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**THE CONSTITUTION OF KENYA (AMENDMENT)
ACT, 1999**

No. 3 of 1999

Date of Assent: 17th November, 1999.

Date of Commencement: 19th November, 1999.

**An Act of Parliament to amend the Constitution of
Kenya**

ENACTED by the Parliament of Kenya, as follows:-

1. This Act may be cited as the Constitution of Kenya (Amendment) Act, 1999. Short title.
2. The Constitution is amended by repealing section 45. Repeat of section 45.
3. The Constitution is amended in Chapter III by inserting the following new Part immediately after Part 1 - Insertion of Part 1A in Chapter III.

PART 1A

***The Parliamentary Service and the Parliamentary
Service Commission***

Parliamentary Service. **45A.**(1) There shall be a service to be known as the parliamentary service.

(2) There shall be a Clerk of the National Assembly and such other officers and staff as may be appointed for the purposes of the National Assembly in accordance with section 45B.

(3) The offices of the Clerk of the National Assembly and the officers and other staff provided for under subsection (2) shall be offices in the parliamentary service.

Parliamentary Service Commission. **45B.** (1) There shall be a Parliamentary Service Commission which shall consist of -

- (a) the Speaker of the National Assembly who shall be the chairman;
- (b) a vice-chairman elected by the Commission from amongst the members appointed under paragraph (e) of this subsection;
- (c) the leader of Government business in the National Assembly or a member of the Assembly deputed by him;
- (d) the leader of the opposition party with the highest number of seats in the National Assembly or a member of the Assembly deputed by him;
- (e) seven members (other than the President, Ministers, Assistant Ministers and the Attorney-General) appointed by the National Assembly from amongst its members, of whom-
 - (i) four shall be nominated by the parliamentary party or parties forming the Government; and

- (ii) three shall be nominated by the parliamentary party or parties forming the opposition.

(2) A member of the Commission, shall vacate office—

- (a) upon dissolution of the Parliament during which the member was appointed to the Commission:

Provided that upon dissolution of Parliament, appointed members of the Commission shall continue in office until new members are appointed in their place by the next National Assembly;

- (b) if he ceases to be a member of the National Assembly otherwise than by reason of the dissolution of Parliament;
- (c) if circumstances arise that, if he were not a member of the Assembly, would disqualify him for election as such;
- (d) if he is an appointed member, upon revocation of his appointment by the Assembly or upon his resignation; or

- (e) if he is the Speaker or the leader of Government business, or the leader of the opposition party with the highest number of seats in the National Assembly, upon ceasing to hold office as such.

(3) If the office of chairman of the Commission is vacant or the chairman is for any reason unable to exercise the functions of his office, then, until a person has been elected Speaker and has assumed the functions of chairman, or until the person holding that office has resumed those functions, as the case may be, the vice-chairman or, if the office of vice-chairman is vacant, or the vice-chairman is for any reason unable to perform the functions of the office of chairman, such one of the other appointed members as the Commission may elect shall act as chairman; and the vice-chairman or the other member shall, subject to subsection (2), continue to act until a person has been elected to the office of Speaker and assumed the functions of chairman or, as the case may be, until the person in whose place he is acting has assumed or resumed those functions.

(4) If the office of an appointed member of the Commission is vacant or if such member is acting as chairman under subsection (3), or is for any reason unable to exercise the functions of his office, the Assembly may appoint

a person who is qualified to be appointed to be a member to act in place of that member; and a person so appointed shall, subject to subsection (2), continue to act until a person has been appointed to the office in which he is acting or has assumed the functions of that office or, as the case may be, until the person in whose place he is acting has resumed those functions.

(5) The Parliamentary Service Commission shall have power –

- (a) to constitute and abolish offices in the parliamentary service;
- (b) to appoint persons to hold or act in the offices of the Service (including the power to confirm appointments) and to exercise disciplinary control over persons holding or acting in those offices (including the power to remove those persons from office);
- (c) to provide such services and facilities as are necessary to ensure efficient and effective functioning of the Assembly;
- (d) to direct and supervise the administration of the services and facilities provided by,

and exercise budgetary control over, the Service;

(e) in such manner as may be prescribed by or under an Act of Parliament -

(i) to cause to be prepared and laid before the National Assembly in each financial year estimates of expenditure (which shall be a charge on the Consolidated Fund) of the parliamentary service for the next following financial year;

