

**THE CONSTITUTION OF KENYA (AMENDMENT) BILL,
2026**

A Bill for

AN ACT of Parliament to amend the Constitution.

ENACTED by the Parliament of Kenya, as follows—

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| 1. This Act may be cited as the Constitution of Kenya (Amendment) Act, 2026 and shall come into force after fourteen days following the official declaration of the results of a referendum conducted in accordance with Article 255 of the Constitution. | Short title and commencement. |
| 2. Article 97 of the Constitution is amended by inserting the following new clause immediately after Clause (1)
—
(1B) The members referred to in clause (1)(c) above shall not hold office for more than two terms. | Amendment of Article 97 of the Constitution |
| 3. Article 98 of the Constitution is amended by inserting the words “and shall not hold office for more than two terms” immediately after the words “with Article 90”. | Amendment of Article 98 of the Constitution |
| 4. Article 99 of the Constitution is amended in clause 2 by inserting the following new paragraph immediately after paragraph (h)
(i) Has held office as a member of parliament for a cumulative period of twenty-one years, whether consecutively or non-consecutively. | Amendment of Article 99 of the Constitution. |
| 5. Article 101 of the Constitution is amended in Clause (1) by deleting the word “fifth” appearing immediately after the words “in every” and substituting therefor the word “seventh”. | Amendment of Article 101 of the Constitution. |
| 6. Article 132 of the Constitution is amended by inserting the following new clause immediately after clause 2—

(2A) In the exercise of the powers conferred under clause (2), the President shall ensure that not more than four persons appointed to the offices of cabinet secretaries, principal secretaries, high commissioners, ambassadors, diplomatic and consular representatives shall be drawn from the same ethnic community. | Amendment of Article 132 of the Constitution |
| 7. Article 136 of the Constitution is amended—
(a) By deleting clause (1) and substituting therefor the following new clause—
(1)The president shall be elected in accordance with Article 138 and shall not be elected by direct popular vote; | Amendment of Article 136 of the Constitution |

(b) In clause (2) by deleting paragraph (a) and substituting therefor the following new paragraph —

(a) The election of the President shall occur following the declaration of the results of the general election for parliamentary seats, and in any event, not later than seven days of such declaration.

8. The Constitution is amended by repealing Article 138 and replacing therefor with the following new Article

Repeal of
Article 138 of the
Constitution

138. Procedure at presidential election

(1)A political party or a coalition of political parties shall, at least ninety days before the date of the general election for parliamentary seats, nominate and submit to the Independent Electoral and Boundaries Commission the name of its presidential candidate;

(2)Upon receipt of the name of a presidential candidate nominated under clause (1), the Independent Electoral and Boundaries Commission shall verify that the candidate meets the qualifications for election as President under Article 137, and shall, within seven days of such receipt, publish in the Gazette the names of all presidential candidates as nominated by respective political parties or coalition of political parties.

(3)If only one candidate for President is nominated, that candidate shall be declared elected as President.

(4)If two or more candidates for President are nominated, the presidential candidate nominated by the political party or coalition of political parties that attains—

- (a) Not less than two hundred and twenty-five elective seats in the National Assembly; and
- (b) Not less than thirty-two elective seats in the Senate;

shall within twenty-four hours of the declaration of the results of the general election for parliamentary seats, be declared as the President.

(5) Where no political party or coalition of political parties meets the threshold specified under clause (4), political parties or coalition of political parties may, within seven days from the date of declaration of the results of the general election for parliamentary seats form coalitions for purposes of attaining the required threshold;

(6) Where a coalition is formed under Clause (5), the presidential candidate nominated by the political party or coalition of political parties that attains a simple majority of members of parliament in the general election for parliamentary seats, shall be deemed to have been duly nominated by the coalition and shall, accordingly, be declared as President in accordance with this Article.

9. Article 177 of the Constitution if amended—

Amendment of
Article 177 of the Constitution

- (a) In clause (1), paragraph (a), by deleting the word “fifth” appearing immediately after the words “in every” and substituting therefor the word “seventh”;
- (b) In clause (2), by inserting the words “and shall not hold office for more than two terms” immediately after the words “Article 90”;
- (c) In clause (4), by deleting the word “five” appearing immediately after the word “of” and substituting therefor the word “seven”; and
- (d) By inserting the following new clause immediately after clause (4) —

(5) Members elected under clause (1)(a) shall not hold office for a period exceeding twenty-one years, whether consecutively or non-consecutively.

10. Article 180 of the Constitution is amended in clause (1) by deleting the word “fifth” appearing immediately after the words “in every” and substituting therefor the word “seventh”.

