PART II: EXPENDITURE PERIOD (REGULATION 3)

Regulation	Issue / Provision	Key Concerns	Constitutional / Legal Conflict	Political Parties' Position & Recommendation	IEBC Comments
3(1)(a): Expenditure Period – General Elections	Provides that, for a general election, the expenditure period begins **at least six months before the date of the general election** and ends **fourteen days after the election**.	The proposed six-month expenditure period is excessively long and fails to reflect the realities of Kenya's electoral process. Political parties and candidates undertake ordinary political activities throughout the electoral cycle, including membership recruitment, policy development, coalition negotiations, civic engagement and party administration. A six-month regulated period would subject virtually all political activities to campaign finance controls, resulting in excessive reporting obligations, increased compliance costs and administrative	**Articles 38, 36, 47 and 24 of the Constitution.** The regulation disproportionately limits political participation and freedom of association by extending financial regulation to activities that are not necessarily campaign-related. The ambiguity surrounding the commencement date also offends the principle of legal certainty and fair administrative action. The Regulation should not enlarge the statutory expenditure period beyond what is necessary to achieve transparency.	**Substantially Amend.** Political parties support regulation of campaign expenditure but recommend that the expenditure period commence **upon official nomination of candidates by political parties or upon gazettement of candidates by IEBC**, rather than six months before the election. Alternatively, the period should not exceed **90 days before polling day**, which is more practical and internationally comparable. The words **"at least"** should be deleted and replaced with a definite commencement date. Amend the Regulations to expressly exclude ordinary political party activities funded through the Political Parties Fund under Section 26 of the Political Parties Act from the	The expenditure period as is currently, is intended to capture campaign-related political activities undertaken by aspirants prior to party nominations, particularly in the case of candidates sponsored by political parties. Excluding this period would undermine the objective of regulating campaign expenditure comprehensively.

		burdens, particularly for smaller political parties and independent candidates. The phrase **"at least six months"** is also ambiguous because it does not identify the exact commencement date, thereby creating uncertainty.		scope and reporting requirements of the Election Campaign Financing Regulations.	

3(1)(a): Fourteen-Day Post-Election Period	Campaign expenditure continues to be regulated until fourteen days after the declaration of election results.	While some post-election expenditure may legitimately arise (e.g., settlement of invoices), the Regulation does not distinguish between payment of pre-existing obligations and new campaign expenditure after polling. This may create uncertainty regarding permissible activities after elections and unnecessarily prolong regulatory oversight. Further fourteen-day period is practically insufficient.	**Article 47** requires certainty and predictability in administrative regulation.	**Amend.** Clarify that the fourteen-day period applies solely to settlement of lawful campaign liabilities incurred before polling and preparation of statutory reports. No new campaign expenditure should be permitted after polling unless expressly authorised by law. Increase post-election period to 30 days.	**Proposal on the 14 days to be used for settlement of lawful campaign liabilities and the prohibition of incurring new expenses is accepted.** **Proposal on increasing post-election period not accepted as 14 days are enough to settle all liabilities incurred and prepare final audit reports.]**

3(1)(b): Expenditure Period – By-Elections	Provides that the expenditure period begins on the declaration of the vacancy and ends seven days after declaration of the results.	Although commencement upon declaration of the vacancy is generally reasonable, the Regulation does not account for delays in party nominations, court disputes, postponement of elections or prolonged vacancy declarations. The seven-day post-election period may also be insufficient to reconcile accounts and settle legitimate campaign obligations.	**Articles 38 and 47.** Unrealistic timelines may undermine effective political participation and procedural fairness.	**Amend.** Political parties recommend that the expenditure period commence upon publication of the by-election notice or official election Programme by IEBC and extend to at least **fourteen days after declaration of results** to facilitate orderly financial reconciliation and reporting.	**Proposal to extend the end of the expenditure period for a by-election to fourteen (14) days after the declaration of results rejected on the basis that the existing seven (7) day period is adequate for the purposes of a by-election.**

