

(Legislative Supplement No. 14)

LEGAL NOTICE NO. 31

THE TREATY FOR THE ESTABLISHMENT OF THE EAST
AFRICAN COMMUNITY ACT

(No. 2 of 2000)

PARLIAMENT
OF KENYA
LIBRARY

IN EXERCISE of the powers conferred by Article 50(1) of the Treaty for the Establishment of the East African Community Act, the National Assembly of Kenya makes the following Rules:—

THE TREATY FOR THE ESTABLISHMENT OF THE EAST
AFRICAN COMMUNITY (ELECTION OF MEMBERS OF THE
ASSEMBLY) RULES, 2012.

PART I—PRELIMINARY

1. These Rules may be cited as the Treaty for the Establishment of the East African Community (Election of Members of the Assembly) Rules, 2012 and shall be deemed to have come into force on the 9th of May, 2012, being the date on which they were adopted by the National Assembly through its resolution.

Citation and
commencement.

2. In these Rules, the parliamentary words and expressions used have the same meaning as that assigned to them in the Standing Orders of the National Assembly and unless the context otherwise requires—

Interpretation.

“candidate” means a person who is nominated to stand for election to the East African Legislative Assembly;

“election” means an election to the East African Legislative Assembly;

“nomination” means nomination as a candidate to stand for election to the East African Legislative Assembly;

“party” means a parliamentary political party;

“relevant Departmental Committee” means the Departmental Committee of the National Assembly responsible for Foreign Affairs;

“Returning Officer” means the Clerk of the National Assembly;

“voter” means a Member of the National Assembly other than the Speaker and the Attorney-General.

PART II—QUALIFICATIONS AND NOMINATION OF
CANDIDATES

3. No person shall be qualified to stand for election unless he or she is qualified to be elected in accordance with Article 50 (2) of the Treaty for the Establishment of the East African Community, Article 99 of the Constitution and section 22 of the Elections Act, 2011.

Qualification for
election.

Notification of election.

4. (1) Where an election is to be held, the Returning Officer shall by notice in the Gazette notify that fact and invite interested qualified persons to apply, within a period of seven days, for nomination by a party.

(2) The Returning Officer shall by notice in the Gazette and in at least two daily newspapers of national circulation appoint a nomination day, which shall be at least seven days from the expiry of the period prescribed under sub-rule (1) and shall indicate in such notice the venue for the receipt of nomination papers.

Process of nomination of candidates.

5. (1) In order to be validly nominated as a candidate for an election, a person shall be nominated by a party in the form set out in the Schedule.

(2) A party shall nominate candidates through a transparent and democratic process and shall keep a written record of the proceedings at which the final decision to nominate any candidate was made.

Number of nominees of each party.

6. (1) A party shall be entitled to nominate for election under these Rules any number of candidates not exceeding three times the figure arrived at by multiplying the number of elected members of the National Assembly of that party by nine and dividing the result by the total number of elected members of the National Assembly.

(2) In making nominations, each party shall as much as it is feasible take into account the need for fair representation of the various political parties in the National Assembly, regional balance, shades of opinion, gender and other special interest groups in Kenya and shall ensure that at least one third of its nominees are women.

Pre-nomination briefing.

7. The relevant Departmental Committee may, prior to the expiry of the period prescribed under Rule 4(2), invite the party leaders or the party whips of all parties entitled to nominate candidates for a pre-nomination briefing on the nomination requirements under the Treaty for the Establishment of the East African Community and under these Rules.

Delivery of nomination papers.

8. (1) On nomination day, at any time not later than four o'clock in the afternoon, a candidate or the party leader or the party whip of a party entitled to nominate candidates shall deliver the nomination papers of the candidate or candidates nominated by the party to the Returning Officer.

(2) The Returning Officer may reject the nomination papers of any candidate if it is apparent from the contents of the nomination papers that the candidate is not qualified to stand for election.

(3) The Returning Officer may, after consultation with the relevant Departmental Committee, reject all nominations and order a fresh nomination if it is apparent from the list of nominees that it shall not be possible, upon the holding of elections, to have, as much as is feasible, a fair representation of the various political parties in the National Assembly, regional balance, shades of opinion, gender and other special interest groups in Kenya and to ensure that at least one third of the persons elected are women.

(4) In the event a fresh nomination is ordered, the Returning Officer may shorten the periods specified under Rule 4

9 (1) A candidate may, not later than four o'clock in the afternoon of the day following the nomination day, withdraw his or her candidature by notice in writing signed and delivered to the Returning Officer with a copy to the party leader or party whip of the party that nominated the candidate

Withdrawal or death
of a candidate

(2) No withdrawal of a candidate shall be accepted after the expiry of the period prescribed under sub-rule (1)

(3) Where a candidate dies after four o'clock in the afternoon of the nomination day, and before the election day, the election shall proceed, but the voters shall be informed of such death

(4) The party which nominated a candidate who dies or for any other reason ceases to be a candidate before the election day, may notwithstanding rule 8, nominate another person in place of the candidate

10 Subject to such conditions as the Returning Officer may prescribe, any person may during office hours for two working days from the nomination day, inspect the nomination papers of any candidate and may lodge a complaint with the Returning Officer in relation to a candidate's nomination

Inspection of
nomination papers

11 Within two days after the expiry of the period provided for in rule 9, the Returning Officer shall forward to the relevant Departmental Committee, for its consideration, the names and nomination papers of all duly nominated candidates

