

**THE CONSTITUTION OF KENYA (AMENDMENT)
(No. 4) ACT 1966**

No. 40 of 1966

Date of Assent: 3rd January 1967

*Date of Commencement: Upon the next Prorogation of
Parliament*

**An Act of Parliament to amend the Constitution, and for
matters incidental thereto and connected therewith**

ENACTED by the Parliament of Kenya, as follows:—

PART I—PRELIMINARY

1. (1) This Act may be cited as the Constitution of Kenya (Amendment) (No. 4) Act 1966.

Short title,
construction and
commencement.

(2) This Act shall be read and construed as one with the Constitution, in so far as it makes amendments to the Constitution.

(3) This Act shall come into operation upon the prorogation of Parliament next following the enactment of this Act.

2. (1) In this Act, unless the context otherwise requires—

Interpretation.

“existing law” means any Act, enactment, law, rule, regulation, order or other instrument having effect as part of the law of Kenya or any part thereof immediately before the date of commencement of this Act, or any Act of the Parliament of the United Kingdom or Order of Her Majesty in Council (other than the Kenya Independence Order in Council 1963) so having effect;

“the Constitution” means the Constitution of the Republic of Kenya contained in Schedule 2 of the Kenya Independence Order in Council 1963, as amended by the Constitution of Kenya (Amendment) Act 1964, the Constitution of Kenya (Amendment) (No. 2) Act 1964, the Constitution of Kenya (Amendment) Act 1965, the Constitution of Kenya (Amendment) Act 1966, the Constitution of Kenya (Amendment) (No. 2) Act 1966 and the Constitution of Kenya (Amendment) (No. 3) Act 1966.

L.N. 718/1963.
28 of 1964.
38 of 1964.
14 of 1965.
16 of 1966.
17 of 1966.
18 of 1966.

(2) Subject to subsection (1) of this section, and save where the context otherwise requires, expressions used in this Act have the same meaning as in the Constitution and section

247 of the Constitution shall apply for the purposes of interpreting this Act as it applies for the purposes of interpreting the Constitution.

PART II—AMENDMENTS TO CONSTITUTION AND OTHER LAWS

Amendment of
Constitution.

3. (1) The provisions of the Constitution specified in the first column of Part I of the First Schedule to this Act shall be amended in the manner specified in relation thereto in the second column of that Part of that Schedule.

(2) Subject to subsection (1) of this section, there shall be substituted for the expressions specified in the first column of Part II of the First Schedule to this Act, wherever they appear in the Constitution, the expressions specified in the second column of that Part of that Schedule.

Amendment of
other laws.
L.N. 718/1963,
14 of 1965.

4. The provisions of the Kenya Independence Order in Council 1963 and of the Constitution of Kenya (Amendment) Act 1965 specified in the first column of the Second Schedule to this Act shall be amended in the manner specified in relation thereto in the second column of that Schedule.

PART III—CONSEQUENTIAL PROVISIONS

Existing laws.

5. (1) Subject to this Act, the existing laws shall, notwithstanding the amendments made to the Constitution by this Act, continue in force as from the commencement of this Act as if they had been made in pursuance of the Constitution as amended by this Act, but they shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution as so amended.

(2) Where any matter that falls to be prescribed or otherwise provided for under the Constitution as amended by this Act by Parliament or by any other person or authority is prescribed or provided for by or under an existing law (including any amendment to any such law made under this section) or is otherwise prescribed or provided for immediately before the commencement of this Act by or under the Constitution, that prescription or provision shall, as from the commencement of this Act, have effect as if it had been made under the Constitution as amended by this Act by Parliament or, as the case may be, by that other person or authority.

(3) The President may by order made and published in the Kenya Gazette at any time before the expiration of one year from the commencement of this Act make such amendments to any existing law as may appear to him to be necessary or expedient for bringing that law into conformity with the Constitution as amended by this Act, or for giving effect or enabling effect to be given to that law or to the Constitution as so amended, or which he otherwise considers necessary or expedient in consequence of the amendment of the Constitution by this Act.

(4) The provisions of this section shall be without prejudice to any powers conferred by this Act or by the Constitution as amended by this Act or by any other law upon any person or authority to make provision for any matter, including the amendment or repeal of any existing law.