Amendment of
Article 180 of the
Constitution

MEMORANDUM AND OBJECTS OF REASONS

At its promulgation, the Constitution of Kenya, 2010 was lauded as one of the most progressive constitutions in Africa and beyond. While it has, over the years, provided a robust framework for democratic governance, the rule of law, and the protection of fundamental rights and freedoms, it has fallen short on solving the challenges of tribal and ethnic based politics as well as corruption.

These challenges have hindered the realization of the Constitution's full objectives. There is therefore need to review and amend certain provisions of the Constitution to align the law with prevailing social, economic, and political realities of the day.

The principle object of this Bill is to address the ever-present challenge of tribal and ethnic based politics by introducing an indirect form of presidential elections where the president shall be elected from a political party or coalition of parties which attains two-thirds majority in parliament following the declaration of results of the general election for parliamentary seats among other things.

The Bill proposes to amend Articles 97, 98, 99 and 177 of the Constitution to ensure that no nominated or elected members of Parliament and the County Assembly shall hold office for more than two terms in case of nominated members and three terms for elected members. Through these amendments, the Bill seeks to ensure de-commercialize Kenyan politics by ensuring that legislative positions, whether elective or nominative are not monopolized by a few individuals, who in most cases are the wealthy and/or those with financial muscles, but are instead accessible to a broader cross-section of qualified persons in order to promote equity, equality, inclusivity and democratic representation.

The Bill further proposes to amend Article 101, 177 and 180 of the Constitution to increase the term of president, parliament and county assembly from the current five years to seven years. Through this proposed amendment, the Bill seeks to ensure that persons elected into office have sufficient time to settle into their respective positions, learn the ropes and workings of government and to deliver on their manifesto.

Further, through the proposed amendments, the Bill seeks to depart from the current period which has put the country into a perennial polarizing campaign mood which not only hampers development but also creates an atmosphere of never-ending ethnic tensions which undermines national unity and cohesion.

The Bill further proposes to amend Article 132 of the Constitution so as to ensure that appointments made by the President for the positions of CSs, PSs and other high ranking government positions reflect the ethnic diversity of the Kenyan People. This proposed amendment therefore seeks to promote and enhance unity of the nation.

The Bill also proposes to amend Article 136 and repeal 138 of the Constitution and replace therefor with a new Article in order to introduce a restructured framework and procedure for election of the president. Instead of the current system of direct popular vote, the Bill introduces a system of indirect presidential election, wherein the president shall be automatically elected from the political party or coalition of parties that attains a two-thirds majority in both houses of parliament.

This proposed reform is aimed at addressing the challenges associated with the existing system such as ethnic-based political mobilization and heightened electoral tensions. By transitioning to an indirect electoral system for election of the president, the Bill seeks to promote consensus building by encouraging formation of broad-based political coalitions which will ultimately strengthen national unity, enhance political stability and reduce divisive political contestation.

Dated the 24th day of June, 2026

BRIAN OMONDI OCHIENG.,
Active Citizen.

Article 97 of the Constitution of which it is proposed to amend—

97. Membership of the National Assembly

- (1) The National Assembly consists of—
 - (a) two hundred and ninety members, each elected by the registered voters of single member constituencies;
 - (b) forty-seven women, each elected by the registered voters of the counties, each county constituting a single member constituency;
 - (c) twelve members nominated by parliamentary political parties according to their proportion of members of the National Assembly in accordance with Article 90, to represent special interests including the youth, persons with disabilities and workers; and
 - (d) the Speaker, who is an *ex officio* member.
- (2) Nothing in this Article shall be construed as excluding any person from contesting an election under clause (1)(a).

Article 98 of the Constitution of which it is proposed to Amend—

98. Membership of the Senate

- (1) The Senate consists of—
 - (a) forty-seven members each elected by the registered voters of the counties, each county constituting a single member constituency;
 - (b) sixteen women members who shall be nominated by political parties according to their proportion of members of the Senate elected under paragraph (a) in accordance with Article 90;
 - (c) two members, being one man and one woman, representing the youth;
 - (d) two members, being one man and one woman, representing persons with disabilities; and
 - (e) the Speaker, who shall be an *ex officio* member.

- (2) The members referred to in paragraph (1)(c) and (d) shall be elected in accordance with Article 90.
- (3) Nothing in this Article shall be construed as excluding any person from contesting an election under clause (1)(a).

