



THE REPUBLIC OF KENYA

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THE PUBLICATION OF ELECTORAL OPINION POLLS ACT

CHAPTER 7B

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CHAPTER 7B

PUBLICATION OF ELECTORAL OPINION POLLS ACT

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CHAPTER 7B

PUBLICATION OF ELECTORAL OPINION POLLS ACT

[Date of assent: 15th June, 2012.]

[Date of commencement: 22nd November, 2012.]

An Act of Parliament to provide for the manner of publication of electoral opinion polls and for connected purposes

[Act No. 39 of 2012.]

1. Short title

This Act may be cited as the Publication of Electoral Opinion Polls Act.

2. Interpretation

In this Act, unless the context otherwise requires—

"broadcasting" means the unidirectional conveyance of sounds or television programmes, whether encrypted or not, by radio or other means of telecommunications, for reception by the public;

"electoral period" means the period of twelve months immediately preceding an election under the Constitution of Kenya or any other written law;

"electoral opinion poll" means a survey of the public opinion or a sample of the public opinion to assess the views of the electorate on various matters relating to an election, political candidates or political issues;

"publication" means the act of publishing or making known to the people at large, either by words, writing or printing.

3. Application

This Act shall apply to all persons who publish or cause the publication of results of an electoral opinion poll during an electoral period.

4. Information required on publication

(1) The first person who publishes the results of an electoral opinion poll during an electoral period and any other person who transmits those results to the public within twenty-four hours after they are first transmitted to the public must provide the following information together with the results:

- (a) the name of the sponsor of the opinion poll;
- (b) the name of the person or organization that conducted the opinion poll;
- (c) the date on which or the period during which the opinion poll was conducted;
- (d) the population from which the sample of respondents was drawn;
- (e) the number of people who were contacted to participate in the opinion poll;
- (f) the methodology used;
- (g) the educational levels of the participants; and
- (h) if applicable, the margin of error in respect of the data obtained.

(2) A person who contravenes any of the provisions of subsection (1) commits an offence.

5. Additional information required in published opinions

(1) In addition to the information referred to in section 4, the following information must be provided in the case of a publication by means other than broadcasting—

- (a) the wording of the opinion poll questions in respect of which data is obtained;
- (b) the name and address of the sponsor of the opinion poll;
- (c) the name and address of the person or organization that conducted the opinion poll;
- (d) information about the methodology used to collect the data from which the opinion poll results were derived, including:
 - (i) the sampling method;
 - (ii) the population from which the sample was drawn;
 - (iii) the size of the initial sample;
- (e) the number of individuals who were asked to participate in the opinion poll and the numbers and respective percentages of them who participated in the opinion poll, refused to participate in the opinion poll or were ineligible to participate in the opinion poll;
- (f) the dates and time of the day of the interviews;
- (g) the method used to recalculate the data to take into account in the opinion poll the results of participants who expressed no opinion, were undecided or failed to respond to any or all of the opinion poll questions;
- (h) any weighting factors or normalization procedures used in deriving the results of the opinion poll;
- (i) the wording of the opinion poll questions; and
- (j) where applicable, the margins of error in respect of the data obtained.

(2) A person who contravenes any of the provisions of subsection (1) commits an offence.

6. Fee may be charged

A sponsor may charge a reasonable fee for a copy of a report provided under section 5.

7. Prohibition of publication

(1) A person shall not publish the results of any electoral opinion poll on the day of the election or during the period of five days immediately preceding the date of an election.

(2) A person who contravenes subsection (1) commits an offence.

8. Penalties

A person who commits an offence under this Act is liable to a fine not exceeding one million shillings or to imprisonment for a period not exceeding one year, or to both.

