



Office Of The Registrar Of Political Parties

# The Political Parties Manual

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Published By:  
Larryone Media  
Tell: +254 721 370 097  
Email: [larryonemedia@gmail.com](mailto:larryonemedia@gmail.com)  
[www.larryonemedia.webs.com](http://www.larryonemedia.webs.com)

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# Foreword

The Political Parties Act, 2011 is fairly new and its implications for the governance and management of political parties is not well understood by political parties, other electoral stakeholders and members of the public. This publication provides key information, about the contents and application of the law in practice. It is hoped that it will contribute to better understanding of and compliance with the Act.

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Lucy K. Ndungu

Registrar of Political Parties

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## 1. Introduction

### 1.1 Purpose of this Manual

The Constitution of Kenya and the Political Parties Act, 2011 have engendered far-reaching changes affecting the formation, management and regulation of political parties in the country. This publication presents key information about these laws as it comes in handy for political parties, their officials, supporters and any person interested in political parties' governance.

Whether you are a party member who wants to know what your rights are or you are a local branch official who wants to be aware about your obligations, this manual highlights what the law requires of you.

### 1.2 Help with Using this Manual

The manual is not intended to supersede the Constitution, the Political Parties Act or any other law in Kenya. Therefore, any person who wishes to receive clarification concerning any information in this publication is advised to consult the law first.

If the law or the manual does not answer your question, contact the Office of the Registrar of Political Parties on the address provided in this manual.

## 2. Meaning, Roles and History of Political Parties

### 2.1 What a Political Party is

A political party is widely defined as any association or organization of persons which has for its objects or purposes the proposing or supporting of candidates for national or county election, with a view to forming or influencing the formation of the Government.

The Constitution entrenches multiparty democracy and guarantees political rights including the right to form or participate in the formation of a political party. It envisages well governed and managed political parties. Article 91 sets out basic requirements of political parties such as having a national character and abiding by the democratic principles of good governance, promote and practise democracy through regular, fair and free elections within the political

party.

The Political Parties Act implements Articles 91 and 92 as well as other provisions of the Constitution relating to the governance and management of political parties. It generally provides for the registration, regulation and funding of political parties.

A fully registered political party is a distinct legal entity and can sue and be sued, and own and dispose property, among others.

Every political party in Kenya must have, among other characteristics:

- National character,
- Have a democratically elected governing body,
- Promote and uphold national unity,
- Abide by the democratic principles of good governance,
- Promote and practice, democracy through regular, free and fair elections within the party,
- Respect the rights of all persons to participate in the political process, including minorities and marginalized groups,
- Respect and promote human rights and fundamental freedoms,
- Respect and promote gender equality and equity.

## 2.2 Roles and Responsibilities of Political Parties

Political Parties are key actors in promoting democracy. They enhance democratic participation through political mobilization by encouraging the public to participate in elections.

A political party is an organization whose fundamental purposes are:

1. To be an avenue for peoples' participation and integration in their democracy.
2. To mobilize citizens for elections.
3. To express citizen's interest in parliament and county assemblies.
4. To formulate public policy positions and present policy alternatives.
5. To recruit and select political leaders (both internally and for elections).



### 2.3 Historical Evolution of Political Parties

After negotiations for Kenyan independence at the Lancaster Conference in 1962, two political parties, Kenya African Democratic Union (KADU) and Kenya African National Union (KANU), were formed. In the national elections of May 1963, KANU won a majority of seats in both houses of parliament. KADU dissolved voluntarily in 1964 and joined KANU. In March 1966, Kenya People's Union (KPU) was formed as a result of ideological differences, leadership struggles, and the repression of dissent within KANU. However, KPU was banned in 1969. Kenya became a *de facto* single state from this time until 1982 when the Constitution was amended on 9<sup>th</sup> June 1982 to make a *de jure single* party state. In December 1991 Parliament repealed Section 2A of the Constitution, paving the way for the reemergence of multiparty politics and ending KANU's monopoly in power.

For many years, there was no specific law governing political parties in Kenya. Political Parties were registered by the Registrar of Societies under the Societies Act (Cap.108), a law which governed the registration of all associations including women organizations and football clubs. In effect, political parties were private associations. The democratic space of 1991 resulted in the proliferation of many political parties, which were weak and poorly institutionalized and therefore not well equipped to promote and ascertain democratic government. This was attributed to the absence of an effective regulatory framework for the registration, operation, and management and funding of political parties.

Parliament unsuccessfully attempted four times between 1993 and 1994 to enact a law that would provide independent registration and funding of political parties. The liberalization of the registration of political parties in Kenya resulted in the formation of many political parties that wrangled, split and formed new outfits with similar names and/or symbols. Prior to the 2007 General Election there were 168 registered parties and 117 participated in the general election. It is against this background that the Political Parties Act 2007 was enacted. The objective of the Act was to provide for the registration, regulation and funding of political parties and matters connected. It came into force on 1<sup>st</sup> July, 2008 and the Office of Registrar of Political Parties was established. All Political Parties registered under the Societies Act were

required to register afresh under the new law within 180 days. This led to the reduction of political parties registered from 168 to 47 by 2009.

The passing of the Constitution of Kenya, 2010 introduced a new paradigm for management and administration of political parties. It recognizes political parties as important institutions in the promotion of democracy. Article 91 of the Constitution sets out basic requirements for political parties and stipulates the principles upon which political parties shall be formed. Article 92 further provides that parliament shall enact legislation to incorporate and implement the Constitution and the principles stipulated there under. Consequently the Political Parties Act, 2011 was enacted and the Office of the Registrar of Political Parties (the Office) became an independent state office.

The table below summarizes the number of parties registered in different years:

<u>Year(s)</u>	<u>No. of Political Parties</u>		<u>Year(s)</u>	<u>No. of Political Parties</u>
<u>1960</u>	<u>About 2</u>	<u>Remove this space</u>	<u>2002-2007</u>	<u>149</u>
<u>1963-1964</u>	<u>2</u>		<u>2008</u>	<u>168</u>
<u>1964-1966</u>	<u>1</u>		<u>2009</u>	<u>47</u>
<u>1966-1982</u>	<u>1 (De Facto)</u>		<u>2010</u>	<u>47</u>
<u>1982-1991</u>	<u>1 (De Jure)</u>		<u>2011</u>	<u>47</u>
<u>1991-1992</u>	<u>10</u>		<u>2012</u>	<u>51</u>
<u>1992-1997</u>	<u>23</u>		<u>2013</u>	<u>59</u>
<u>1997-2002</u>	<u>51</u>		<u>2011</u>	<u>149</u>

### 3. Legal and Institutional Framework of Political Parties

The main laws governing the management and administration of political parties are the Constitution of Kenya 2010 and the Political Parties Act, 2011. However, there are other laws that have bearing on the operations of political parties and these include the Elections Act, 2011; the National Cohesion and Integration Act, 2008; and the Independent Electoral and Boundaries

## Commission Act, 2011.

### 3.1 Overview of Applicable Laws

#### 3.1.1 The Constitution

The Constitution embodies principles and values that seek to institutionalize political parties. Any person(s) contemplating forming a political party must adhere to the principles and values stipulated in the Constitution. There are several Constitutional principles that inform the formation, management and operation of political parties. A few of these are highlighted below.