6. (1) Notwithstanding section 49 of the Constitution as amended by this Act (which provides for the division of Kenya into constituencies), the Order made by the Electoral Commission under section 3 of the Parliamentary Constituencies (Preparatory Review) (No. 2) Act 1966, and published in the Kenya Gazette on 19th December 1966, shall have effect upon the commencement of this Act as if it had been made and published, and as if it had come into effect, in accordance with the provisions of the said section 49 as so amended, and, upon the commencement of this Act and until that Order is superseded or altered by another order made by the Electoral Commission under the said section 49 as so amended, the constituencies into which Kenya shall be divided (in this section referred to as the new constituencies) shall be the constituencies prescribed in the first mentioned Order.

National
Assembly.

(2) Upon the commencement of this Act—

- (a) any person who immediately before that commencement was the Elected Member of the House of Representatives representing a constituency specified in the first column of Part I of the Third Schedule to this Act shall be the Elected Member of the National Assembly representing the new constituency specified as corresponding to that first-mentioned constituency in the second column of that Part of that Schedule;
- (b) any person who immediately before that commencement was a Senator representing a District (including

the Nairobi Area) specified in the first column of Part II of the Third Schedule to this Act shall be the Elected Member of the National Assembly representing the new constituency specified as corresponding to that District in the second column of that Part of that Schedule; and

(c) the persons who immediately before that commencement were Specially Elected Members of the House of Representatives shall be Specially Elected Members of the National Assembly.

(3) The persons who become Elected Members or Specially Elected Members of the National Assembly by virtue of subsection (2) of this section shall, as from the commencement of this Act, be deemed to have been elected to the Assembly in accordance with the Constitution as amended by this Act, and shall hold their seats therein in accordance with those provisions.

(4) The persons who immediately before the commencement of this Act were the Speaker and Deputy Speaker of the House of Representatives shall, as from the commencement of this Act and until the National Assembly first meets after that commencement, be the Speaker and Deputy Speaker respectively of the National Assembly; and when the National Assembly first meets after that commencement a Speaker and a Deputy Speaker of the National Assembly shall be elected in accordance with sections 45 and 46 of the Constitution as amended by this Act.

(5) Nothing in this Act shall prevent the bringing or continuation of proceedings for the determination of any question whether any person was validly elected before the commencement of this Act as a member of either House of the National Assembly as then established, or whether the seat of any person in either of such Houses has become vacant before that commencement or would have become vacant but for the passing of this Act, and for the purpose of any such proceedings section 50 of the Constitution as in force before that commencement and any law then in force relating to elections or election petitions shall continue in force as if this Act had not been passed; and if in any such proceedings it is determined that any person was not validly elected, or that the seat of any person has become vacant or would have become vacant but for the passing of this Act, that person shall, notwithstanding any of the preceding provisions of this section, vacate his seat in the National Assembly.

(6) Any law in force immediately before the commencement of this Act that makes provision for the privileges, immunities or powers of the House of Representatives or the committees or the members thereof (including the Speaker thereof) shall, except as may be otherwise provided by Parliament, apply after the commencement of this Act in relation to those matters to the National Assembly or the committees or the members or the Speaker thereof, as the case may require, as if it had been made in pursuance of section 62 (5) of the Constitution, but any such law shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring it into conformity with the Constitution as amended by this Act; and the power conferred on the President by section 5 (3) of this Act shall include power to amend any such law.

(7) The Standing Orders of the House of Representatives as in force immediately before the commencement of this Act shall, except as may be otherwise provided by the National Assembly, be the Standing Orders of the National Assembly after the commencement of this Act as if they had been made in pursuance of section 62 (1) of the Constitution as amended by this Act; but all such Standing Orders shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution as amended by this Act.

(8) Subject to section 65 (4) of the Constitution, and notwithstanding subsection (3) of that section, Parliament shall, unless sooner dissolved, stand dissolved on 7th June 1970.

(9) Any person who, under the provisions of this section, becomes a member of the National Assembly upon the commencement of this Act, shall be deemed to have taken any necessary oath under the Constitution.

7. Any register of voters in force immediately before the commencement of this Act for the purpose of elections to the House of Representatives, shall, except as may be otherwise provided by or under an Act of Parliament, and except in so far as it may be revised from time to time or superseded by a new register in accordance with the law applicable to such register, have effect after the commencement of this Act as the register of voters in elections to the National Assembly.

Register of
voters.

FIRST SCHEDULE

(s. 3)

AMENDMENTS TO THE CONSTITUTION

*Part I**Provision**Amendment*Chapter II.
Section 29.

(a) In subsection (2), delete the words "in their application to the House of Representatives".

(b) In subsection (4), substitute for the words "resolution of the Houses of" the words "a resolution of".

(c) Delete subsection (9).

Chapter III.
Section 33c.

(a) In paragraph (a), substitute for the words ", or both Houses sitting together;" the word "; and".

