

**THE CONSTITUTION OF KENYA (AMENDMENT) BILL,
2006**

A Bill for

AN ACT of Parliament to amend the Constitution of Kenya

ENACTED by the Parliament of Kenya as follows: -

Short title.

1. This Act may be cited as the Constitution of Kenya (Amendment) Act, 2006.

Insertion of new section 47A in the Constitution.

2. The Constitution is amended by inserting the following new section immediately after section 47 –

Replacement of the Constitution

47A. (1) Subject to this section, this Constitution may be replaced.

(2) Notwithstanding anything to the contrary appearing in this Constitution-

- (a) the sovereign right to replace this Constitution with a new Constitution vests collectively in the people of Kenya and shall be exercisable by the people of Kenya through a referendum, in accordance with this section;
- (b) when a draft Constitution proposing the replacement of this Constitution has been introduced into the National Assembly, no amendment shall be proposed to it unless such proposed amendment is supported by the votes of not less than sixty-five per cent of all the members of the Assembly (excluding the *ex officio* members); and
- (c) the National Assembly shall, within fifteen days of the introduction in the Assembly of a draft Constitution proposing the replacement of this Constitution, debate all proposed

amendments to the draft Constitution, and submit to the Attorney-General the draft Constitution and any proposed amendments thereto as may be approved by the Assembly in accordance with paragraph (b):

Provided that proposals for amendment to a draft Constitution under this paragraph shall be considered and the draft Constitution published in such manner as may be prescribed by or under an Act of Parliament.

(3) The Electoral Commission shall, not later than ninety days from the date of publication of the draft Constitution pursuant to subsection (2), hold a referendum as may be prescribed by or under an Act of Parliament to give the people of Kenya the opportunity to ratify the draft Constitution.

(4) The following provisions shall apply with respect to a referendum on the draft Constitution -

- (a) section 43 shall apply with necessary modifications with respect to the referendum;
- (b) the draft Constitution shall be ratified if –
 - (i) at least forty percent of all the registered voters vote in the referendum; and
 - (ii) more than sixty per cent of the valid votes cast are for ratification; and
 - (iii) at least twenty-five per cent of all the valid votes cast in at least sixty-five per cent of all the

districts are for ratification.

(5) If the draft Constitution is ratified pursuant to subsection (4)(b), the President shall, not later than fourteen days from the date of the publication of the final result of the referendum, promulgate and publish the text of the new Constitution in the Kenya Gazette.

(6) Subject to any provisions in the new Constitution relating to its commencement, and notwithstanding anything to the contrary in this Constitution, the new Constitution shall become law and this Constitution shall forthwith cease to have effect when the new Constitution is published under subsection (5), or on the expiry of a period of fourteen days from the date of the publication of the final result of the referendum in the Kenya Gazette, whichever is the earlier.

(7) In this section-

- (a) references to this Constitution are references to this Constitution as from time to time amended; and
- (b) references to the replacement of this Constitution are references to the repeal of this Constitution and its replacement with a new Constitution.