The preamble to the Constitution of Kenya recognizes aspirations of all Kenyans for a government based on essential values of human rights, equality, freedom, democracy, social justice and the rule of law.

Under Article 4 (2), Kenya is a multi-party democratic State founded on the national values and principles including those of governance, democracy and participation of the people and non-discrimination and protection of the marginalized.

Art 16 (dual citizenship)-membership to political parties may include Kenyan citizens living outside of the country.

Art 27 (equality and freedom from discrimination) requires the state to take measures to ensure that no more than two-thirds of the members of elective or appointive bodies shall be of the same gender.

Art. 36 provides for the right of-freedom of association.

Article 38 guarantees citizens the right to make political choices including the right to: form, or participate in forming, a political party; to participate in the activities of, or recruit members for a political party; and to campaign for a political party or cause.

Article 91(1) sets down the basic requirements for a political party and these include that a political party must have a national character, respect and promote gender equality and equity and practice democracy through regular, free and fair elections within the party. The Political Parties Act, 2011 implements Articles 91 and 92 of the Constitution.

Under Art 91(2), a political party shall not, among others:

- be founded on a religious, linguistic, racial, ethnic, gender or regional basis or seek to engage in advocacy of hatred on any such basis;
- engage in or encourage violence by, or intimidation of its members, supporters, opponents or any other person;
- establish or maintain a paramilitary force, militia or similar organization; and
- engage in corruption.

Art. 92 - Provides for the legislation of political parties. It provides that Parliament shall enact a law to deal with several aspects of political parties including their:

- Registration and regulation
- Establishment and management
- Funding and financial reporting

### 3.1.2 The Political Parties Act, 2011

The Political Parties Act came into force on 1<sup>st</sup> November, 2011. The Act provides the institutional, legal and regulatory framework for registration, regulation and funding of political parties in Kenya. Apart from specifying the requirements from the Constitution, the Act also provides a number of Forms. These Forms help political parties by specifying the information that they should submit to the Office of the Registrar.

### 3.1.3 The Elections Act, 2011

The Elections Act, 2011 is the primary law governing the conduct of elections in Kenya. The key issues that the Act provides for are; nomination of candidates, party lists and mechanisms for resolution of disputes arising from political parties' nominations.

The Act also contains the Electoral Code of Conduct whose goal is to promote an environment conducive to the conduct of free and fair elections; and promote tolerance in the conduct of political activity during the election period.

The Code is to be subscribed to by officials of political parties and their

candidates in an election. Those who sign the Code commit themselves to among others, adhere to the national values and principles of the Constitution, condemn, avoid and prevent violence and intimidation and affirm the rights of participants in an election to express themselves freely, debate their policies and seek for support from voters.

### 3.2 Other Laws

The Political Parties Act, 2011 is the principal statute for registration, regulation and funding of political parties. However, other statutes, enforced by other institutions, have a bearing on some of the Office's mandate. These include the Leadership and Integrity Act 2012, the National Cohesion and Integration Act 2008; Public Order Act Cap 56; Leadership, Ethics and Anti-Corruption Act; Public Procurement and Disposal Act, 2012 and The Public Finance Management Act, 2012 and the Elections Campaign Finance Act, 2013.

### 3.3 Institutions

The Office implements the Act and its head is the Registrar of Political Parties (Registrar). The Registrar generally registers, regulates, monitors, investigates and supervises political parties to ensure compliance with the Act. Other functions include:

- Administer the Political Parties Fund;
- Coordinate with members of Political Parties Liaison Committee;
- Ensure publication of audited annual accounts of political parties;
- Maintain a register of political parties and symbols of the political parties;
- Ensure and verify that no person is a member of more than one political party; and
- Investigate complaints received under the Political Parties Act, 2011.

The office is a State Office within the meaning of Article 260 of the Constitution and independent and therefore not amenable to the direction or control of any person or authority. It is also a body corporate with perpetual succession and has rights and obligations of a legal person. It draws its powers

from the Constitution and the Political Parties Act, 2011.

## 4. Registration

No association of persons or an organization is allowed to operate or function as a political party unless it has been registered in accordance with the Political Parties Act, 2011.

The Act uses the following terms to describe the registration status of political parties:

- Provisionally registered political party: a political party that has fulfilled the conditions for provisional registration under the Act.
- Fully registered political party: a political party that is registered under the Act having met all requirements for full registration.
- Deregistered party: a registered political party whose registration has been cancelled under the Act.

### 4.1 Applying for Registration

Registration of a political party is a two stage process:

- Provisional registration; and
- Full registration.

### 4.2 Provisional Registration

The Act specifies the information that must be contained in an application for provisional registration. The application must be made by authorized interim officials of the proposed political party and on forms provided by the Registrar. The following procedures and format shall apply to the provisional registration of political parties.

#### 4.2.1 Name Search

Before applying for provisional registration, one must submit an application for name search of a political party to the Registrar of Political Parties.

The name of a political party includes its full name, abbreviation, and symbol and colour. In particular the name, abbreviation or symbol of the proposed

political party must not:

- i. Be obscene or offensive;
- ii. Be the name or an abbreviation of another party that is already registered ;and
- iii. Nearly resembles the name or abbreviation or symbol or logo of another political party already registered or any other legal entity registered under any written law.

#### 4.2.2 Submission of an application for Provisional Registration

The Act specifies the information that must be contained in an application for provisional registration. After the name and the political party constitution is approved, the applicant will submit an application for provisional registration.

An application for provisional registration of a proposed political party shall:-

- a) include signed minutes of the first meeting of the founding members of the political party;
- b) set out the name of the political party;
- c) set out the abbreviation of its name if it wishes to use it;
- d) be accompanied by two copies of its Constitution (which meets the requirements of section 9 and the Second Schedule of the Act) of the proposed Political Party;
- e) include an undertaking to be bound by this Act and the Code of Conduct;
- f) be accompanied by the prescribed fee for provisional registration; and
- g) complete the statutory forms for application for provisional registration.

#### 4.2.3 Scrutiny of the application for Provisional Registration

Upon receiving the application of provisional registration, the Registrar shall within seven days of the receipt publish a notice in the Gazette and in at least two newspapers with nationwide circulation. This notice will mention the proposed political party name, abbreviation, symbol and the colours. It will invite objections from any persons or any other political party concerning the registration of the name, the abbreviation, symbol and colours. Objections must be submitted to the Registrar in writing and signed by the person(s)

presenting the objection within seven days of the publishing of the notice.