(b) In paragraph (b), substitute for the words "that House; and" the words "the Assembly".

(c) Delete paragraph (c).

Chapter IV.
Section 34.

Delete subsection (2).

Section 35.

Delete whole section.

Section 36.

(a) Delete the marginal note and substitute therefor the following—

Districts and
Nairobi Area.

(b) In subsection (1), delete the words "and each District and the Nairobi Area shall elect one Senator in such manner as, subject to the provisions of this Constitution, may be prescribed by or under any law".

(c) Delete subsections (3), (4) and (5).

Section 39.

Delete whole section and substitute therefor a new section as follows—

Election of Specially Elected Members of National Assembly.	39. There shall be twelve Specially Elected Members of the National Assembly, who shall be elected by the Elected Members of that Assembly in accordance with the provisions of Schedule 6 of this Constitution.
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Section 40 (2).

Delete whole subsection and substitute a new subsection as follows—

(2) A person shall not be qualified to be elected as a member of the National Assembly unless, at the date of his nomination for election, he is registered in some constituency as a voter in elections of Elected Members to the Assembly.

Section 41.

(a) In subsection (2), delete the words "Senate or the compilation of any register of voters for the purposes of such an election shall

FIRST SCHEDULE—(Contd.)

<i>Provision</i>	<i>Amendment</i>
	not be qualified to be elected as a Senator and may provide that a person who holds or is acting in any office that is specified by Parliament and the functions of which involve responsibility for, or in connexion with, the conduct of any election to the".
	(b) Delete subsection (5).
Section 42 (3).	Delete whole subsection.
Section 42A (1).	In the proviso, substitute for the words "a Speaker" the words "to be the Speaker".
Section 43.	Delete whole section.
Section 44.	Delete whole section.
Section 45 (6).	Delete the words "but as such member he shall not be entitled to vote on any question before that House".
Section 47.	(a) In the marginal note, substitute for the words "Clerks to Houses of" the words "Clerk of" and delete the word "their". (b) In subsection (1), delete the words "Senate and a Clerk to the". (c) In subsection (2)— (i) substitute for the words "Clerks to the two Houses" the words "Clerk of the National Assembly"; (ii) substitute for the words "their staffs" the words "his staff".
Section 48.	Delete subsection (1), and substitute two new subsections as follows— (1) There shall be an Electoral Commission which shall consist of— (a) the Speaker of the National Assembly, as Chairman; (b) two members appointed by the President; and (c) a member representing each Province (or such other area as may be substituted therefor by Act of Parliament) who shall be appointed by the President. (1a) The Commission shall elect a Vice-Chairman from among its members.
Section 49.	(a) In subsection (1)— (i) substitute for the words "such number of constituencies (not being more than 130 or less than 110)" the words "158 constituencies, or such larger number of constituencies as Parliament may prescribe,"; (ii) immediately after the word "boundaries" insert the words "and names". (b) Delete subsection (2).

FIRST SCHEDULE—(Contd.)

Provision

Amendment

(c) In subsection (4), insert immediately after the words “ten years” the words “or whenever Parliament may so prescribe.”.

Section 50 (3).

Delete whole subsection, and substitute a new subsection as follows—

(3) An application to the High Court for the determination of any question under subsection (1) (b) of this section may be made by any Elected Member of the National Assembly or by any person who is registered as a voter in elections of Elected Members of the Assembly or by the Attorney-General.

Section 51 (2).

Delete whole subsection, and substitute a new subsection as follows—

(2) Any person elected as Speaker of the National Assembly who has not before his election as Speaker taken the oath as a member of the Assembly shall, before entering upon the duties of his office, take and subscribe the oath of allegiance before the National Assembly.

Section 52.

Delete whole section.

Section 54.

(a) In the marginal note delete the words “Houses of”.

(b) Delete subsection (1).

(c) In subsection (2), substitute for the word “twenty” wherever it appears, the word “thirty”.

Section 57.

(a) Delete the marginal note and substitute a new marginal note as follows—

Attorney-General
to be member of
National Assembly.

(b) Delete subsections (1) and (3).

Section 59.

(a) In subsection (1), delete the words “(or, in the cases mentioned in section 61 of this Constitution, by the House of Representatives)”.

(b) Delete subsection (2).

(c) Delete subsection (3), and substitute a new subsection as follows—

(3) When a Bill has been passed by the National Assembly it shall be presented to the President for his assent.

Section 60 (1).

Delete whole subsection.

Section 61.

Delete whole section.

Section 62 (3).

Delete whole subsection.

