

**THE CONSTITUTION OF KENYA (AMENDMENT)
ACT 1997
No. 9 of 1997**

Date of Assent: 7th November, 1997

Date of Commencement: 7th November, 1997

An Act of Parliament to amend the Constitution of Kenya

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, 1997. | Short title. |
| 2. | The Constitution is amended by inserting a new section immediately after section 1 as follows- | New section 1A. |
| Political system. | 1A. The Republic of Kenya shall be a multi-party democratic state. | |
| 3. | Section 7 of the Constitution is amended by inserting a full stop immediately after the phrase "is declared to be elected" and repealing the rest of that section. | Amendment of section 7. |
| 4. | Section 16 of the Constitution is amended in subsection (2) by inserting the words and commas ",subject to the provisions of any written law," immediately after the word "shall". | Amendment of section 16. |
| 5. | Section 33 of the Constitution is repealed and the following new section inserted- | Amendment of section 33. |
| Nominated members. | 33. (1) Subject to this section, there shall be twelve nominated members of the National Assembly appointed by the President following a general election, to represent special interests. | |

(2) The persons to be appointed shall be persons who, if they had been nominated for a parliamentary election, would be qualified to be elected as members of the National Assembly.

(3) The persons to be appointed shall be nominated by the parliamentary parties according to the proportion of every parliamentary party in the National Assembly, taking into account the principle of gender equality.

(4) The proportions under subsection (3) shall be determined by the Electoral Commission after every general election and shall be signified by the chairman of the Commission to the leaders of the concerned parliamentary parties, the President and the Speaker.

(5) The names of the nominees of parliamentary parties shall be forwarded to the President through the Electoral Commission who shall ensure observance of the principle of gender equality in the nominations.

Amendment
of section 41.

6. Section 41 of the Constitution is amended-

(a) in subsection (1) by deleting the word "other" after the word "four" and inserting the words "and not more than twenty-one".

(b) by inserting the following new subsection (1A) immediately after subsection (1)-

(1A) Every member of the Commission shall be a citizen of Kenya.

(c) by inserting the following new subsection (2A) immediately after subsection (2)-

(2A) The chairman and the vice-chairman of the Commission shall be persons who have held or are qualified to hold office of judge of the High Court or judge of appeal under the Constitution.

(d) by repealing subsection (10) and inserting the following new subsection-

(10) Subject to this Constitution and without prejudice to subsection (9), Parliament may provide for the orderly and effective conduct of the operations and business of the Commission and for the powers of the Commission to appoint staff and establish committees and regulate their procedure.

7. Section 42A of the Constitution is amended -

Amendment
of section 42A

(a) by renumbering the existing paragraph (c) thereof as paragraph "(e)", and

(b) by deleting the word "and" at the end of paragraph (b) and inserting the following new paragraphs "(c)" and "(d)" in correct numerical order immediately after paragraph (b)-

"(c) promoting free and fair elections;

(d) promoting voter education throughout Kenya; and".

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Amendment
of section 44.

8. Section 44 of the Constitution is amended by repealing subsection (5).

Amendment
of section 82.

9. Section 82 of the Constitution is amended by deleting the word "or" and inserting a comma immediately after the word "colour" and inserting the words "or sex" immediately after the word "creed".

Amendment
of section 84.

10. Section 84 of the Constitution is amended by inserting the following new subsection (7) after subsection (6)-

(7) A person aggrieved by the determination of the High Court under this section may appeal to the Court of Appeal as of right.