The Registrar shall scrutinize the application for provisional registration within thirty days. When the Registrar agrees with an objection, or if the Office is not satisfied that the provisional application is in accordance with the Act and its regulations, the Registrar shall within thirty days of the receipt of the application, inform the applicants of the concerns and corrections or amendments. For as long as the concerns are not corrected, the application for provisional registration shall not be approved.

The Registrar shall scrutinize the signed minutes of the first meeting of the founding members. The first meeting means the meeting in which the founding members formally decided to submit the application for provisional registration and approved the constitution of the proposed political party. The signed minutes shall include the venue, the date, the agenda and the notice for the meeting. The minutes shall also include the name, signature, the ID and phone numbers of and be signed by the founding members present. The signed minutes submitted to the Registrar shall be the original copy.

#### 4.2.4 Certificate of Provisional Registration

The Registrar shall issue a certificate of provisional registration, within thirty days of the application, if satisfied that the application is in accordance with the Act and its regulations and the applicants have fulfilled the conditions for provisional registration.

If the political party is not eligible for provisional registration, the Registrar will indicate which requirements have not been met.

The provisional registration of a political party shall lapse and a provisional registration certificate shall cease to have effect at the expiry of one hundred and eighty days from the date of issue.

#### 4.2.5 Rights and Privileges of a Provisional Registered Party

A provisionally registered political party is entitled to-

- hold and address public meetings in any area in Kenya for the purposes of publicising the political party and recruiting members;
- the protection and assistance of the State security agencies for the



- purposes of facilitating peaceful and orderly meetings; and
- the provision by the State, of fair opportunity to present the political party's programmes to the public by ensuring equitable access to the State owned media.

However, provisional registration shall not entitle any political party to organise or hold public meetings in connection with any election, or to propose or campaign for any candidate in any election.

#### 4.3 Full Registration

A political party that has been provisionally registered may apply to the Registrar for full registration not later than one hundred and eighty days from the date of issue of certificate of provisional registration, failure to which the provisional registration shall lapse.

The application must be made on forms provided by the Registrar and be signed by the authorized officials of the provisionally registered political party. A political party is qualified for full registration if:

- a) it has recruited as members, not fewer than one thousand registered voters from each of more than half of the counties;
- b) the members reflect regional and ethnic diversity, gender balance and representation of minorities and marginalised groups;
- c) the composition of its governing body reflects regional and ethnic diversity, gender balance and representation of minorities and marginalised groups;
- d) not more than two-thirds of the members of its governing body are of the same gender;
- e) it has demonstrated that members of its governing body meet the requirements of Chapter Six of the Constitution and the laws relating to ethics;
- f) it has undertaken to be bound by this Act and the Code of Conduct set out in the First Schedule of the Act; and
- g) it has submitted to the Registrar:
  - (I) a list of the names, addresses and identification particulars of all its members;

- (ii) the location of its head office, which shall be a registered office within Kenya and a postal address to which notices and other communication may be sent; and
- (iii) the location and addresses of the branch offices of the political party, which shall be in more than half of the counties.

#### 4.3.1 Application for Full Registration

An application for full registration must:

- Be in writing and in duplicate;
- Include a declaration undertaking to be bound by the Act and the Code of Conduct for political parties set out in the First Schedule and signed by the authorized party officials;
- the Constitution of the party which must comply with the Checklist for Full Registration ;
- Political Party nomination rules
- List of members of the governing body
- reflecting regional and ethnic diversity and representation of minorities and marginalized groups
- Where not more than two-thirds of the members are of the same gender.
- The Self- Declaration Forms (required under section 13 (2) and 55 of the Leadership and Integrity Act 2012) signed by each individual member of the governing body confirming the member meets the requirements of Chapter Six of the Constitution;
- Membership print out, not fewer than one thousand registered voters from each of more than half of the counties;
- Copy of lease agreement for political party national and county offices and contact information; and
- Prescribed fees and statutory forms for full registration.

#### 4.3.2 Procedures

After receiving the application for, and before issuing the certificate for full registration, the Registrar shall, among other requirements:

- Verify that the party has opened offices in at least half of the counties;

- Confirm that the party has registered at least 1000 members from more than half of the counties and the membership is diverse from the perspective of ethnicity, gender and representation of minorities, marginalized groups and persons with disability;
- Scrutinize the members of the governing body to ensure that no more than two thirds of the members are from the same gender and that the body reflect geographic and ethnic diversity and representation of minorities and marginalized groups;
- Verify that the individual members of the political party governing bodies meet the requirements of Chapter Six of the Constitution. Essentially ensure that members; are not undischarged bankrupts; have not been convicted of a criminal offence and sentenced to imprisonment for a period of not less than six months; have not been suspended for a period of six months for violating the code of conduct of the political party; are Kenyan citizens and that the members are members of that political party.
- Scrutinize the political party constitution in accordance with the provisions of the Second Schedule of the Act;
- Scrutinize all other documents required for full registration.

Where the application is in order, the Registrar shall issue a certificate of full registration.

#### 4.3.3 Withdrawing Application

At any time before full registration, an eligible political party may withdraw its application by sending a request for withdrawal to the Registrar. The said request for withdrawal must be signed by the applicants for registration.

Upon receiving the request for withdrawal, the Registrar shall within seven days, send a letter of confirmation of the withdrawal together with the application, to the signatories of the application.

#### 4.3.4 Certificate of full registration

If the Registrar is satisfied that the application for full registration is in accordance with the Act and its regulations, the Registrar shall issue a

certificate of full registration within thirty days of the application. The full registration takes effect on the date shown on the certificate of full registration.

## 5. Membership

Political party members form the core of a political party. They implement the traditional roles of a political party in society, such as:

- To mobilize citizens for political party support;
- To engage with and educate citizens on policies;
- To recruit and elect political party leaders;
- To nominate political party candidates for general election and by-elections;
- To formulate public policy views;
- To be educated for future leadership (sustainability of the political party);
- To represent citizens when nominated and elected to the legislative and executive arms of government; and
- To pay membership fees, among others.

### 5.1 Eligibility for Membership

A political party is a legal entity with its own rights and responsibilities. On account of this, it has the latitude to decide who become its member and the criteria one has to satisfy. Political parties have to stipulate eligibility for membership in their constitutions.

### 5.2 Membership recruitment

The political party Constitution must spell out membership recruitment, which include;

- a) the eligibility criteria;
- b) subscription fees for joining the political party;
- c) annual membership fee for being a member of the political party;
- d) criteria for resignation from political party membership or ceasing to

- be a member; and
- e) the rights and duties of members.