3(1)(c): Expenditure Period – Referendum	Provides that the expenditure period begins upon publication of the referendum question and ends seven days after declaration of referendum results.	The proposed commencement date may be appropriate; however, referendum campaigns often involve prolonged civic education and issue-based advocacy before publication of the referendum question. The Regulation does not distinguish between ordinary constitutional advocacy and regulated referendum expenditure. The seven-day reporting window is similarly inadequate for complex national referendum campaigns.	**Articles 33, 36 and 38.** Overly broad regulation may interfere with constitutional advocacy and public participation on constitutional issues.	**Amend.** Clarify that only expenditure incurred after the official commencement of the referendum campaign falls within the regulated period. Extend the post-referendum reporting period to **fourteen days**.	**Proposal to extend the end of the expenditure period for a referendum to fourteen (14) days after the declaration of results accepted since the same is akin to a General Election.**
Regulation 3 – Overall Structure	Establishes different expenditure periods for	The Regulation does not provide guidance on the treatment of postponed elections, repeat elections,			In each of these instances, the Commission shall give guidance on the expenditure period.

	general elections, by-elections and referenda.	fresh elections ordered by courts, coalition changes, withdrawals of candidates or rescheduled polls. It also fails to clarify whether campaign expenditure incurred before the commencement of the expenditure period but intended for use during campaigns falls within regulated expenditure. These gaps are likely to generate disputes during implementation.			

PART III: AUTHORISED PERSONS (REGULATIONS 4–10)

Regulation	Issue / Provision	Key Concerns	Constitutional / Legal Conflict	Political Parties' Position & Recommendation	IEBC's Comments
4. Authorised Persons	Establishes Authorised Persons to receive campaign contributions, incur and discharge campaign expenditure, submit reports and perform other statutory functions. They operate under the direction of the political party, candidate or referendum committee.	Regulation 4 clearly establishes the Authorised Person as the statutory officer responsible for campaign finance. However, Regulations 17 and 18 subsequently assign similar expenditure management functions to the Campaign Expenditure Committee, creating uncertainty regarding who bears legal responsibility. Regulation 4 also fails to expressly state that the Authorised Person remains legally accountable where duties are delegated internally.	**Articles 10, 38 and 47 of the Constitution.** Good governance, legal certainty and fair administrative action require clear allocation of statutory responsibilities. Ambiguity may result in inconsistent enforcement and uncertainty regarding liability.	**Substantially Amend.** Regulation 4 should expressly establish the **Authorised Person as the single legally accountable officer** for campaign finance compliance. While administrative assistance may be provided by committees or other officers, legal responsibility should remain solely with the Authorised Person. This approach mirrors governance models under public finance and election administration where a single designated officer bears statutory accountability.	Candidates need both; an authorized persons and expenditure Committee. The authorized persons can be part of the Campaign Expenditure Committee in accordance with Regulation 17.

b5. Notice of Appointment of Authorised Persons	Requires notification of authorised persons in Form ECF 1 before any campaign financing activities commence. Failure to comply constitutes an offence.	While notification is reasonable, requiring registration **before any campaign financing activity** is impractical. Political parties incur preliminary organisational expenses before formal campaign structures are established. Additionally, making every failure to notify an offence is disproportionate, particularly where the omission is technical or administrative. The Regulation provides no opportunity to rectify inadvertent non-compliance.	**Articles 24, 47 and 50.** Criminalising technical administrative omissions without an opportunity to remedy them is disproportionate and inconsistent with fair administrative action and the right to a fair hearing.	**Substantially Amend.** Allow notification within a reasonable period (e.g., **7–14 days**) after appointment. IEBC should first issue a compliance notice before criminal sanctions are considered. Administrative non-compliance should ordinarily attract corrective measures rather than criminal liability.	Once the Commission is notified of the appointment of the authorized persons, it starts monitoring. Section 21 of the Act provides the orders that the Commission can make, in the event of a breach of any provision of the Act. This includes the rectification of any record, issuance of a formal warning, e.t.c.
6. Registration of Authorised Persons	IEBC registers authorised persons upon receipt of the required notice.	The Regulation does not prescribe timelines within which IEBC must complete registration. Delays by the Commission may unfairly prevent political parties from undertaking lawful campaign activities. There is also no appeal mechanism where registration is delayed or refused.	**Article 47** requires administrative decisions to be expeditious, efficient, lawful and procedurally fair.	**Amend.** Require IEBC to register authorised persons within a specified period (e.g., **three working days**) and provide written reasons where registration is declined. An internal review mechanism should also be provided.	**Proposal for consideration**

