

THE POLITICAL PARTIES (AMENDMENT) ACT 2022): TIMELINES AND HIGHLIGHTS

Summary of the Political Parties
(Amendment)
Act 2022 and Election timeline



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HIGHLIGHTS OF THE AMENDMENTS TO POLITICAL PARTIES ACT:

The following new legal perspectives have been introduced to form a new or refined laws on the manner and conduct of political parties.

New Definitions:

Political party

is defined as an association of citizens with an identifiable ideology or programme that is constituted for the purpose of influencing public policy or nominating candidates to contest elections; and with the new changes, includes a coalition political party.

Coalition political party

is a group of political parties that come together to collaborate and is registered by the Registrar as a political party.

Direct party nomination

is one of the two methods of conducting nominations where a preliminary election is held and voters decide their party's candidates. The law requires that one get to be registered in that political party to become a member before he/she can be involved in internal party elections of MCAs, MPs, Governor, Women Representative, and Senator. Once elected, the candidate then faces off with others candidates from other political parties.

Indirect party nomination

Is the other method of nomination and is based on consensus building or selection by delegation or any other way that is lawful.

Statement of ideology

Is a statement setting out the doctrine, ethical ideals and principles of the party.

The definition "**party primary**" has been deleted in the new law and replaced with party nominations. A party primary was previously defined by the law as "the process through which a political party elects or selects its candidates for a forthcoming general election or for a forthcoming by-election"

Requirements of one to contest for an elective position in a political party

The amended law provides that, for you to contest for an elective position in a political party, you must:

1.

AGE

Have attained the age of eighteen years;

2.

FEES

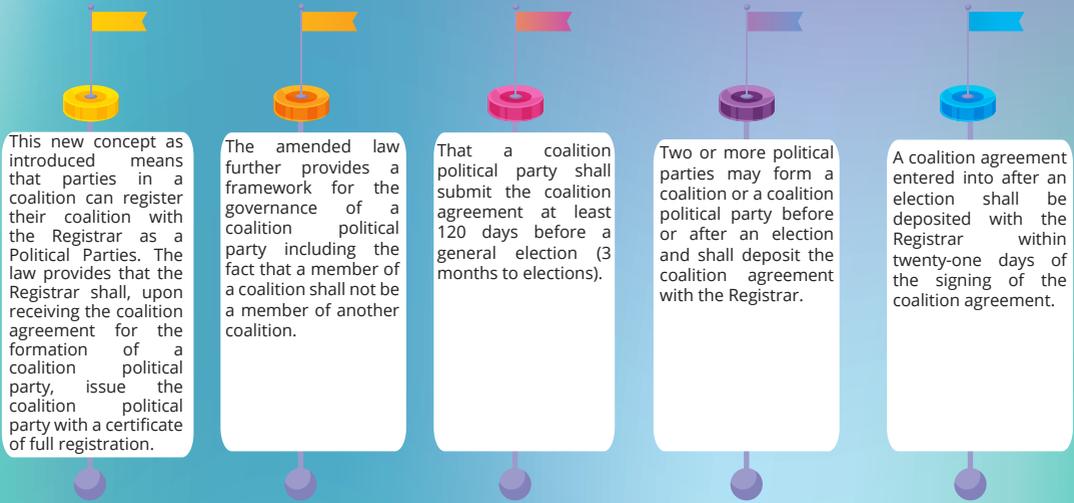
Pay the party's membership fees;

3.