A political party must have a membership register with the following membership details;

- Name
- ID/Passport number
- Postal address
- Telephone number
- County
- Village/ward
- Sex
- Age
- Disability

#### 5.2.1 Political Party Membership Verification Form.

To make sure that political parties do not register people without their consent, they are advised to use the political party membership verification form when undertaking registration. The information on the form includes:

- a) Political party name
- b) Political party symbol
- c) Membership card number
- d) Name of the member
- e) ID/passport number of the member
- f) Passport photograph of member
- g) The subscription / membership fee
- h) Residence
- i) Telephone number/postal address
- j) County
- k) Village/ward or other Local area
- l) Sex
- m) Disability
- n) Age
- o) Occupation

- p) Membership acknowledgement statement by the member
- q) The signature of the member
- r) The signature of the recruiter
- s) Issue date and place

#### 5.2.2 Political Party Membership Card.

A political party shall issue a membership card to each member as evidence of the person's membership to that political party. The political party shall retain the counter foil of the membership card. The content of the membership card include;

- a) Political party name
- b) Political party symbol;
- c) Membership card number;
- d) Name of the member;
- e) ID/passport number of the member;
- f) Passport photograph;
- g) The subscription / membership fee;
- h) Date and place of issue;
- i) The signature of the member; and
- j) The signature of the recruiter.

#### 5.2.3 Membership List

A political party must at any time keep updated and accurate political party membership lists. The list must include:

- a) Name
- b) Residence (Constituency and County) address
- c) Postal address
- d) Telephone number
- e) Age
- f) Sex
- g) Disability
- h) Occupation
- i) ID/Passport number

j) Political Party membership card number

5.2.4 Record of Membership Dues

A political party must keep, in both the national and county offices, an accurate and updated list of membership dues paid in accordance with the political party constitution.

The membership dues list must include;

- a) Political party name;
- b) Political party symbol;
- c) Membership card number;
- d) Name of the member;
- e) The amount of subscription fee/membership fee paid; and
- f) Copy of the receipt of the subscription fee/membership fee paid.

5.2.5 Membership Verification

A person must agree to become a member of a political party. It is an offence to register a person as a member of a political party without his/her consent. Political parties are encouraged to use the membership verification form and the membership card counter foil when registering members. They provide evidence of registration and would protect parties if there are accusations of unauthorised registration of a person as a member of a political party.

5.3 Membership Registration Complaints

The Registrar has set up an electronic system that allows a person to verify membership status. This is to be complimented by a public information strategy which is to be developed and implemented.

If the Registrar receives a complaint from an individual claiming to have been registered without their knowledge and/or their consent, the Registrar shall:

- a) Forward the complaint to the respective political party within three days of receiving the complaint and request the political party to

provide the Membership Verification Form.

- b) If the party does not furnish the Membership Verification Form within seven days, the Registrar shall send a letter of warning to the political party requiring it to deregister the member. Upon doing so, the political party has to confirm to the Registrar in writing the deregistration of the member within seven days of receiving the letter of warning.
- c) In the event the Registrar does not receive the written communication required confirming the deregistration of the member or receive the Membership Verification Form within the said period, the Registrar shall within seven days after the deadline of receiving the written communication, send a notice for possible special verification scrutiny to the political party.
- d) In the event a political party is given more than ten letters of notice for special verification scrutiny, the Registrar will send a further notice of special verification scrutiny requesting the party—to provide the Registrar with accurate and updated membership list, membership verification forms and membership cards counter foils within fourteen days of the date of the letter of special verification scrutiny.
- e) Upon receiving the membership lists, membership verification forms and the membership counter foils, the Registrar will scrutinize the membership lists including the membership cards, counter foils and the Membership Verification Forms.
- f) In the event the Registrar does not receive the updated documents required in the letter of notice of special verification scrutiny or the Registrar finds irregularities in any of the documents submitted to the office, the Registrar will notify the party in writing that the political party registration has been suspended with immediate effect.
- g) If a suspended political party submits to the Registrar the membership list, membership verification forms and membership card counter foils and the Registrar is satisfied that the documents are in accordance with



the Act and its regulations, the political party will receive a notice of withdrawal of suspension.

- h) In the event that, after a fresh scrutiny the Registrar is not satisfied that the documents above are in accordance with the Act and its regulations, the party shall be given a second opportunity to correct the irregularities following the same procedure as above. If Registrar is still not satisfied after the second scrutiny, the party will be subject for deregistration and to all the consequences which follow deregistration of a political party.

#### 5.3.1 Monitoring and Evaluation of Membership Lists.

In addition to acting in response to complaints, the Registrar will conduct regular verification of party membership lists. The political parties to be evaluated will be selected randomly.

A political party that has been selected will be given 30 days' notice before the start of the verification.

When a periodic verification is activated, the Registrar will scrutinize the membership lists including the membership cards, counter foils and the Membership Verification Forms.

In the event any irregularities or any of the documents for any member is missing, the Registrar will follow the procedures outlined in 4.2.7.

#### 5.4 Rights of a Member

A member of a political party has several rights including the right to:

- participate in the activities of a political party;
- campaign for a political party or cause; contest for leadership positions in a political party; and
- To run as a candidate in political party nomination for candidates for general election and by-election.

## 5.5 Ceasing to be a Member

A member of a political party can cease to be a member by;

- a) Resignation;
- b) Expulsion;
- c) Deeming; and
- d) Natural attrition.

### 5.5.1 Resignation

A person will cease to be a political party member if he/ she resigns from the party. The person is required to give a written notice of resignation to the—

- (a) political party;
- (b) clerk of the relevant House of Parliament, if a member of Parliament; or
- (c) clerk of a county assembly, if a member of a county assembly.

The political party of which the person is a member, the member, or the clerk of the relevant House of Parliament or of a county assembly, of which the person is a member, shall notify the Registrar of such resignation.

Upon receiving the information of resignation, the Registrar shall remove the name from the party membership register within 3 days.

After removing the name, the Registrar shall notify the party that the name has been removed from their register. The notification shall take place within 7 days of removing the name. After the member's name has been removed from the political party membership register at the Office of the Registrar, that person ceases to be a member of that political party.

### 5.5.2 Expulsion

A member may be expelled from a political party as provided in its disciplinary procedures. Before expulsion, the member must be afforded a fair opportunity to be heard in accordance with the internal political party disputes resolution mechanisms, normally in the constitution of the political party.

if a member has been expelled by a political party, the political party must provide the resolution of such (duly signed by authorised officials) disciplinary procedures to the Office of the Registrar.

Upon receiving this information of a political party member having been expelled, the Registrar scrutinizes whether the procedures have been in accordance with the Act and the political party rules.

If the Registrar is not satisfied that the procedures have been followed, the Registrar shall issue a letter within seven days after receiving the information of a political party member having been expelled asking the political party to afford the member a fair opportunity to be heard in accordance with the internal political party disputes resolution mechanisms.

If the Registrar is satisfied that the procedures have been followed, the Registrar shall remove the member from political party membership register. After removing the name, the Registrar shall notify the political party and the member. Where the member was a Member of Parliament or county assembly, the Registrar shall also inform the Clerk of the relevant house or county assembly respectively.