Section 63.

Delete whole section.

Section 64 (2).

Delete the proviso.

Section 65 (3).

Substitute for the word “meet” the word “meets”.

FIRST SCHEDULE—(Contd.)

Provision

Amendment

Chapter XI.

Section 186 (3).

(a) Delete paragraph (a) and substitute a new paragraph as follows—

(a) he is, or has at any time been, a member of the National Assembly, or he has at any time been a member of either House of the National Assembly formerly established for Kenya, a member of a Provincial Council or a Regional Assembly formerly established for a part of Kenya, or a member (other than an *ex officio*, an appointed or a nominated member) of any Legislative Council established for Kenya at any time before 12th December 1963; or

(b) Delete paragraph (b), and substitute a new paragraph as follows—

(b) he is, or has at any time been, nominated as a candidate for election as a member of the National Assembly or of any such former House of the National Assembly, former Provincial Council, Regional Assembly or Legislative Council; or

(c) In paragraph (c), substitute for the words "either House of the National Assembly or of a Provincial Council or of such a Legislative Council or of any local government authority (whether established under Chapter XIII of this Constitution or under any law in force at any time before 12th December 1963; or" the words "the National Assembly or of any local government authority or of any such former House of the National Assembly, former Provincial Council, Regional Assembly or Legislative Council; or".

Chapter XV.

Section 244 (1).

In paragraph (d), delete the words "or a joint committee of the two Houses of the National Assembly" and the words "or, in the case of a member of such a joint committee, to the Speaker of the House of which that person is a member".

Section 247.

In subsection (1), in the definition of "session", substitute for the word "meet" the word "meets".

Schedule 5.

Delete Part I.

Part II

General Amendments

Expression in Constitution

Expression to be substituted

"either House of the National Assembly".
 "a House of the National Assembly".
 "both Houses of the National Assembly".
 "each House of the National Assembly".
 "each House".
 "the two Houses of the National Assembly."

"the National Assembly".
 "the National Assembly".
 "the National Assembly".
 "the National Assembly".
 "the National Assembly".
 "the National Assembly".

FIRST SCHEDULE—(Contd.)

<i>Expression in Constitution</i>	<i>Expression to be substituted</i>
"House of Representatives".	"National Assembly".
"the House".	"the Assembly".
"either House".	"the Assembly".
"that House".	"the Assembly".
"those Houses".	"the Assembly".

SECOND SCHEDULE

(s. 4)

AMENDMENTS TO OTHER LAWS

<i>Provision</i>	<i>Amendment</i>
	<i>Kenya Independence Order in Council 1963</i>
Section 19 (3).	In paragraph (a) delete subparagraphs (i) and (iii).
	<i>Constitution of Kenya (Amendment) Act 1965</i>
Section 10.	Delete whole section.

THIRD SCHEDULE

(s. 6)

New constituencies in the National Assembly corresponding to constituencies represented in the former House of Representatives and to Districts represented in the former Senate.

PART I

<i>Constituency</i>	<i>New Constituency</i>
Nairobi Doonholm	Bahati
Nairobi Central	Kamukunji
Nairobi South	Langata
Nairobi West	Dagoretti
Nairobi North-west	Parklands
Nairobi North-east	Mathari
Nairobi East	Embakasi
Mombasa Island South	Mombasa West
Mombasa Mainland	Mombasa South
Mombasa Island North	Mombasa Central
Kwale East	Kwale East
Kwale West	Kwale North
Kilifi South	Kilifi South
Kilifi North	Kilifi North
Malindi	Malindi South
Tana River	Tana South
Lamu	Lamu West
Taveta-Voi	Taveta
Wundanyi	Wundanyi

THIRD SCHEDULE—(Contd.)