RULES

Comply with any other requirements as prescribed by the party

Coalition political party



Party Structures

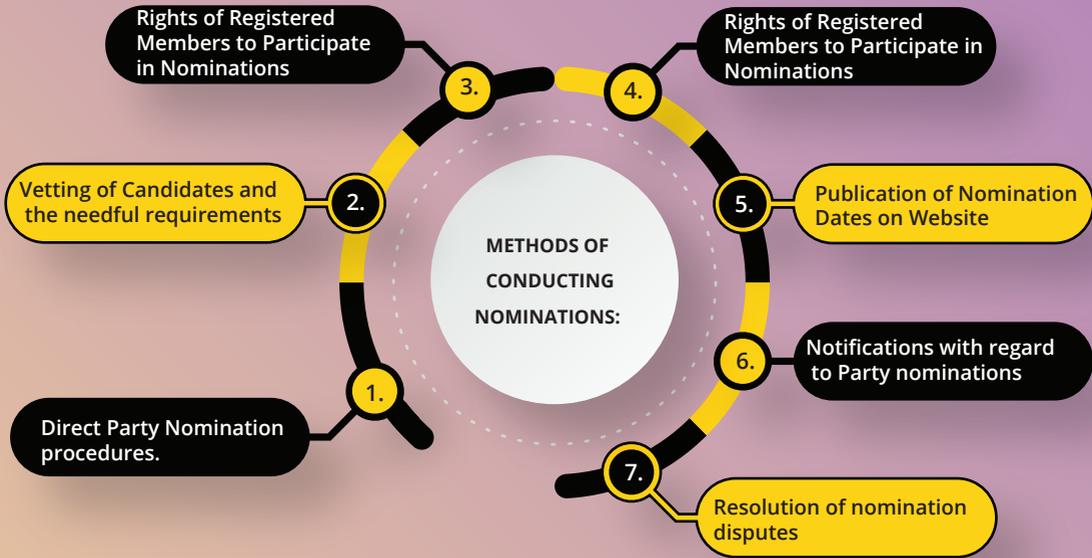
The law requires that a party establishes mechanisms for resolution of disputes arising from party nominations and to designate the person who shall issue certificates to candidates after party nominations. Additionally, a party is required to identify functions of the body within the party that is responsible for conducting

Party nominations.

A whole legal provision has been introduced to deal with party nominations. It consists of new sections on political party nominations including methods of conducting nominations; the establishment of structures by political parties for the conduct of nominations; the participation of registered members of a political party in its nominations.

It further provides a methodology that will help in accessing the register of members of the political party during the political party's nominations; the procedure for the conduct of direct and indirect party nominations; the vetting of candidates contesting party nominations; and the period within which political party nomination disputes should be resolved by the political party.

METHODS OF CONDUCTING NOMINATIONS:

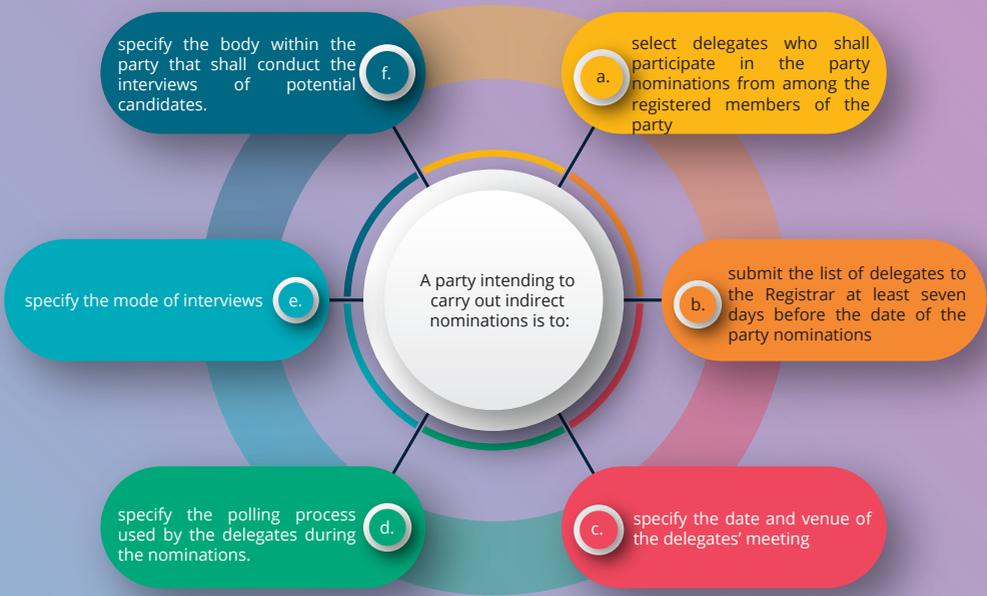


1. Direct Party Nomination procedures.

The law provides for direct nominations where if a party intends to conduct direct nominations, it is obligated to post in a conspicuous place within each venue of nominations the certified list of members eligible to participate in nominations at that venue; provide ballot boxes, ballot papers, pens and copies of certified register of members; nomination result slips.