The notification shall take place within 7 days of removing the name. Once the member's name has been removed from the political party membership register, that person then ceases to be a member of that political party.

### 5.5.3 Deeming

A person will cease to become a political party member if the member is deemed to have resigned from the party.

A member of a political party shall be deemed to have resigned from a party if he/ she: -

- (a) forms another political party;
- (b) joins in the formation of another political party;
- (c) joins another political party;
- (d) in any way or manner, publicly advocates for the formation of another

- political party; or  
(e) promotes the ideology, interests or policies of another political party.

There are two ways in which a member of a political party can be deemed to have resigned from the party:

- a) by the political party of which a person is a member; or
- b) by the Registrar.

### 5.5.3.1 Deeming by a Political Party

Every political party must provide in its constitution, the criteria and procedure for deeming of a member. The criteria and the procedure must reflect the above criteria for deeming also found in section 14 (5) of the Act.

### 5.5.3.2 Deeming by the Registrar

a) When the Registrar receives a reasonably justified complain either from the members of the political party or from the public, the Registrar sends a letter of concern within seven days after receiving the complaint to the party asking for the party's view and whether the party has or intends to put into effect their procedures for deeming of a party member or not. If the political party within fourteen days after receiving the letter from the Registrar does not respond in writing, stating whether the party is or is not intending to put into effect their internal procedures for deeming a party member, the Registrar shall within seven days request in writing the reasons for not doing so. The political party has fourteen days to present its response in writing to the Registrar.

b) If the political party has not or is not intending to put into effect their internal procedures for deeming of a party member or the Registrar is not satisfied with the reason given by the party for not doing so or the party has not responded within the timeframe given, the Registrar shall write a letter within seven days to the person in question requesting the person to make a statement within fourteen days on his/her membership status and the reasons that might have initiated the questions related to section 14 (5) in the first place.

c) Upon receiving the letter from the person, the Registrar might, for the sake of acquiring additional information, call the person in question to a meeting in the Office of the Registrar within seven days. The meetings must have taken place within fourteen days after the writing of the letter.

d) Within fourteen days after receiving the letter from the person or within seven days after the meeting and based on all the information acquired, the Registrar can-

- (I) Declare that the person is still a member of the political party; or
- (ii) Provide the person with a warning; or
- (iii) Deem the person to have resigned from the political party.

Upon deeming the person to have resigned, the person will be removed from the political party membership register within 7 days. Once the member's name has been removed from the political party membership register, that person then ceases to become a member of that political party.

#### 5.5.4 Natural Attrition

Upon death, a person ceases to be a member of a political party. If a member dies, the party should remove his or her name from the party register upon receiving official communication to that effect from the family or any other lawful source. The political party should communicate the same information to the Registrar within fourteen days so that the member is also removed from the register of the political party in the custody of the Registrar.

## 6. Political Party Management

A political party is required to manage its affairs in conformity with its Constitution. The party must have a clear management structure including roles and responsibilities and the procedures to be followed. The party must have organizational structure at national, county and local level with all relevant and elected party bodies and organs.

## 6.1 Records

Political party documents are fundamental for party institutionalization, inclusive participation, education of political party members and the public at large, accountability and transparency and for responsible representation. Therefore all political parties must have accurate and authentic records.

### 6.1.1 Records Open to the Public

Political party records are to be kept in the national office and county offices and should be open for inspection by any member of the public. These include:

1. Political party constitution
2. Political party policy documents (manifesto and any other policy document, the policy reporting document)
3. Political party internal election rules
4. Political party nomination rules
5. Political party strategic plan
6. Political party budget
7. Property belonging to the political party
8. Acquisition of the political party properties documents
9. Audited accounts
10. Membership lists
11. Names and contact details of political party officials
12. Names and contact details of political party elected representatives to public offices

### 6.1.2 Records Open to the Members

In addition to the documents that are open to any member of the public, there are records to be kept in a political party county office and which are open for inspection of any political party member. This includes the following:

1. Document on roles and responsibilities for county office;
2. Particulars of officer in charge of the county office;
3. Regulations for inspections and obtaining of records;
4. The office agreement/ office lease;
5. Political party meetings and activities plan;
6. The source of political party funds and names and addresses of the

- persons who have contributed thereto; and
7. Records of membership fees/dues paid.

### 6.1.3 Public Request for Information

The Office of the Registrar of Political Parties may request copies of documents to be furnished. Any person who interferes, damages or destroys any record or fails to furnish any document required commits an offence.

A member of a political party may, during working hours and on payment of the prescribed fee, inspect and obtain copies of the records maintained at its head or county office.

## 6.2 Reporting

This manual focuses primarily on non-financial reporting. Financial reporting is addressed in a separate manual.

### 6.2.1 Procedure for amending documents

Registered political parties intending to effect changes to:

- its constitution;
- its rules and regulations;
- the title, name or address of any party official; or
- Its name, symbol, slogan or colour.

Must follow the procedure below;

- Report any of the intended changes in their political party information to the Registrar.
- The Registrar is required to publish notice of the intended change or alteration in the Kenya Gazette within fourteen days after receiving it.
- The political party shall publish such notification in at least two daily newspapers having nationwide circulation for the purpose of receiving public representations.
- Upon the expiry of thirty days from the date of publication of the notice in the Gazette, the political party may, effect the change or alteration in accordance with its constitution and rules.

### 6.3 Change of Office Bearers

Where an office bearer of a registered political party ceases to hold office or a person is appointed to be an office bearer of a registered political party, the political party shall within 30 days send notice thereof to the Registrar.

### 6.4 Notice of Change of Location of Head Office or Postal Address

Where a registered political party changes the location of its head office or changes its postal address, it shall, within 14 days of such change, send notice thereof to the Registrar.

Any other change of information on the political party should also be reported to the Registrar within 14 days.

### 6.5 General reporting checklist

In addition to the specific reporting above, political parties are required to prepare and keep the following documents and be ready to submit them to the Registrar upon request:

	<b>Records/Documents</b>
01	Political party constitution
02	Political party policy documents on: -finance management -human resources -gender -youth -marginalised, etc.
03	Political party policy reporting document
05	Political party internal election rules
06	Political party nomination rules
07	Political party strategic plan
08	Political party budget for the next financial year
09	Property belonging to the political party
10	Acquisition of the political party properties documents
11	Internal audited accounts for the previous financial year
12	Membership lists
13	List of membership fees/dues paid in the previous financial year
14	Names and contact details of political party officials
15	Names and contact details of political party elected representatives to public offices
16	The document on roles and responsibilities of political party county office



17	Names and contact details of the person in charge of each of the political party county offices
18	Political party regulations for inspection and obtaining of records from political party national office and county offices
19	Copy of office agreement/lease for the political party national office and county offices for the next financial year
20	Political party meetings plan for governance body/bodies at national and county level for the next financial year
21	Political party national activities plan for the next financial year

If the Registrar does not receive the reporting documents required within the seven days of the notice of request or the Registrar is not satisfied that the reporting documents are in compliance with the Act, he/ she shall invoke the relevant provisions of the Act and/ or regulations.

