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**THE NATIONAL COHESION AND
INTEGRATION (AMENDMENT) ACT**

No. 6 of 2019

Date of Assent: 12th June, 2019

Date of Commencement: 2nd July, 2019

AN ACT of Parliament to amend the National
Cohesion and Integration Act, 2008 and for
connected purposes

ENACTED by the Parliament of Kenya as follows —

1. This Act may be cited as the National Cohesion and Integration (Amendment) Act, 2019.

2. The principal Act is amended by deleting section 17 and substituting therefor the following new section—

Membership of the Commission. of . 17. (1) The Commission shall consist

(a) a chairperson nominated by the President and approved by the National Assembly in accordance with the First Schedule; and

(b) seven commissioners nominated by the President and approved by the National Assembly in accordance with the First Schedule.

(2) The commissioners shall, at their first meeting, elect a vice-chairperson from amongst the commissioners appointed under subsection (1) (b).

(3) The chairperson and vicechairperson of the Commission shall not be of the same gender.

(4) In appointing members to the Commission, the principles of gender equity, ethnic and regional representation shall apply.

Short title.

Repeal and
replacement of
section 17 of No.
12 of 2008.

National Cohesion and Integration (Amendment)

3. The principal Act is amended by inserting the following new section immediately after section 17—

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Powers of the

17A. (1) The chairperson shall — chairperson.

- (a) preside over the meetings of the Commission; and
- (b) be the spokesperson of the Commission.

(2) If the office of the chairperson becomes vacant or if the chairperson is unable to exercise the powers or perform the functions of his or her office owing to absence, illness or any other cause, the vicechairperson shall exercise those powers or perform those functions until a substantive chairperson is appointed.

Insertion of a new section in No. 12 of 2008.

4. The principal Act is amended by repealing section 18 and replacing with the following new section—

Qualification of Commissioner.

18. (1) A person qualifies for

appointment as a commissioner if the person —

- (a) is a citizen of Kenya;
- (b) has knowledge and at least ten years experience in the case of the chairperson, and at least two years experience in the case of a commissioner, in matters relating to race, ethnic and human relations, public affairs and human rights, peace and security;
- (c) holds a degree from a university recognised in Kenya; and
- (d) meets the requirements of Chapter Six of the Constitution.

(2) A person shall not be eligible for appointment as the chairperson or a member if such person—

- (a) is a State Officer •
- (b) is a member of the governing body of or is actively involved in the affairs of a political party;

Amendment of section 18 of No. 12 of 2008.

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- (c) has promoted sectoral, ethnic, racial or religious animosity or openly advocated for partisan ethnic positions or interests;
- (d) is an undischarged bankrupt;
- (e) has served as a Member of the Commission;
- (t) has been removed from office for contravening the provisions of the Constitution or any other law; or
- (g) has not met his or her legal obligations relating to tax and other statutory obligations.

5. The principal Act is amended by deleting section 19 and substituting therefor the following new section—

Term of office. 19. The chairperson and members of the Commission shall be appointed for a single term of six years and are not eligible for re-appointment.

6. The principal Act is amended by deleting the First Schedule and substituting therefor the following new Schedule—

Repeal and replacement of section 19 of No. 12 of 2008.

Repeal and replacement of the First Schedule to No. 12 of 2008.

FIRST SCHEDULE (s. 17)

PROCEDURE FOR APPOINTMENT OF COMMISSIONERS

1. Whenever there is a vacancy in the Commission, the Cabinet Secretary shall within fourteen days of the occurrence of the vacancy, by notice in the Gazette declare the vacancy in the Commission.

2. For the purpose of the appointment of the Commissioners, the Cabinet Secretary shall within fourteen days of the declaration of the vacancy constitute a selection panel consisting of—

- (a) one person nominated by the Office of the President;
- (b) one person nominated by the Public Service Commission;
- (c) one person nominated by the Attorney-General•
- (d) one person nominated by the Ethics and Anti-Corruption Commission;
- (e) one person nominated by the National Gender and Equality Commission; and
- (f) one person nominated by the Judicial Service Commission.

3. The Public Service Commission shall—

- (a) convene the first meeting of the selection panel, at which the members of the selection panel shall elect a chairperson from among themselves; and
- (b) provide the selection panel with such facilities and other support as it may require for the discharge of its functions.

4. The selection panel shall, within seven days of convening, by advertisement in the media, invite applications from persons who qualify for nomination and appointment as Commissioners.

5. An application under paragraph 4 shall be forwarded to the Public Service Commission within fourteen days of the notice.

6. The names of all applicants under paragraph 5 shall be published in the Gazette and two daily newspapers of national circulation.

7. The selection panel shall within fourteen days of receipt of applications under paragraph 5 consider the applications, interview and shortlist at least fifteen persons qualified for appointment as members of the Commission and shall forward the names of selected candidates to the President for nomination.

8. The President shall, within twenty one days of receipt of the names forwarded under paragraph 7, nominate one person for appointment as chairperson and seven persons for appointment as members of the

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Commission, and shall forward the names of the persons to the National Assembly for approval.

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9. The National Assembly shall, within twenty-one days of the day it next sits after receipt of the names of the nominees under paragraph 8. consider all the nominations received and may approve or reject any nomination.

10. Where the National Assembly approves the nominees, the Speaker shall forward the names of the approved persons to the President for appointment.

11. The President shall, within twenty one days of the receipt of the approved nominees from the National Assembly, by notice in the Gazette. appoint the chairperson and members.

12. Where the National Assembly rejects any nomination, the Speaker shall, within three days, communicate the decision of the National Assembly to the President to submit a fresh nomination.

13. Where a nominee is rejected by the National Assembly under paragraph 12, the President shall, within seven days, submit to the National Assembly a fresh nomination from amongst the persons shortlisted and forwarded by the selection panel under paragraph 7.

14. The selection panel may, subject to this section, determine its own procedure for the conduct of business and affairs.

15. The appointments to the Commission—

- (a) shall be done in a fair, transparent and competitive manner based on merit, suitability and competence;
- (b) shall take into account the values and principles under Articles 10, 27 and 232 of the Constitution,
- (c) shall ensure that not more than two-thirds of the members are of the same gender;
- (d) shall observe the principle of regional and ethnic balance and shall have regard to the principle of fair representation for persons with disabilities.

16. Despite the foregoing provisions of this Schedule, the Cabinet Secretary may by notice in the Gazette, extend the period specified in respect of any matter under this section by a period not exceeding twentyone days.