A party intending to conduct direct nominations is to submit to the registrar and publish on its website, the particulars of the body within the party that is to conduct the nominations and the procedure to be used in the direct nominations.

The procedure here is that a party through its delegates, selects candidates to award the nomination certificate to. A party intending to carry out indirect nominations is to:



The procedure for selection of delegates to participate in indirect nominations is to be provided for in the party nomination rules. The list of those delegates shall contain names, addresses and identifying particulars of the individual delegates.

2. Vetting of Candidates and the needful requirements

A party conducting nominations is to ensure that each nominated candidate makes and deposits self-declaration forms under the Integrity and Leadership Act or law, meets all constitutional and statutory qualifications including education, and chapter six qualifications and meets other requirements prescribed by law and nomination rules.

3. Rights of Registered Members to Participate in Nominations

Under section 38C, registered members of a party are entitled to participate in nominations carried by the party. A party intending to carry out nominations is required to use a certified register of members. The party is to apply in writing to the registrar for a certified copy of the register, at least 21 days before the date of nominations and the registrar is to supply the certified register within 7 days after the application. Non-party members are prohibited from participating in the nominations of a party. This will curb the instances of malicious people whose aim is to meddle with the affairs of Party Nominations.

4. Publication of Nomination Dates on Website

At least 7 days before the day of the nominations, political parties must publish on their website the dates and venues of the party nominations.

The registrar is also to publish the date and venues of a party's nominations on the registrar's website at least 7 days before the day of nominations.

Activity	Statutory Timeline	Deadline Date
End of Fundraising by Political Aspirants	8 months before elections	9th December 2021
Resignation of Public Officers intending to stand for Political posts	6 months before elections	9th February 2022
Submitting nomination rules to the IEBC and the ORPP	6 months before elections	9th February 2022
Voter registration by IEBC	Should be continuous as per the Constitution and Elections Act	Current phase 8th February to 28th February 2022
Submission of Party Membership Lists to the ORPP	At least 14 days before submission to the commission	26th March 2022
Submission of Party Membership list to the IEBC	120 days before General Election or 45 days before by-election	9th April 2022
Submission of Coalition Agreement to ORPP for registration of coalition political party	120 days before General Election	9th April 2022
Submission of names of candidates for party nominations to IEBC	21 days before nomination	9th April 2022
Party to request ORPP for a certified register	At least 21 days before the date of Party Nominations	
ORPP to submit a certified register to a political party	Within 7 days of receipt of the request	
Publishing on official party website of the date, venue, procedure to be used in direct nomination and particulars of party organ to conduct direct nominations	At least 7 days before the date of party nominations	11th April 2022
IEBC to Gazette of Candidates and Dates for Party Nominations	Within 7 days of receipt of the names	16th April 2022
Notification and submission to the ORPP of the date, venue, procedure to be used in direct nomination, particulars of party organ to conduct direct nominations, list of delegates for parties using indirect nomination and list of members of party who wish to be nominated by the party as regards the party nominations	At least 10 days before the day of the party nominations	
Party to post list of in a nomination venue the list of party members qualified to participate in the direct nominations at that venue	Prior to nomination date	
Party Nominations	As prescribed by the Nomination Rules of each Political Party, Political Parties Act and ORPP.	22nd April 2022
Submission to IEBC names of persons nominated in to contest in the election	As prescribed by IEBC Election Operation plan 2021	28th April 2022
Independent candidates to quit registered political parties & submit to IEBC their names, letter of intent to vie, clearance from ORPP and symbols	As prescribed by IEBC Election Operation plan 2021	2nd May 2022
Submission of Political Party Symbols , Names and Specimen Signatures of Political Party Authorized persons to Certify Nominations of Political Party Candidates and Nominated Candidates	Started on 16th January 2022	6th May 2022