(ii) to cause to be audited and a report thereon laid before the Assembly at least once every year, the accounts of the Commission (also known as the accounts of the Clerk of the National Assembly) provided that until such time as the manner of the audit and report is prescribed as afore-said section 105 shall

continue to apply
mutatis mutandis;

- (f) without prejudice to the generality of paragraphs (c) and (d), to provide security staff to maintain proper security for members of the Assembly and for the services and facilities within the precincts of the Assembly;
- (g) to determine the terms and conditions of service of persons holding or acting in the offices of the Service;
- (h) from time to time as necessity arises, to appoint an independent body to review and make recommendations on the salaries and allowances of the members of the Assembly;
- (i) to initiate, co-ordinate and harmonize policies and strategies relating to the development of the Service;
- (j) to undertake, singly or jointly with other relevant authorities and organisations, such programmes as will promote the ideals of parliamentary democracy in Kenya;

(k) to do such other things including review of parliamentary powers and privileges as may be necessary for the well-being of the members and staff of the National Assembly and to exercise such other functions as may be prescribed by or under an Act of Parliament.

(6) In the exercise of its powers or the performance of its functions under this Constitution, the Commission shall not be subject to the direction or control of any other person or authority.

(7) Subject to this section, the Commission may by regulations or otherwise regulate its own procedure and, with the consent of the President or the Public Service Commission, as may be appropriate, may confer powers or impose duties on any public officer or authority for the purpose of the discharge of its functions.

(8) Subject to any regulations made under subsection (7), the Commission may act notwithstanding a vacancy in its membership or absence of a member, and its proceedings shall not be invalidated by the presence or participation of a person not entitled to be present at or to participate in those proceedings.

(9) The Commission shall endeavour to reach every decision by consensus:

Provided that where on any matter consensus cannot be obtained, the decision of the Commission shall require the concurrence of a majority of all the members thereof.

(10) The Commission may, by directions in writing, delegate any of its powers under this section to any one or more of its members or to any officer in the parliamentary service.

(11) Notwithstanding anything to the contrary appearing in this section, the Commission may -

- (a) engage persons under individual contracts of service upon such terms and conditions as the Commission may determine;
- (b) commission any person, who in its opinion possesses expert knowledge or is otherwise able to assist in connection with the exercise of its functions, to make such inquiries or to conduct such research or to make such reports as may be necessary for the efficient and effective carrying out of its functions;
- (c) appoint competent persons, whether members of the

Commission or not, to be a committee or committees to assist the Commission on such matters within the scope of its functions as are referred to them by the Commission.

(12) Subject to this section, provision may be made by or under an Act of Parliament for prescribing the manner of the exercise of the functions of the Commission under this section and for any matters incidental or supplementary to the exercise of those functions.

(13) For the avoidance of doubt and without prejudice to the generality of subsection (14), section 48 and section 107(1) shall not apply in relation to the parliamentary service.

(14) This Part shall have effect notwithstanding any other provision of this Constitution and, accordingly, if any such provision is inconsistent with a provision of this Part, the provision of this Part shall apply.

Transitional
provisions.

4.(1) The person who, immediately before the commencement of this Act, was the Clerk of the National Assembly shall be deemed to be the Clerk of the National Assembly appointed under section 45A.

(2) Every person who, immediately before the commencement of this Act, was an officer or other member of staff of the National Assembly shall, upon the

commencement of this Act, be deemed to be appointed under section 45B:

Provided that such person shall, within three months or such longer period as may be prescribed by or under an Act of Parliament, have and exercise by writing under his hand addressed to the Commission, the option to remain in the parliamentary service or to be redeployed in the public service.

(3) A person who, pursuant to subsection (2), opts to be redeployed in the public service or whose option to remain in the parliamentary service is not approved by the Commission shall be referred to the Public Service Commission for redeployment, and shall be redeployed accordingly.

(4) A person who fails to exercise the option conferred by subsection (2) within the period specified shall be deemed to have opted to retire from the parliamentary service.

(5) All Acts, regulations and other stipulations in force at the commencement of this Act shall, in so far as they relate to the terms and conditions of service of the officers and other staff of the National Assembly as at the commencement of the Act, and save as may be otherwise expressly provided, continue to apply *mutatis mutandis* in relation to the officers and other staff in the parliamentary service.