

SPECIAL ISSUE

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REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2017

NAIROBI, 27th September, 2017

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**THE ELECTION OFFENCES (AMENDMENT) BILL,
2017**

A Bill for

**AN ACT of Parliament to amend the Election Offences
Act, 2016**

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Election Offences (Amendment) Act, 2017.

Short title.

2. The Election Offences Act, 2016, is amended in section 14 by deleting subsection (2).

Amendment of section 14 of No.37 of 2016.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to amend section 14 of the Election Offences Act, 2016 to ensure that the section conforms to Article 35 of the Constitution. Article 35 (1) (a) provides that every citizen has a right of access to information held by the State. Article 35 (3) further provides that the State shall publish and publicize any important information affecting the nation.

The Bill seeks to delete subsection (2) of section 14 which limits the right of access to information held by the State as specified in that Article during the election period.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill does not delegate any legislative powers nor does it limit fundamental rights and freedoms.

Statement as to whether the Bill concerns county governments

The Bill is a Bill concerning counties as it deals with powers and functions of county governments in terms of Articles 110 (1) (a) of the Constitution.

Statements as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution

The Bill is not a money Bill for the purposes of Article 114 of the Constitution and its enactment will not occasion additional expenditure of public.

Dated the 11th September, 2017.

ADAN DUALE,
Leader of the Majority Party.

Section 14 of No. 37 of 2016 which it is proposed to amend—

(1) Except as authorised under this Act or any other written law, a candidate, referendum committee or other person shall not use public resources for the purpose of campaigning during an election or a referendum.

(2) No government shall publish any advertisements of achievements of the respective government either in the print media, electronic media, or by way of banners or hoardings in public places during the election period.

(3) For the purposes of this section, the Commission shall, in writing require any candidate, who is a Member of Parliament, a county governor, a deputy county governor or a member of a county assembly, to state the facilities attached to the candidate or any equipment normally in the custody of the candidate by virtue of that office.

(4) A person who is requested to supply information required under subsection (3) shall submit the information within a period of fourteen days from the date of the notice.

(5) The provisions of subsection (3) shall apply with necessary modifications, to an employee of a statutory corporation or of a company in which the Government owns a controlling interest.

(6) A person who fails to comply with the provisions of this section commits an offence and is liable on conviction to a fine not exceeding two million shillings or imprisonment for a term not exceeding six years or to both.

(7) A member of the Commission, any person designated by the Commission or any authorised agency shall have the power to impound or to order the impounding of any state resources that are unlawfully used in an election campaign.