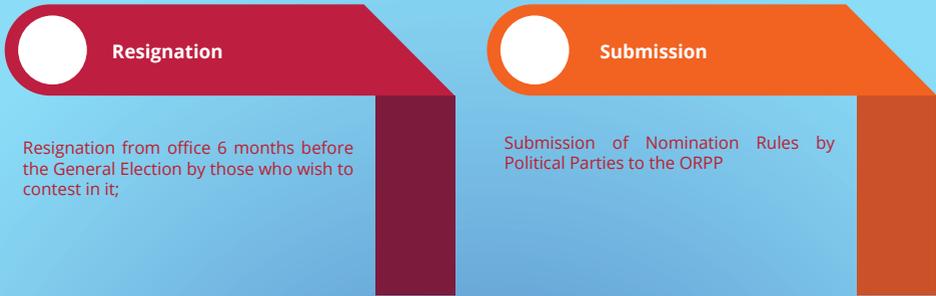
Activity	Statutory Timeline	Deadline Date
Submission of coalition agreement to ORPP for a pre-election election	120 days before election	8th May 2022
Resolution of disputes arising from party nominations	Within 30 days after the date of the nominations	11th May 2022
Submission of assets and liabilities to ORPP	90 days before general elections	11th May 2022
IEBC to publish list of independent candidates	As prescribed by IEBC Election Operation plan 2021	13th May 2022
Independent Candidates to present names of 2000 supporters.	As prescribed by IEBC Election Operation plan 2021	23rd May 2022
Start of Official Campaigns	As prescribed by IEBC Election Operation plan 2021	30th May 2022
Nomination of Senate Elections	At least 60 days before General elections	2nd June 2022
Nomination of National Assembly	At least 60 days before General elections	2nd June 2022
Nomination of County Women Representatives	At least 60 days before General elections	6th June 2022
Nomination of Presidential Candidates	At least 60 days before General elections	10th June 2022
Nomination of Gubernatorial Elections	At least 60 days before General elections	10th June 2022
Nomination for CAW Representative Elections	At least 60 days before General elections	10th June 2022
Submission of Party-Lists to the ORPP (Special MPs, Senators and MCAs)	At least 14 days before submission to the commission.	11th June 2022
Lodging and settlement of Disputes arising from Nominations	10 days from lodging	20th June 2022
Submission of Party-Lists to the IEBC (Special MPs, Senators and MCAs)	At least 45 days before the date of the General Election	25th June 2022
Official Campaign Close	As prescribed by IEBC Election Operation plan 2021	6th August 2022

Notable decisions from the Courts:

The Court of Appeal on 8th February 2022 affirmed the specific provisions of the Elections Act 2011 which stipulate that Public Officers who wish to contest in the general elections should resign 6 months to the election. This position was upheld by Justice Musinga, Justice Karanja and Justice Murgor in Civil Appeal No.19 of 2017.

Current Opinion(s):

From the foregoing legal requirements, it is evident that there are some timelines that have already been complied with by Political Parties and Aspirants which include:



Parties will be bound to adhere to the strict timelines provided by the IEBC and ORPP in order to ensure the coordination of the electoral process amongst the stakeholders. In order to achieve this internally, Political Parties will be required to set up the various structures required to manage the Party Nominations, disputes and Candidates.