Article 99 of the Constitution of which it is proposed to amend —

99. Qualifications and disqualifications for election as member of Parliament

- (1) Unless disqualified under clause (2), a person is eligible for election as a member of Parliament if the person—
 - (a) is registered as a voter;
 - (b) satisfies any educational, moral and ethical requirements prescribed by this Constitution or by an Act of Parliament; and
 - (c) is nominated by a political party, or is an independent candidate who is supported—
 - (i) in the case of election to the National Assembly, by at least one thousand registered voters in the constituency; or
 - (ii) in the case of election to the Senate, by at least two thousand registered voters in the county.
- (2) A person is disqualified from being elected a member of Parliament if the person—
 - (a) is a State officer or other public officer, other than a member of Parliament;
 - (b) has, at any time within the five years immediately preceding the date of election, held office as a member of the Independent Electoral and Boundaries Commission;
 - (c) has not been a citizen of Kenya for at least the ten years immediately preceding the date of election;
 - (d) is a member of a county assembly;
 - (e) is of unsound mind;
 - (f) is an undischarged bankrupt;

- (g) is subject to a sentence of imprisonment of at least six months, as at the date of registration as a candidate, or at the date of election; or
 - (h) is found, in accordance with any law, to have misused or abused a State office or public office or in any way to have contravened Chapter Six.
- (3) A person is not disqualified under clause (2) unless all possibility of appeal or review of the relevant sentence or decision has been exhausted.

Article 101 of the Constitution of which it is proposed to amend—

101. Election of members of Parliament

- (1) A general election of members of Parliament shall be held on the second Tuesday in August in every fifth year.
- (2) Whenever a vacancy occurs in the office of a member of the National Assembly under Article 97(1)(c), or of the Senate under Article 98(1) (b), (c) or (d), the respective Speaker shall, within twenty-one days of the occurrence of the vacancy, give notice in writing of the vacancy to—
 - (a) the Independent Electoral and Boundaries Commission; and
 - (b) the political party on whose party list the member was elected or nominated.
- (3) A vacancy referred to in clause (2) shall, subject to clause (5), be filled in the manner prescribed by an Act of Parliament within twenty-one days of the notification by the respective Speaker.
- (4) Whenever a vacancy occurs in the office of a member of the National Assembly elected under Article 97(1)(a) or (b), or of the Senate elected under Article 98(1)(a)—
 - (a) the respective Speaker shall, within twenty-one days after the occurrence of the vacancy, give notice in writing of the vacancy to the Independent Electoral and Boundaries Commission; and
 - (b) a by-election shall be held within ninety days of the occurrence of the vacancy, subject to clause (5).

- (5) A vacancy referred to in clause (4) shall not be filled within the three months immediately before a general election.

Article 132 of the Constitution of which it is proposed to amend—

132. Functions of the President

(1) The President shall—

- (a) address the opening of each newly elected Parliament;
- (b) address a special sitting of Parliament once every year and may address Parliament at any other time; and
- (c) once every year—
 - (i) report, in an address to the nation, on all the measures taken and the progress achieved in the realisation of the national values, referred to in Article 10;
 - (ii) publish in the *Gazette* the details of the measures and progress under sub-paragraph (i); and
 - (iii) submit a report for debate to the National Assembly on the progress made in fulfilling the international obligations of the Republic.

(2) The President shall nominate and, with the approval of the National Assembly, appoint, and may dismiss—

- (a) the Cabinet Secretaries, in accordance with Article 152;
- (b) the Attorney-General, in accordance with Article 156;
- (c) the Secretary to the Cabinet in accordance with Article 154;
- (d) Principal Secretaries in accordance with Article 155;
- (e) high commissioners, ambassadors and diplomatic and consular representatives; and
- (f) in accordance with this Constitution, any other state or public officer whom this Constitution requires or empowers the President to appoint or dismiss.

(3) The President shall—

- (a) chair Cabinet meetings;
- (b) direct and co-ordinate the functions of ministries and government departments; and
- (c) by a decision published in the *Gazette*, assign responsibility for the implementation and administration of any Act of Parliament to a Cabinet Secretary, to the extent not inconsistent with any Act of Parliament.

(4) The President may—

- (a) perform any other executive function provided for in this Constitution or in national legislation and, except as otherwise provided for in this Constitution, may establish an office in the public service in accordance with the recommendation of the Public Service Commission;
- (b) receive foreign diplomatic and consular representatives;
- (c) confer honours in the name of the people and the Republic;
- (d) subject to Article 58, declare a state of emergency; and
- (e) with the approval of Parliament, declare war.

