007.

L.N 227/1992.

2. The Presidential and Parliamentary Regulations, in these Regulations referred to as “the principal Regulations” are amended in regulation 2 by inserting the following new definition immediately after the definition of the term “rejected ballot paper”-

“rejection objected to ballot paper” means a rejected ballot paper which rejection is objected to under regulation 38 .

3. Regulation 5(1) of the principal Regulations is amended by deleting the words “distinctive colour and a” appearing in the second line.

4. Regulation 6(2) of the principal Regulations is amended by inserting the word “population” immediately after the word “considerations”.

5. Regulation 7(1) of the principal Regulations is amended by inserting the words “or any other public facility” immediately after the word “school”.

6. Regulation 11(3) of the principal Regulations is amended by deleting the word “fifty” and substituting therefor the word “one hundred”.

7. Regulation 13B of the principal Regulations is amended by inserting the words “before the returning officer” immediately after word “him” in the third line.

8. The principal Regulations are amended by deleting regulation 14 and substituting therefor the following new regulation –

Notice of
Nomination day.

14. A notice published by the Electoral Commission under section 13(3) of the Act shall -

- (a) specify the days for the nomination of candidates by each political party taking part in the parliamentary elections which shall be not less than twenty-one days before the date fixed by such notice for the holding of the parliamentary elections; and
- (b) require the political parties to submit a complete list of nominated candidates for the election to the Electoral Commission five days before the nomination day, provided that in exceptional circumstances such as the death or defection of a nominated candidate, the party may be allowed to submit a new name after the said deadline, but before the nomination day.

9. Regulation 16(1) of the principal Regulations is amended -

(a) by inserting the following new sub- paragraph immediately after sub-paragraph (a) -

(b) contain the candidate's name as it appears in the voter register;

(b) by renumbering sub- paragraph (b) as sub- paragraph (c);

10. Regulation 18 (2)(g) of the principal Regulations is amended by deleting the word "deposit" and substituting therefor the words "nomination fees";

11. Regulation 19B of the principal Regulations is amended -

(a) by inserting the following proviso at the end thereof-

"Provided the returning officer shall advertise the postponing of the nominations in such a manner as he considers sufficient to bring it to the notice of electors";

(b) by renumbering the existing provision as paragraph (1);

(c) by inserting the following new paragraph immediately after the new paragraph (1)--

(2) A returning officer may extend the hours of nomination at the constituency where nomination has been interrupted and shall, where nomination started late, extend the hours of nomination by the amount of time which was lost in so starting late.

12. Regulation 23(1) of the principal Regulations is amended by deleting sub-paragraph (b) and substituting therefore the following new sub-paragraph –

(b)members of the Electoral Commission and election officers on duty.

13. Regulation 25 of the principal Regulations is amended in the marginal note by deleting the words “postponement etc of polling” and substituting therefor the words “postponement etc of polling by the presiding officer”.

14. The principal Regulations are amended by inserting the following new regulation immediately after regulation 25–

Postponement of polls by Electoral Commission.

25A (1) Where a date has been appointed for holding of an election, and it is impossible to conduct the elections as a result of natural disasters or other emergencies, the Electoral Commission may postpone the election and shall in respect of the area, or areas concerned, appoint another date for the holding of the postponed election.

(2) Where an election is postponed under paragraph (1), the election shall be held at the earliest practicable time.

(3) Notwithstanding the provisions of this section the Electoral Commission may, if satisfied that the result of the elections will not be affected by voting in the area in respect of which substituted dates have been appointed, direct that a return of elections be made.

15. Regulation 31(4) of the principal Regulations is amended in sub-paragraph (b)–

(a) by deleting the words “even if he assists more than one elector” and substituting therefor the words ‘before he assists an elector”;

(b) by inserting the following new sub-paragraph immediately after sub-paragraph (c)–

(d) the person shall assist only one elector at that election.

16. Regulation 33 of the principal Regulations is amended by deleting paragraph (2).

17. Regulation 35 of the principal Regulations is amended–

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

4. The Electoral Commission shall permit–

(a) observers and representatives of the media duly approved or accredited by the Electoral Commission;

(b) members of the Electoral Commission and election officers on duty;

(c) candidates and agents appointed under paragraph (2); and

(d) police officers on duty,

to attend the proceedings at the counting of votes;

(b) by renumbering the existing paragraph (4) as paragraph (3).

18. Regulation 35A of the principal Regulations is amended by deleting the words “preparation for the counting of votes” in the marginal note and substituting therefor the words “ Counting of votes”;

19. Regulation 36 of the principal Regulations is amended –

(a) by deleting the words “ counting of votes” in the marginal note and substituting therefor the words “Preparation for the counting of votes ”;

(b) in paragraph (1) by deleting sub-paragraph (d) and inserting the following new sub- paragraphs immediately after sub- paragraph (c)–

(d) which bears a different serial number from ballot papers issued at the polling station; or

- (e) which bears marks or writing which may identify the voter or;
- (f) is unmarked.