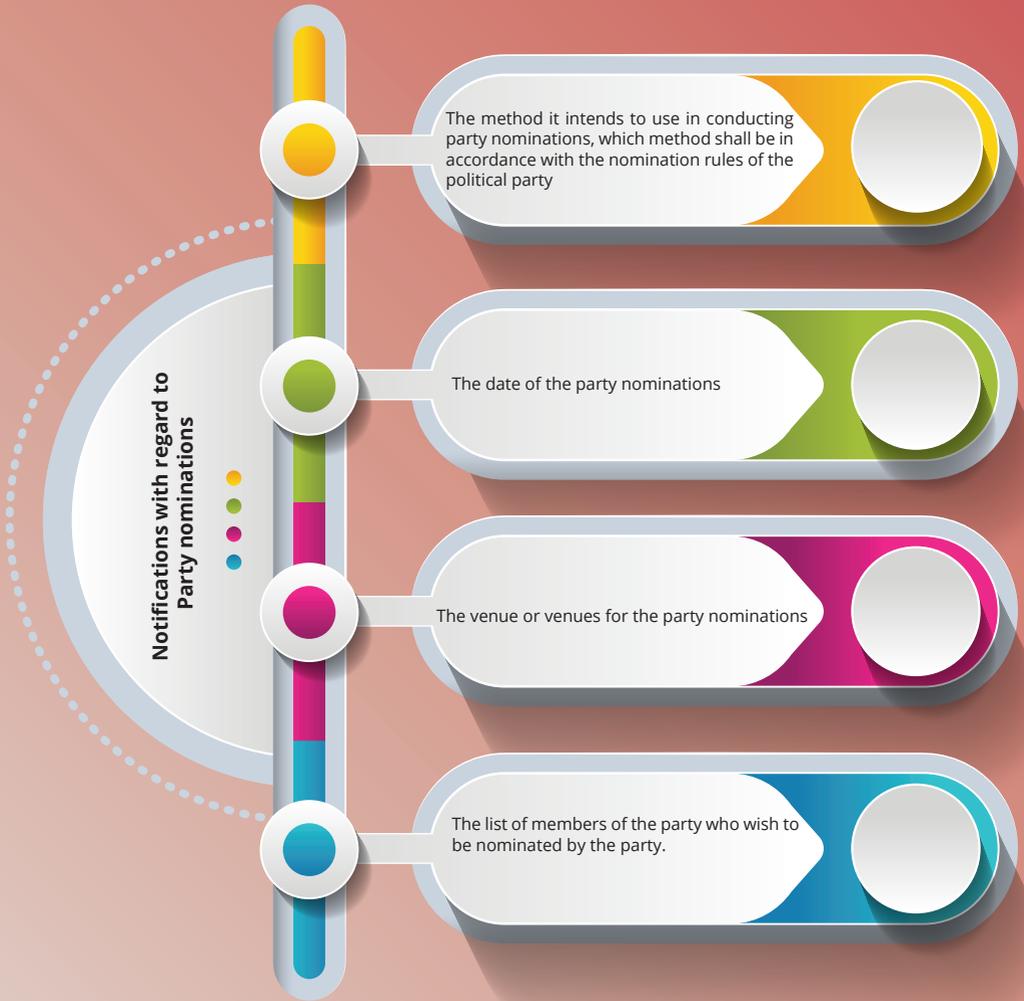
However, there are some overlapping timelines that may require adjustments by the Office of the Registrar of Political Parties and the Independent Election and Boundaries Commission. This is due to the introduction of Coalition Parties by the amendments discussed earlier. The submission of the Coalition Agreements occurs in May which is close to two months after the submission of the nomination rules in February. This may necessitate the ORPP to guide the Coalition Party on how provide Nomination Rules that cater for Coalition Parties.

Conclusion:

The amendments appear well intended/robust and helps to streamline the various Political Parties and national elections processes that is unfolding in light of the political context in Kenya.

5. Notifications with regard to Party nominations

At least 10 days before the date of a party's nominations, the party is to notify the registrar in writing of:



5. Resolution of nomination disputes

The law currently and of now, requires parties to resolve disputes arising from nominations within 30 days after the nominations are conducted.

Other provisions that you need to know about:

- That the amended law requires parties to submit their nomination rules, this time round, certified by the Registrar of Political Parties to the IEBC at least 6 months before elections.
- For certification to be done in time, the new law also requires parties to submit to the registrar party membership lists at least 14 days before submitting the same to the commission.

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