7. Registration of Supporting Persons or Organisations	Requires every supporting person or organisation intending to campaign or incur expenditure on behalf of a candidate or	Political parties acknowledge the need for transparency regarding coordinated campaign financing. However, the Regulation is overly broad	**Articles 33, 36, 38, 47 and 24.** The Regulation may unjustifiably limit freedom of association, political participation and freedom of	**Substantially Amend.** Limit registration requirements to organisations or persons who receive or expend campaign funds above a prescribed monetary threshold and who	**Section 15 of the Act provides that all supporting organizations must be registered by the Commission.**

	political party to notify IEBC within seven days of receiving consent. Failure constitutes an offence.	and may capture volunteers, community groups, civil society organisations and ordinary supporters. The seven-day notification period may also be unrealistic during fast-moving campaigns. Criminalising non-registration without distinguishing deliberate concealment from technical non-compliance is excessive.	expressio n while imposing dispropor tionate sanctions.	formally coordinate with the candidate or political party. Extend the notification period to **14 days** and replace automatic criminal sanctions with graduated compliance measures.	
8. Publication of Names of Authorised Persons and Supporting Organisations	Requires political parties and candidates to publicise the names of authorised persons and supporting organisations.	Publication of authorised persons may be acceptable in the interest of transparency. However, compulsory publication of supporting organisations and individuals raises legitimate concerns regarding privacy, security, political intimidation and potential victimization. Public disclosure may discourage lawful political participation and financial support. The Regulation does not specify the extent of publication or	**Articles 31 and 38 of the Constitution** guarantee the right to privacy and political participation. The **Data Protection Act, 2019** requires that disclosure of personal information be necessary, proportionate and supported by lawful safeguards.	**Substantially Amend.** Require disclosure of supporting organisations only to IEBC unless public disclosure is expressly required by the Act. Personal information should be protected and publication limited to what is strictly necessary for accountability.	**The Commission is obligated to process all information received under the Act and Regulations, in compliance with the principles of Data Protection as set out in the Data Protection Act.**

		provide safeguards under the Data Protection Act.			
9. Change of Authorised Persons	Requires replacement of an authorised person to be notified to IEBC within three days. The outgoing authorised person remains responsible for actions undertaken while in office.	Political parties support continuity and accountability. However, the three-day notification period is too short given practical realities such as illness, resignation, death, court orders, coalition realignments or travel. The Regulation also fails to specify when replacement becomes effective or how pending transactions are handled.	**Article 47.** Unrealistic timelines may result in unnecessary non-compliance and administrative unfairness.	**Amend.** Extend the notification period to **seven working days** and clarify transitional arrangements, including the effective date of replacement and responsibility for ongoing transactions. Timeline for commission to replace the authorized person to be stipulated.	**Proposal considered.**

PART IV: CONTRIBUTIONS AND DONATIONS (REGULATIONS 11–16)

Regulation	Issue / Provision	Key Concerns	Constitutional / Legal Conflict	Political Parties' Position & Recommendation	IEBC's Comments
11(1): Quarterly Reports on Contributions and Donations	Requires authorized persons to prepare and submit a report to IEBC every three months during the expenditure period.	Political parties support financial accountability. However, mandatory quarterly reporting during an active campaign creates an unnecessary administrative burden, particularly where the regulated expenditure period itself is only six months. For many campaigns, this results in multiple reports covering short periods, diverting campaign resources from legitimate political activities. The Regulation also duplicates the preliminary and final reporting obligations under Part VI.	**Articles 38 and 47 of the Constitution.** Excessive reporting requirements may disproportionately burden political participation and violate the principle of efficient and proportionate administrative action.	**Amend.** Replace quarterly reporting with **two mandatory reports**—an interim report during the campaign and a final report after the election. IEBC should reserve additional reporting only where there is reasonable suspicion of non-compliance.	**Regulation 11(1) requires submission of the contribution and donation reports once every three months *during the expenditure period.***
11(2) - (4): Harambee Contributions	Requires authorised persons to record the date, venue, names of donors, donations	Political parties acknowledge the need for transparency. However, requiring the recording of	**Articles 31, 38 and 47.** Mandatory disclosure of every donor may unnecessarily interfere	**Substantially Amend.** Require detailed disclosure only for donations exceeding the statutory disclosure	Disclosure is vital to the Commission in ensuring effective regulation of election campaign financing.