<i>Constituency</i>				<i>New Constituency</i>
Garissa South	..	..	..	Garissa South
Garissa North	..	..	..	Garissa North
Wajir South	..	..	..	Wajir South
Wajir North	..	..	..	Wajir West
Mandera	..	..	..	Mandera East
Marsabit-Moyale	..	..	..	Marsabit North
Rendille	..	..	..	Marsabit South
Isiolo	..	..	..	Isiolo South
Nyambene North	..	..	..	Nyambene North
Nyambene South	..	..	..	Nyambene South
Meru West	..	..	..	Meru North-West
Meru Central	..	..	..	Meru Central
Meru South	..	..	..	Meru South
Tharaka	..	..	..	Meru South-East
Embu North	..	..	..	Embu North
Embu South	..	..	..	Embu South
Kitui North	..	..	..	Kitui North
Kitui Central	..	..	..	Kitui Central
Kitui East	..	..	..	Kitui East
Kitui South	..	..	..	Kitui South
Yatta	..	..	..	Yatta
Machakos North	..	..	..	Kangundo
Machakos Central	..	..	..	Iveti North
Machakos East	..	..	..	Mbooni
Machakos West	..	..	..	Kilungu
Machakos South	..	..	..	Makueni
Aberdares	..	..	..	Nyandarua North
Nyeri	..	..	..	Nyeri
Mathira	..	..	..	Mathira
Othaya-South Tetu	..	..	..	South Tetu
Gichugu	..	..	..	Kirinyaga East
Ndia	..	..	..	Kirinyaga West
Kangema	..	..	..	Mbiri
Kigumo	..	..	..	Kigumo
Kandara	..	..	..	Kandara
Kiharu	..	..	..	Makuyu
Gatundu-Thika	..	..	..	Gatundu
Githunguri	..	..	..	Githunguri
Kiambaa	..	..	..	Kiambaa
Kikuyu	..	..	..	Kikuyu
Limuru	..	..	..	Limuru
Turkana North	..	..	..	Turkana East
Turkana South	..	..	..	Turkana South
West Pokot	..	..	..	Pokot West
Korossi	..	..	..	Samburu East
Trans Nzoia	..	..	..	Kitale East
Uasin Gishu	..	..	..	Eldoret South
Marakwet	..	..	..	Kerio North
Elgeyo	..	..	..	Kerio Central

THIRD SCHEDULE—(Contd.)

<i>Constituency</i>	<i>New Constituency</i>
Nandi South	Aldai
Nandi North	Tinderet
Baringo East	Baringo East
Baringo North	Baringo Central
Baringo South	Baringo South
Laikipia-Nanyuki	Laikipia West
Nakuru East	Nakuru East
Nakuru Town	Nakuru Town
Nakuru West	Nakuru West
Narok West	Narok West
Narok East	Narok North
Kajiado	Kajiado South
Bomet	Chepalungu
Buret	Buret
Belgut	Belgut
Kericho East	Kericho
Lurambi	Lurambi North
Mumias	Mumias
Emukhaya	Emukhaya
Ikolomani	Ikolomani
Vihiga	Vihiga
Hamisi	Hamisi
Butere	Butere
Mount Elgon	Mount Elgon
Elgon Central	Bungoma South
Elgon East	Bungoma East
Elgon West	Busia North
Elgon South-West	Busia East
Ruambwa	Busia South
Ugenya	Ugenya
Alego	Alego
Gem	Gem
Bondo	Bondo
Kisumu Rural	Kisumu Rural
Kisumu Town	Kisumu Town
Winam	Winam
Nyando	Nyando
Kasipul-Kabondo	Kasipul-Kabondo
Karachuonyo	Karachuonyo
Homa Bay	Homa Bay
Lambwe	Ndhiwa
Migori	Migori
Kuria	Kuria
Wanjare-South Mugirango	Wanjare-South Mugirango
Majoge-Bassi	Majoge-Bassi
Nyaribari	Nyaribari
Kitutu East	Kitutu East
Kitutu West	Kitutu West
North Mugirango	West Mugirango

THIRD SCHEDULE—(Contd.)

PART II

<i>District</i>	<i>New Constituency</i>
Nairobi Area	Starehe
Mombasa	Mombasa North
Kwale	Kwale Central
Kilifi	Malindi North
Tana River	Tana North
Lamu	Lamu East
Taita	Voi
Garissa	Garissa Central
Wajir	Wajir East
Mandera	Mandera West
Marsabit	Moyale
Isiolo	Isiolo North
Meru	Meru South-West
Embu	Embu East
Kitui	Kitui West
Machakos	Iveti South
Nyandarua	Nyandarua South
Nyeri	Othaya
Kirinyaga	Kirinyaga South
Murang'a	Kangema
Kiambu	Lari
Thika	Juja
Turkana	Turkana West
West Pokot	Pokot East
Samburu	Samburu West
Trans Nzoia	Kitale West
Uasin Gishu	Eldoret North
Elgeyo-Marakwet	Kerio South
Nandi	Mosop
Baringo	Baringo North
Laikipia	Laikipia East
Nakuru	Nakuru North
Narok	Narok South
Kajiado	Kajiado North
Kericho	Bomet
Kakamega	Lurambi South
Bungoma	Bungoma Central
Busia	Busia Central
Central Nyanza	Nyakach
South Nyanza	Mbita
Kisii	Borabu-North Mugirango