20. Regulation 39 of the principal Regulations is amended –

- (a) in the marginal note by inserting the words “by presiding officer” at the end thereof;
- (b) in paragraph (1) by inserting the following new sub-paragraph immediately after sub- paragraph (c)–
 - (d) “rejection objected to” ballot papers;
- (c) by deleting paragraph (3) and substituting therefor the following new paragraph-

(3) The presiding officer shall , after demonstrating to the candidates or their counting agents that the ballot box to be used to carry the election results is empty put –

- (a) the packets specified in regulation 34;
- (b) the statements made under regulations 37 and 38; and
- (c) the declaration of results made under regulation 40,

in the ballot box , then seal the ballot box with the seal of the Electoral Commission and let the candidates or their counting agents affix their own seals on the ballot box if they so wish.

21. Regulation 40 of the principal Regulations is amended–

- (a) in paragraph (1)(a) by inserting the words “ and where the returning officer finds the total valid votes in a polling station exceeds the number of registered voters in that polling station, he shall disregard the results of the count of that polling station in the announcement of the election results and make a statement to that effect” immediately after word “dispute”;
- (b) in paragraph (1)(b) by deleting word “rejected” and in paragraph (1)(g) (i) amended by substituting the words “any candidate” with the words “each candidate”
- (c) by inserting the following new paragraphs immediately after paragraph (1)-

(2) The returning officer shall allow the following persons to be at the tallying centre—

- (a) the presiding officers and other election officials on duty;
- (b) a police officer on duty;
- (c) a candidate;
- (d) an agent;
- (e) duly accredited election observers;
- (f) duly accredited media persons; and
- (g) a member of the Electoral Commission.

(3) Notwithstanding the provisions of this regulation, the returning officer shall not be obliged to admit more than one agent of any candidate to the tallying venue”;

- (d) by renumbering the existing paragraphs (2) and (3) as paragraphs (3) and (4) respectively;

22. The principal Regulations are amended by inserting the following new regulation immediately after regulation 40-

Sealing of ballot papers by returning officer.

40A. After the announcement of results, the returning officer shall seal up in separate packets –

- (a) the counted ballots papers; and
- (b) the rejected ballot papers,

together with the statements related thereto and shall put the sealed packets in the used ballot box in the presence of candidates or their agents as are present and seal the ballot box with the Electoral Commission seal and let the candidates or their agents present affix their own seals on the ballot box if they so wish.

23. Regulation 41 of the principal Regulations is amended –

- (a) in paragraph (1)-
 - (i) in sub- paragraph (b) by inserting the words “and any statement made under regulation 40 (1) (d)” immediately after word “elected”;

(b) by inserting the following new sub-paragraphs immediately after sub-paragraph (b)–

(c) Form 16A containing the presidential and parliamentary declaration of election results at the polling stations; and

(d) Form 17A containing the presidential and parliamentary declaration of election results at the Constituency.

24. Regulation 42 of the principal Regulations is amended –

(a) in paragraph (1) by deleting the word “six” and substituting therefor the word “three”;

(b) by deleting paragraphs (2) and substituting therefor the following new paragraph–

(2) Any person may apply to the High Court with notice to all candidates, in the election concerned for authority to inspect documents retained under these Regulations, other than ballot papers and their counterfoils;

(c) in paragraph (3) by deleting the words “a witness who shall not be the person making the inspection and the returning officer and the witness” and substituting therefor the words “candidates or their agents appointed in writing and the returning officer and candidates or their agents”.

25. Regulation 45 of the principal Regulations is amended by inserting the following new paragraphs immediately after paragraph (6)–

(7) The Electoral Commission may at any election accredit the media to access and cover the electoral process.

(8) The Electoral Commission may issue guidelines consistent with internationally accepted standards for fair elections which shall be binding on all media representatives upon accreditation by the Electoral Commission.

26. The principal Regulations are amended in the First Schedule–

(a) in Form 14 by deleting the words “in the right- hand column above opposite name of the candidate you wish to elect” appearing in the instructions to elector and substituting therefor the words “against the name of the

candidate and the symbol of the party you wish to elect”.

(b) in Form 15 by deleting the words “in the right- hand column above opposite name of the candidate you wish to elect” appearing in the instructions to elector and substituting therefor the words “against the name of the candidate and the symbol of the party you wish to elect”.

Dated the.....*25th* *September*.....2007.



S.M.KIVUITU,
Chairman,
Electoral Commission.