(5) The President shall ensure that the international obligations of the Republic are fulfilled through the actions of the relevant Cabinet Secretaries.

Article 136 of the Constitution of which it is proposed to amend—

136. Election of the President

- (1) The President shall be elected by registered voters in a national election conducted in accordance with this Constitution and any Act of Parliament regulating presidential elections.
- (2) An election of the President shall be held—
 - (a) on the same day as a general election of Members of Parliament, being the second Tuesday in August, in every fifth year; or
 - (b) in the circumstances contemplated in Article 146.

Article 138 of the Constitution of which it is proposed to repeal—

138. Procedure at presidential election

- (1) If only one candidate for President is nominated, that candidate shall be declared elected.
- (2) If two or more candidates for President are nominated, an election shall be held in each constituency.
- (3) In a presidential election—
 - (a) all persons registered as voters for the purposes of parliamentary elections are entitled to vote;
 - (b) the poll shall be taken by secret ballot on the day specified in Article 101(1) at the time, in the places and in the manner prescribed under an Act of Parliament; and
 - (c) after counting the votes in the polling stations, the Independent Electoral and Boundaries Commission shall tally and verify the count and declare the result.
- (4) A candidate shall be declared elected as President if the candidate receives—
 - (a) more than half of all the votes cast in the election; and
 - (b) at least twenty-five per cent of the votes cast in each of more than half of the counties.
- (5) If no candidate is elected, a fresh election shall be held within thirty days after the previous election and in that fresh election the only candidates shall be—
 - (a) the candidate, or the candidates, who received the greatest number of votes; and
 - (b) the candidate, or the candidates, who received the second greatest number of votes.
- (6) If more than one candidate receives the greatest number of votes, clause (5)(b) shall not apply and the only candidates in the fresh election shall be those contemplated in clause (5)(a).
- (7) The candidate who receives the most votes in the fresh election shall be declared elected as President.
- (8) A presidential election shall be cancelled and a new election held if —

- (a) no person has been nominated as a candidate before the expiry of the period set for the delivery of nominations;
 - (b) a candidate for election as President or Deputy President dies on or before the scheduled election date; or
 - (c) a candidate who would have been entitled to be declared elected as President, dies before being declared elected as President.
- (9) A new presidential election under clause (8) shall be held within sixty days after the date set for the previous presidential election.
- (10) Within seven days after the presidential election, the chairperson of the Independent Electoral and Boundaries Commission shall—
- (a) declare the result of the election; and
 - (b) deliver a written notification of the result to the Chief Justice and the incumbent President.

Article 177 of the Constitution of which it is proposed to amend—

177. Membership of county assembly

- (1) A county assembly consists of—
- (a) members elected by the registered voters of the wards, each ward constituting a single member constituency, on the same day as a general election of Members of Parliament, being the second Tuesday in August, in every fifth year;
 - (b) the number of special seat members necessary to ensure that no more than two-thirds of the membership of the assembly are of the same gender;
 - (c) the number of members of marginalised groups, including persons with disabilities and the youth, prescribed by an Act of Parliament; and
 - (d) the Speaker, who is an *ex officio* member.
- (2) The members contemplated in clause (1)(b) and (c) shall, in each case, be nominated by political parties in proportion to the seats received in that election in that county by each political party under paragraph (a) in accordance with Article 90.

(3)The filling of special seats under clause (1)(b) shall be determined after declaration of elected members from each ward.(4)A county assembly is elected for a term of five years.

Article 180 of the Constitution of which it is proposed to amend—

180. Election of county governor and deputy county governor

- (1) The county governor shall be directly elected by the voters registered in the county, on the same day as a general election of Members of Parliament, being the second Tuesday in August, in every fifth year.
- (2) To be eligible for election as county governor, a person must be eligible for election as a member of the county assembly.
- (3) If only one candidate for county governor is nominated, that candidate shall be declared elected.
- (4) If two or more candidates are nominated, an election shall be held in the county and the candidate who receives the greatest number of votes shall be declared elected.
- (5) Each candidate for election as county governor shall nominate a person who is qualified for nomination for election as county governor as a candidate for deputy governor.
- (6) The Independent Electoral and Boundaries Commission shall not conduct a separate election for the deputy governor but shall declare the candidate nominated by the person who is elected county governor to have been elected as the deputy governor.
- (7) A person shall not hold office—
 - (a)as a county governor for more than two terms; or
 - (b)as a deputy county governor for more than two terms.
- (8) For the purposes of clause (7), a person who has assumed the office of county governor shall be deemed to have served a full term, subject only to Article 182(3)(b).