## 7. County Office

A political party shall open and maintain functional county offices in at least 24 counties during registration and at all times.

### 7.1 Functions of County Office

Political party county offices are there to provide the services of the political party to its members and the public at large. Therefore, every political party must be required to have a document spelling out the roles and responsibilities of their county offices.

The document must comply with the requirements in the Act and must address, but not be limited to:

1. How the members of the political party shall have access to the party.
2. How the public shall have access to the political party.
3. The nature of political party outreach activities and purposes.
4. For internal political party activities and purposes.
5. For keeping of records in compliance with the Act and regulations.
6. Procedures for membership recruitment and membership list updating.

7. The keeping records of all political party officials in the county.
8. The keeping of records of all political party elected representatives in the county.
9. The keeping of the particulars available on the persons in charge of the county office.
10. The prime point of contact with the County Political Party Liaison Committee.
11. The prime point of contact with Government Agencies.
12. The prime point of coordination of political party agents.
13. The prime point of contact with the Independent Electoral and Boundaries Commission Peace Committees.
14. Role of the political party county office versus the political party elected representatives in the county.

Any other roles and responsibilities which might even be specific for one individual county office based on the local context. This requires political parties to develop specific county office document on the office roles and responsibilities, at all times including the general requirements for such a document.

## 7.2 Location of County Offices

The county office must be at any location with easy access by the political party members and the public.

The office must have a distinct sign on the front wall with the political party name and/or abbreviation, the party colours and symbol.

More than one political party can share office in one and the same location as long as each political party:

- Has the sign on the front wall with the political party name and/or abbreviation, the party colours and symbol.
- Has a person in charge of the county office. One person cannot be in charge of more than one political party county office. One person cannot be in charge of a political party county office for more than one political party.
- Must have a distinct phone number for that particular county office.

The county office cannot be located in any person's private home. The county office must have a document signed by the landlord and include the particulars whether the property belongs to the party or is rented by the party. In case the property is rented, the particulars must state the terms of the lease. If there is a fee to be paid, the county office must keep all receipts for the payment of that lease for a minimum of the last three years.

If the political party changes its county office location, address or contact person, the Registrar must be informed of such change, within seven days.

## 8. Mergers

The Act provides that two or more political parties may enter into a merger. This merger can occur at any time other than during the period beginning 30 days before the issue of a writ for an election and ending on an election day. Political party constitutions have to provide procedures to be followed in merging.

### 8.1 Reasons for Mergers

Political parties can have several reasons to merge:

- To gain more votes during elections
- To gain more cabinet posts
- Sometimes a merger is used to rebrand the political party's image.
- To strengthen the policy agenda through a stronger and bigger political party
- To represent and attract more members through a bigger political party
- To raise more (public and private) funds

### 8.2 Requirements for Mergers

Political parties entering into a merger shall deposit with the Registrar

- The merger agreement;
- Documentation showing that the rules and procedures of political parties entering into a merger have been adhered to;
- Minutes of the meeting of the governing bodies of each of the political

parties entering into the merger sanctioning the merger;

### 8.3 Responsibility of the Registrar

Upon receiving the merger agreement, the Registrar shall within two weeks of receipt scrutinize the document. If the Registrar is satisfied that the merger agreement is in accordance with the Act and each constituent political party consenting to the merger has fully complied with the relevant provisions, the Registrar shall issue a letter of confirmation of the merger within three days after the lapse of the two weeks of scrutiny.

Upon issuing the letter of confirmation of the merger, the Registrar shall publish a notice in at least two newspapers with national circulation specifying the particulars of the merger.

Where the Registrar is not satisfied that the merger agreement is in accordance with the Act and each constituent political party consenting to the merger has fully complied with the relevant provisions, the Registrar shall request for additional information to be deposited within thirty days.

Upon receiving this additional information, the Registrar shall scrutinize the documents within two weeks.

If the Registrar is satisfied with this additional information, the Registrar shall issue a letter of confirmation of the merger within three days after the lapse of the two weeks of scrutiny.

### 8.4 Consequences of a merger

The political parties which have merged into a new political party under the Act shall stand dissolved upon registration of the new political party.

Where a political party merges with another political party, a member of the political party that has merged with another political party who is a member of Parliament or of a county assembly, and who does not desire to be a member of the political party formed after the merger shall continue to serve as a member of Parliament or of the county assembly, and may join another political party or choose to be an independent member for the remainder of

the term of the member.

## 9. Coalitions

The Political Parties Act, 2011 provides for coalitions and political parties have the right to enter into coalition agreements, normally signed and submitted to the Office of the Registrar of Political Parties.

A “coalition” means an alliance of two or more political parties formed for the purpose of pursuing a common goal and is governed by a written agreement deposited with the Registrar. Coalitions enable constituent political parties to pursue common goals. Political parties form coalitions to enhance chances of achieving certain goals such as winning elections and forming a government.

### 9.1 Types of Coalitions

There are two types of coalitions;

- pre-elections coalitions; and
- post-election coalitions

#### 9.1.1 Pre–Election Coalition

A pre-election coalition is a coalition formed before an election and political parties shall deposit with the Registrar, at least three months before the elections, the coalition agreement. Political parties may provide for mechanisms on how to win the election together and also how they intend to form a government with each other if they win. Pre-election coalitions can include:

- Working together
- Electoral cooperation, such as encouraging voters to vote for an ally
- Joint policy formulation and election campaigns;
- Coordinated strategy for presenting candidates.

#### 9.1.2 Post–Election Coalition

Post-election coalitions are formed after elections and the agreement must be

deposited with the Registrar within twenty one days of signing of the agreement.

Post elections coalitions are normally formed between government and other coalitions that determine:

- i. who will be their partners in government and under what terms they will cooperate;
- ii. the joint policies that the government will implement.

Post-election coalition agreements typically include components such as the government's policy program, portfolio allocation, government formation, coalition decision rules, mechanisms of collective decision-making, electoral cooperation and cabinet termination and duration.

## 9.2 Coalition Agreement

Political parties entering into a coalition shall deposit with the Registrar:

- The coalition agreement;
- Documentation showing that the rules and procedures of political parties entering into a coalition have been followed; and
- Minutes of the meeting of the governing bodies of each of the political parties entering into the coalition sanctioning the coalition.

The requirements for coalition agreements are set out in the Third Schedule of the Act and include that it be:

- sanctioned by the governing body of the political parties entering into the coalition and shall;
- be in writing and duly executed by authorized national political party officials; and
- Commissioned by a Commissioner of Oaths.

## 9.3 Scrutiny of the Coalition Agreement.

Upon receiving the coalition agreement the Registrar shall within five days of receipt scrutinize the document.