	exceeding KSh 20,000, deposit all funds into the campaign account and comply with the Public Collections Act.	every donor's identity at large public fundraising events is impractical and administratively impossible, especially where hundreds or thousands of supporters contribute small amounts. Compliance with the Public Collections Act may also duplicate existing legal requirements and create regulatory overlap.	with privacy rights and discourage citizens from supporting political parties. Administrative obligations should remain practical and proportionate.	threshold (recommend Kes. 100,000). Small anonymous public collections should be reported in aggregate, while maintaining records sufficient for audit. Digital space to be recognized as a venue for fundraising. Adopt a hybrid approach in managing the received funds. For practical reasons some funds can be utilized for campaign purpose and accounted for before banking. Clarify that compliance with the Public Collections Act applies only where that Act is otherwise applicable.	Regulation 11(4) requires compliance with the Public Collections Act with regard to public collections.
13. Loans	Recognises loans from licensed financial institutions as campaign contributions and treats loans from other persons as ordinary contributions. Requires records of	Political parties generally support transparency regarding campaign borrowing. However, restricting legitimate campaign loans to licensed financial institutions may disadvantage smaller parties and candidates who often rely on lawful private financing from members,	**Articles 27 and 38.** Smaller parties may be disproportionately disadvantaged compared to well-resourced parties with access to commercial credit. The restriction may undermine political equality.	**Amend.** Permit loans from individuals or political parties provided they are disclosed, documented and subject to contribution limits under the Act. Maintain disclosure requirements rather than prohibiting legitimate financing arrangements.	**Restricting loans to financial institutions authorized under the banking Act is to safeguard the integrity, transparency and accountability of campaign**

					financing by ensuring that loans used to finance election campaigns are legitimate commercial transactions rather than disguised political contributions.

	loan amounts and repayment terms.	supporters or political parties themselves.			
14. Contributions through Proxies	Requires proxies making contributions on behalf of another person to disclose the contributor's identity, address, ID, PIN, residency status and contribution amount. Failure results in the contribution being treated as anonymous.	The objective of preventing concealment of donors is legitimate. However, the Regulation requires disclosure of highly sensitive personal information, including PIN numbers, without demonstrating necessity or providing safeguards against misuse. It also places an unreasonable burden on proxies who may not possess all the required information despite acting lawfully.	**Article 31 (Privacy)** and the **Data Protection Act, 2019.** Collection of personal data must satisfy the principles of necessity, proportionality and purpose limitation.	**Substantially Amend.** Require only information reasonably necessary to identify contributors, such as name and national identification number. PIN numbers and unnecessary personal data should not be collected unless specifically required by statute. IEBC should adopt clear data protection safeguards. Further set a statutory limit amount that need disclosure of contributor (Recommend Kes 100,000).	**The Commission is obligated to process all information received under the Act and Regulations, in compliance with the principles of Data Protection as set out in the Data Protection Act.**
15. Receipts for Donations and Contributions	Requires authorised persons to issue receipts for contributions exceeding KSh 20,000 and record donor identity and contribution amounts. Smaller contributions must also be recorded.	Political parties support proper record-keeping. However, the requirement to record the identity of every contributor, irrespective of the amount donated, imposes a significant burden during grassroots fundraising, online fundraising and public campaign events. It	**Articles 31 and 38.** Mandatory recording of personal details for all contributors, regardless of amount, may disproportionately interfere with privacy and political participation.	**Amend.** Maintain detailed identification requirements only for contributions above the statutory disclosure threshold (Recommend > Kes 100,000). Small contributions should be receipted or recorded in aggregate where individual identification is	**It is important to keep a record of all contributions to ensure that no contribution from a single source shall exceed 20% of the total contributions as**

		may discourage ordinary citizens from making lawful political contributions.		impracticable.	**provided by section 12(2) of the Act. Section 15 of the Act requires the issuance of receipts for any contribution exceeding Ksh 20,000**

PART V: REGULATION OF EXPENDITURE (REGULATIONS 17–20)