Forwarding of
nomination papers to
relevant
Departmental
Committees

PART III—ELECTION CAMPAIGNS AND VOTING

12 (1) An aspiring candidate may approach and seek the support of a Member of Parliament entitled to vote, before the nomination day and may, if nominated continue to do so after the nomination day

Audience before the
relevant
Departmental
Committee

(2) On a date to be appointed by the relevant Departmental Committee, not being less than three days before the election day, the relevant Departmental Committee shall convene and a meeting at such place as it may determine, at which each candidate shall be permitted to appear before the Committee and to address the Committee in English or Kiswahili for such length of time and to answer such questions if any as the Committee may determine

(3) The relevant Departmental Committee shall prepare a report of the meeting with the candidates for tabling before the National Assembly for its information but the report shall not recommend the election of any candidate

13 The Returning Officer shall, by notice published in the Gazette and in at least two daily newspapers of national circulation appoint an election day which shall be not more than seven days and not less than three days after the nomination day

Election day

14 (1) The Returning Officer shall prepare and at the time appointed for the election, shall issue to each voter one ballot paper on

Ballot paper

which shall be written in alphabetical order, the names of all duly nominated candidates, clustered under the heading of the names of the respective parties that nominated them

(2) A voter shall be required to cast a specified number of votes, which shall be clearly indicated on the ballot paper, in respect of the candidates nominated by each party

(3) The number of votes to be cast under sub-rule (2) in respect of each party shall be the figure arrived at by multiplying the number of elected members of the National Assembly of that party by nine and dividing the result by the total number of elected members of the National Assembly

Voting

15. (1) The voting shall be conducted under the general supervision of the Speaker, in the place appointed by the Speaker

(2) On receiving a ballot paper, a voter shall secretly record his or her votes by putting a mark against the names of the nine candidates that the voter wishes to elect as members of the East African Legislative Assembly, in the respective proportions specified under sub-rule (3) of rule 14

(3) A voter shall cast as many votes as the number of candidates to be elected, otherwise the ballot paper of that voter shall be regarded as spoilt

(4) A voter who accidentally spoils a ballot paper while voting is in progress shall, on surrendering the spoilt ballot paper, be issued with a replacement ballot paper

Counting of votes

16 (1) Immediately after all voters have cast their votes, the Speaker shall appoint two members to act as counting agents for all the candidates.

(2) The Returning Officer shall, in the presence of the two counting agents as witnesses, count the votes cast

Declaration of results

17 When the votes have been counted and the results of the election have been ascertained—

(a) the Returning Officer shall report to the National Assembly the results of the election together with the number of votes recorded for each candidate under the cluster of each party at the end of the election exercise, and

(b) the Speaker shall announce to the National Assembly and declare to be duly elected as members of the East African Legislative Assembly the nine persons, in the proportions specified under sub-rule (3) of rule 14 in respect of each party, who receive the highest number of votes.

Publication and transmission of names

18. Within seven days after the Speaker announces the names of the elected members of the East African Legislative Assembly, the Clerk shall—

(a) publish the names in the Gazette; and

- (b) transmit to the Clerk of the East African Legislative Assembly the names of the elected members as published in the Gazette.

19. The Returning Officer shall ensure safe custody of all ballot papers and other documents relating to the conduct of the election and shall cause all such documents to be destroyed after the expiration of six months from the election day

Custody of ballot papers

PART IV – VOIDANCE OF ELECTION

20. Any question that may arise whether a person is an elected member of the East African Legislative Assembly or whether a seat in that Assembly is vacant shall be determined by the High Court.

Determination of validity of candidate's election

21. The procedure, jurisdiction and grounds for election petitions in respect of Members of Parliament shall apply *mutatis mutandis* for members of the East African Legislative Assembly.

Procedure for voidance of elections

PART V – MISCELLANEOUS

22. Where the seat of a member elected under these Rules becomes vacant, the Speaker shall upon receipt of notification of the vacancy from the Speaker of the East African Legislative Assembly, facilitate the election of a member to replace the member in accordance with the procedure set out under these Rules.

Filling of vacancy

23. If any matter arises which is not specifically provided for in these Rules, the Speaker shall make a ruling directing what is to be done and in making such a ruling, the Speaker shall be guided by the practice and procedure normally followed in similar situations with regard to the conduct of elections in the National Assembly.

Matters not specifically provided for

24. In respect of the first election to be held after the coming into operation of these Rules, the Returning Officer may reduce the period for the doing of anything required to be done by such reasonable period as the Returning Officer may determine.

Transitional

25. These Rules supersede any previous rules, procedure or practice for the election of members to the East African Legislative Assembly.

Supersession

SCHEDULE

(rule 5(1))

**NOMINATION FORM FOR ELECTION OF A MEMBER OF THE EAST AFRICAN
LEGISLATIVE ASSEMBLY**

I, the undersigned, being the party leader/party whip of the parliamentary party shown below hereby certify the nomination of the under mentioned person as a candidate at the said election.

<i>Candidates Name in Full</i>	<i>Address</i>	<i>Occupation or Description</i>

Full Names... ..

Parliamentary Political Party

Party Office Held (Party Leader/Party Whip)

Signature of Party Leader/Party Whip

And I, the aforesaid
do hereby consent to my nomination as a candidate for election as a member of the East African Legislative Assembly and hereby certify that I am in all respects qualified for nomination as such candidate

I have attached herewith

(a) a photocopy of my national identity card/passport; and

(b) my detailed curriculum vitae showing my educational and other qualifications

.....
Signature of Candidate

Dated the 9th May, 2012

KENNETH MARENDE,
Speaker of the National Assembly.