The Registrar shall in particular scrutinize:

- The coalition agreement adheres to the rules and procedures of the political parties relating to the formation of the coalition.
- The coalition agreement adheres to the rules and procedures of the political parties relating to the formation of the coalition.
- The coalition agreement is sanctioned by the authorized governing body/bodies in each of the political parties.
- Has the signature of the authorized political party officials.
- Is commissioned by a Commissioner of Oaths.
- States the political parties which are members of the coalition.
- States the name of the coalition when applicable), which must not resemble with any political party not being member of the coalition or any other registered name.
- States the objectives of the coalition.
- States the policies of the coalition.
- States the overall structure of the coalition.
- The structure and the management of the coalition.
- The criteria and formula for sharing of positions.
- The roles and responsibilities in the coalition.
- The coalition election rules.
- The coalition nomination rules.
- The coalition decision making structure, rules and procedures.
- The policy initiation, policy consulting and policy decision making structure, rules and procedures.
- The Code of Conduct for the coalition.
- The values and principles guiding the performance of the individuals and the member political parties.
- The dispute resolution mechanism.
- The procedures to be followed in the event of breach of any of the provisions in the coalition agreement.
- Procedures for appeal to the Political Party Dispute Tribunal.
- The role of member political parties, governing bodies and other political party organs in the running of coalition affairs.
- The links between coalition bodies and organs and those of the member political parties including the mechanisms and procedures to be followed.
- The formula and the mechanisms for sharing of funds from the Political Parties Fund.

- The grounds upon which the coalition may be dissolved.
- The mechanisms and the procedures to be followed ending a coalition agreement.

If the Registrar is satisfied that the coalition agreement is in accordance with the Act and each constituent political party consenting to the coalition has fully complied with the relevant provisions, the Registrar shall issue a letter of confirmation of the coalition.

Upon issuing the letter of confirmation of the coalition, the Registrar shall publish a notice in at least two newspapers with national circulation specifying

- The name of the coalition (where applicable); and
- The names of the political parties that are members of the coalition.

Where the Registrar is not satisfied that the coalition agreement is in accordance with the Act and each constituent political party consenting to the merger has fully complied with the relevant provisions, the Registrar shall request for additional information to be submitted within ten days of the request.

Where the Registrar does not receive the additional information within ten days, or the Registrar is not satisfied with the additional information, the Registrar shall not issue a letter of confirmation. Instead, he or she shall inform the political parties that are proposed members of the coalition of the decision within two days of the lapse of ten days period.

#### 9.4 Consequences of Forming a Coalition.

Each party in the coalition is still recognized as a legal entity and has an independent legal existence from that of its coalition partner(s). It still is entitled to rights and has to fulfil its responsibilities and liabilities under the Act and other laws.

To distinguish it from other political entities, such as mergers, a coalition:

- (a) shall not register a coalition name, but may use such name in



- popularizing the coalition;
- (b) shall not register a coalition slogan, logo or colours but may use such particulars in popularizing the coalition;
  - (c) may use the logo, symbol and colours of its constituent political parties;
  - (d) will not receive funds from the political parties fund but constituent political parties may if eligible individually;
  - (e) may only admit as its members registered political parties;
  - (f) shall not recruit individual members except through its constituent political parties; and
  - (g) No candidate shall be nominated on a coalition ticket.

All candidates presented in an election by a political party which is a member of a coalition shall be nominated by and use the logo of the respective constituent political parties in accordance with the coalition agreement.

#### 9.5 Amending of the Coalition Agreement

A coalition agreement can be amended and must follow the Act provisions for coalition agreement and the provisions spelt out in the original coalition agreement for amending that agreement.

#### 9.6 Dissolving a coalition

When a coalition is dissolved in accordance with the provisions in the coalition agreement, the decision to be dissolved must be in writing and signed by the authorized officials of the political parties. The decision to be dissolved must be submitted to the Registrar within fourteen days after the date of the decision.

Upon receiving the decision to dissolve a coalition, the Registrar shall within five days of receipt scrutinize the document. The Registrar shall in particular scrutinize:

- The grounds upon which the coalition is dissolved is in accordance with the coalition agreement.
- The mechanisms and the procedures to be followed in ending a coalition has been followed.

If the Registrar is satisfied that the decision is taken in accordance with the coalition agreement, the Registrar shall issue a letter of confirmation that the coalition is dissolved.

Upon issuing the letter of confirmation, the Registrar shall publish a notice in at least two newspapers with national circulation specifying:

- The name of the dissolving coalition (when applicable).
- The names of the political parties that are members of the dissolving coalition.

Where the Registrar is not satisfied that the decision for dissolving the coalition is accordance with the coalition agreement, the Registrar shall request for additional information to be submitted within ten days of the request.

Where the Registrar does not receive the additional information within ten days, or the Registrar is not satisfied with the additional information, the Registrar shall not issue a letter of confirmation and shall inform the political parties that are members of the coalition of the decision within two days of the lapse of ten day period.

## 10. Suspension and De-registration

A political party may be suspended from registration or be deregistered under certain specific circumstances.

### 10.1 Deregistration

Deregistration of a party may be either:

- Involuntary
- Voluntary

#### 10.1.1 Involuntary Deregistration

The Registrar has wide powers as set out in Section 34 of the Act. The Registrar may deregister a political party in carrying out regulatory functions.

### 10.1.1.1 Grounds for Involuntary Deregistration

The Registrar may deregister a political party if the party:

- has contravened the provisions of Article 91 of the Constitution, which deals with basic requirements for political parties;
- does not promote free and fair nomination of candidates;
- does not adhere to the law relating to the nomination of candidates;
- does not respect the national values and principles of the Constitution;
- obtained its registration in a fraudulent manner;
- has instigated or participated in the commission of an election offence;
- or
- Has acted contrary to the provisions of section 26 of the Political Parties Act by not adhering to the legal requirements on the political parties fund.

### 10.1.1.2 Deregistration Procedure

Before deregistering a political party, the Registrar will notify the party in writing by notice sent to all political party officials:

- of the particulars of the breach or contravention;
- of the intention to deregister the political party; and
- Direct the political party to remedy the breach or contravention within ninety days or otherwise show cause why the party should not be deregistered.

If a party fails to rectify the omission or does not convince the Registrar that the infraction was not the result of any negligence or lack of good faith on its part within ninety days, the Registrar may deregister the party, a decision to be taken within fourteen days after the lapse of the period of ninety days.

If a registered political party becomes deregistered, the Registrar will publish a notice of deregistration in the Kenya Gazette within five days after the decision of deregistration. This notice will specify the effective date of deregistration.

### 10.1.2 Voluntary De-registration.

A registered political party may voluntarily apply to become deregistered. Political parties voluntarily deregistering shall deposit with the Registrar:

- The decision to dissolve the political party.
- Documentation showing that the rules and procedures for deregistration of the party have been followed.
- Minutes of the meeting of the governing body of the party sanctioning the deregistration.