Regulation	Issue / Provision	Key Concerns	Constitutional / Legal Conflict	Political Parties' Position & Recommendation	IEBC's Comments
17. Campaign Expenditure Committee	Permits political parties, candidates and referendum committees either to designate Authorised Persons as the Campaign Expenditure Committee or establish a separate Committee. It further validates acts undertaken by either the Committee or Authorised Persons.	The Regulation creates significant ambiguity by treating the Campaign Expenditure Committee and the Authorised Person as interchangeable. It does not define whether the Committee replaces, supervises or merely advises the Authorised Person. It also validates acts of both entities without allocating responsibility where unlawful expenditure occurs. Consequently, two separate structures appear to possess identical statutory authority over campaign expenditure.	**Articles 10, 47 and 50 of the Constitution.** Statutory duties must be sufficiently certain to permit consistent compliance and enforcement. Parallel responsibility may undermine accountability and procedural fairness.	**Substantially Amend.** The Campaign Expenditure Committee should become an **optional internal advisory body** responsible for financial oversight, budget review and monitoring compliance. The Committee should not independently incur expenditure or bind the political party financially. All expenditure should remain subject to authorisation by the Authorised Person, whose legal responsibility should remain unaffected by the Committee's recommendations.	Candidates need both; an authorized persons and expenditure Committee. The authorized persons can be part of the Campaign Expenditure Committee in accordance with Regulation 17.

18. Control of Campaign Expenditure	Requires either the Campaign Expenditure Committee or the Authorised Person to notify IEBC of payments made before commencement of the expenditure period and prohibits payment of post-election liabilities without prior notification and justification to IEBC.	Regulation 18 compounds the inconsistency created by Regulation 17 by imposing identical legal obligations upon both the Campaign Expenditure Committee and the Authorised Person. It therefore becomes impossible to determine which entity is legally responsible for compliance. The Regulation also imposes unrealistic notification requirements for every payment before the expenditure period and unnecessarily requires prior notification before settling lawful post-election liabilities.	**Articles 24, 38, 40 and 47 of the Constitution.** The provisions impose Disproportionate administrative burdens, interfere with ordinary contractual obligations and undermine legal certainty by assigning duplicate statutory responsibilities.	**Substantially Amend.** All campaign expenditure should require prior authorisation by the Authorised Person. The Committee should merely advise where one exists. Notification of every payment should be replaced by periodic expenditure reporting. Post-election liabilities lawfully incurred during the expenditure period should be payable without prior approval, provided they are disclosed in the final or supplementary expenditure report. Obligation should only accrue after the commencement of Expenditure Period	**Regulation 18 (1) and (2) have been deleted to limit the Commission's responsibility within the expenditure period**

19. Expenditure by Supporting Organisations	Requires supporting organisations to maintain records of all campaign expenditure incurred on behalf of political parties, candidates or referendum committees.	Political parties support record-keeping where supporting organisations formally coordinate campaign activities. However, the Regulation does not define the reporting format, retention period or relationship between the organisation's records and those maintained by political parties. This may	**Article 47.** Regulatory obligations should be sufficiently clear to avoid inconsistent compliance and enforcement.	**Amend.** Clarify that supporting organisations should maintain records only for expenditure incurred pursuant to formal coordination with the candidate or political party. Reporting obligations should be harmonised with those applicable to political parties to avoid duplication.	**It is necessary for supporting organizations to maintain records and submit for purposes of enforcement**

		result in duplication, conflicting reports and uncertainty regarding responsibility for disclosure.		Since supporting organisations are separately registered entities that independently raise and expend resources, they should be individually accountable for their own campaign expenditure and compliance obligations under the Regulations.	
20(1). Prescription of Expenditure Limits	IEBC shall prescribe expenditure limits for different elections by Gazette Notice in accordance with section 18 of the Act.	Political parties agree that expenditure limits should exist. However, the Regulation grants IEBC unilateral power to prescribe limits without requiring stakeholder consultation, publication of methodology or impact assessment. Political parties who bear the regulatory burden have no opportunity to participate in determining realistic expenditure ceilings.	**Articles 10, 38, 47 and 118 of the Constitution.** Public participation and fair administrative action require consultation before regulatory decisions significantly affecting constitutional rights are made.	**Amend.** Require IEBC to undertake meaningful public participation with political parties, candidates and other stakeholders before prescribing expenditure limits. The methodology, assumptions and costing model should be published for public scrutiny before gazettement. The factors provided in the ECF Act are	**The Commission conducted extensive stakeholder engegment and public participat that informed setting of expenditure limits**

				insufficient as they do not consider poverty levels	

20(2). