

NATIONAL COUNCIL FOR
LAW REPORTING
LIBRARY

SPECIAL ISSUE

Kenya Gazette Supplement No. 71 (National Assembly Bills No. 11)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2020

NAIROBI, 8th May, 2020

CONTENT

Bill for Introduction into the National Assembly—	PAGE
The Referendum Bill, 2020	291

**THE REFERENDUM BILL, 2020
ARRANGEMENT OF CLAUSES**

Clause

PART I—PRELIMINARY

- 1—Short title
- 2—Interpretation
- 3—Object of the Act.

**PART II— AMENDMENT OF THE
CONSTITUTION BY POPULAR INITIATIVE**

- 4—Procedure under popular initiative.
- 5—Procedure in a county assembly.

PART III—CONDUCT OF REFERENDUM

- 6—Initiation of a referendum.
- 7—Notice of holding referendum.
- 8—Returning Officers.
- 9—Appointment of other officers.
- 10—Register of voters.
- 11—Right to vote and evidence of identity.
- 12—Polling areas and polling stations.
- 13—Use of public facilities.
- 14—Application of Act No. 37 of 2016.
- 15—Referendum Committees.
- 16—Costs of referendum committee.
- 17—Appointment of chief agent.
- 18—Appointment of agents
- 19—Rights and duties of agents.
- 20—Referendum campaign period.

PART V—VOTING AND REFERENDUM RESULTS

- 21—Voting procedure.
- 22—Ballot papers.
- 23—Voting under special circumstances
- 24—Accreditation of referendum observers

25—Constituency referendum results

26—Return of referendum.

27—Publication of referendum results

PART VI – REFERENDUM PETITIONS

28—Referendum petition.

29—Composition of Court.

30—Operation of declared result of issue submitted to referendum.

31—Persons who may present referendum petition.

32—Respondents to referendum petition.

33—Filing of referendum petition.

34—Duty of Registrar to make list of referendum petitions.

35—Practice procedure and security for costs.

36—Death of or delay by petitioner.

37—Hearing of referendum petition.

38—Powers of a court to summon witnesses in a referendum petition.

39—Prohibition of disclosure of vote.

40—Examination of votes.

41—Powers of Court.

42—Petition expenses.

43—Facilitation of persons with special needs including persons with disabilities.

PART VII—MISCELLANEOUS

44—Offences by referendum officials.

PART VIII – PROVISIONS ON DELEGATED POWERS

45—Regulations.

PART IX – CONSEQUENTIAL AMENDMENTS

46—Amendment of Act No. 24 of 2011.

SCHEDULE—REFERENDUM CODE OF CONDUCT

THE REFERENDUM BILL, 2020

A Bill for

AN ACT of Parliament to provide for the procedure of the approval of an amendment to the Constitution by a referendum, the conduct of a referendum, referendum petitions and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Referendum Act, 2020.

Short title.

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

Interpretation.

“agent” means a person duly appointed by a referendum committee for the purposes of a referendum under this Act;

“chief agent” in respect of a registered referendum committee, means the person recorded in the register maintained by the Commission under section 17 as the person responsible for the affairs of the referendum committee;

“Commission” means the Independent Electoral and Boundaries Commission established by Article 88 of the Constitution;

“elector” means a person whose name is included in the current register of voters;

“elector’s card” means a card issued to an elector as evidence of the person’s registration in the register of voters;

“oppose” in respect of a referendum question means voting not to approve the referendum question specified in section 6 of the Act;

“polling area” means one of the areas into which a constituency is divided under section 12, or, if the Commission has declared a constituency to be a single polling area, that constituency;

“polling station” means any room, place, vehicle or vessel set apart and equipped for the casting of votes by electors at an election;

“polling time” means the period between seven o’clock in the morning and five o’clock in the afternoon of the polling day and includes the time taken to vote by voters who were present in a polling station by five o’clock;

“presiding officer” means a person appointed under section 8 to preside at a polling station;

“referendum” means a poll held under this Act;

“referendum committee” means any group of persons that intends to support or oppose the referendum question during the referendum period;

“referendum officer” means a returning officer, presiding officer and any other person appointed by the Commission to perform referendum duties under this Act;

“referendum period” means the period beginning on the day on which the text of the referendum question is published and ending on polling day of the referendum;

“referendum question” means the question upon which the people shall vote in the referendum as specified in section 6 of the Act;

“returning officer” means a person appointed under section 8 for the purpose of conducting the referendum in a constituency;

“support” in respect of referendum question, means voting to approve the referendum question specified in section 6 of the Act;

“voter” in relation to the referendum, means a person whose name is included in the current register of voters.

3. The object of this Act is to provide for—

Object of the Act.

- (a) the procedure for the approval of an amendment to the Constitution by a referendum;
- (b) the conduct of a referendum for the approval of an amendment to the Constitution; and
- (c) the procedure to challenge the conduct of a referendum.