#### 10.1.2.1 Procedures of Voluntary Deregistration.

Upon receiving the decision of voluntary deregistration, the Registrar shall within two weeks of receipt scrutinize the document. If the Registrar is satisfied that the decision is taken in accordance with the political party constitution and any other relevant rules and regulations, the Registrar shall issue a letter of confirmation of the deregistration.

Upon issuing the letter of confirmation of the deregistration, the Registrar shall publish a notice in at least two newspapers with national circulation specifying the name of the political party and the date of the effect of the deregistration.

Where the Registrar is not satisfied that the decision is taken in accordance with the political party constitution and any other relevant rules and regulations, the Registrar shall request for additional information to be deposited within thirty days.

For as long as the additional information is not deposited with the Registrar, the application for deregistration will not be approved.

#### 10.1.2.2 Consequences of Deregistration

Once the Registrar has decided to deregister a party, the Registrar will change the status of the party from “registered” to “deregistered” in the Registry of Political Parties.

The deregistered party then loses all the advantages of a registered party.

In addition, a political party that is deregistered under this Act shall not:

- summon a meeting of members or officers of the political party other than for purposes of winding up the political party or for purposes of challenging the de-registration of the political party;
- attend or make a person attend a meeting in the capacity of a member or officer of the political party;
- publish a notice or advertisement relating to a meeting of the political party except for purposes of winding up the political party or of challenging the de-registration of the political party;
- invite persons to support the political party;
- make a contribution or loan to funds held or to be held by or for the benefit of the political party or accept a contribution or loan; or
- give a guarantee in respect of such funds.

### 10.1.3 Registration of Deregistered Parties

The name, abbreviation, symbol, logo and colours of a deregistered political party shall not be registered by any political party for a period of five years.

A registered party that is deregistered by the Registrar may (re)apply for registration after a period of five years after deregistration. The party can reapply by submitting an Application to the Registrar using the process of provisional registration and full registration.

## 10.2 Suspension of Registration

Sometimes, a party commits an offence that is not serious enough to be deregistered, but does justify temporary suspension of the political party's activities in order to correct the offence. The Registrar may suspend the registration of the political party for a period not exceeding twelve months.

### 10.2.1 Grounds of Suspension

A political party will be suspended if it commits an offence under the Act :The objective of suspension is to enable the political party to remedy the breach specified in the notice issued by the Registrar.

### 10.2.1.1 Suspension Procedure

Before suspending a political party, the Registrar will notify the party in writing by notice sent to all political party officials:

- of the particulars of the breach or contravention;
- of the intention to suspend the political party; and
- direct the political party to remedy the breach or contravention within a specific period given or otherwise show cause why the party should not be suspended.

If a political party fails to rectify the omission or does not convince the Registrar that the offence was not the result of any negligence or lack of good faith on its part within the specific time given, the Registrar may suspend the political party. A letter confirming the suspension will be sent to the political party within fourteen days after the lapse of the specific time given.

Upon issuing the letter of the suspension, the Registrar shall publish a notice in at least two newspapers with national circulation specifying the name of the political party and the period of the suspension.

### 10.2.1.2 Consequences of Suspension

A political party that has been suspended shall not be entitled to any of the rights and privileges specified in Section 15 of the Act, namely, the right to:

- hold and address public meetings in any area in Kenya for the purposes of publicizing the political party and recruiting members;
- the protection and assistance of the State security agencies for the purposes of facilitating peaceful and orderly meetings; and
- the provision by the State of fair opportunity to every political party to present program to the public by ensuring equitable access to the State owned media.

A political party shall be reinstated as a fully operating party within one week after the Registrar is satisfied the breach has been corrected. The Registrar shall send to the political party a letter of confirmation to show that it has been fully

reinstated within that same one week.

## 11. Political Parties Code of Conduct

Under the Constitution, a political party must meet requirements that include subscribing to and observing the code of conduct for political parties. Before a political party is issued with a certificate of full registration, it must undertake to be bound by the Political Parties Act, 2011 and the Code of Conduct set out in the First Schedule of the Act.

A code of conduct is a set of rules or principles outlining the responsibilities of or proper practices for an individual, party or organization. This may be in relation to other individuals, political parties or organizations. Code of conduct may stipulate sanctions that follow violating any of its provisions.

### 11.1 Rationale for Political Parties Code of Conduct

The Political Parties Code of Conduct regulates the behaviour of members and office holders of political parties, aspiring candidates, candidates and their supporters with a view to promoting good governance and eradicating political malpractices. The goals are to ensure: peace; and public order in the running of political party affairs.

### 11.2 Consequences of Violating the Code of Conduct

A person cannot be a member of a governing body of a political party if the person has been suspended for a period of six months for violating the Code of Conduct of the Political Party.

- Article 91 of the Constitution requires political parties to adhere to a code of conduct. Violation of the Code therefore may lead to deregistration of a political party.
- Instigating or participating in the commission of an offence. The code prohibits participation in acts of violence.

## 12. Enforcement and Sanctions

The Registrar has responsibilities for enforcing the Political Parties Act, 2011.

### 12.1 Registrar of Political Parties

The functions of the Registrar include:

- i. register, regulate, monitor, investigate and supervise political parties to ensure compliance with this Act;
- ii. administer the Political Parties Fund;
- iii. ensure publication of audited annual accounts of political parties;
- iv. verify and make publicly available the list of all members of political parties;
- v. maintain a register of political parties and their symbols. ;
- vi. ensure and verify that no person is a member of more than one political party and notify the Commission of his findings; and
- vii. investigate complaints received under this Act.

The above functions are not exhaustive. The Registrar may perform such other functions as may be conferred by this Act or any other written law.

For instance, where a political party commits an offence under this Act, the Registrar shall have the power to:

- i. issue a warning and require the political party to conform to this Act within a specified period;
- ii. suspend the registration of the political party for a period not exceeding twelve months; or
- iii. withhold funds to the political party for a period not exceeding twelve months.

### 12.2 Offences and Penalties

Offences and penalties for violations of the Political Parties Act, 2011 are found in Part VI of the Act. It is an offence for a person to:


- i. fail to furnish particulars or information required to be furnished by a political party under the Act;



- ii. make a statement which he or she knows to be false or which he or she has no reason to believe to be true; or
- iii. recklessly makes a false statement under the Act.

Where a political party commits an offence under the Act, every principal officer of that political party shall also be deemed to have committed the offence:

A person convicted of an offence under the Act for which no penalty is prescribed shall be liable, on conviction, to a fine of not less than one million shillings or to imprisonment for a term of not less than two years, or to both.



Office of the Registrar of Political Parties  
Lion Place 1st Floor, Waiyaki Way  
P.O. Box 1131-00600, Sarit Centre Nairobi Kenya  
Tel: +254 (0)204272000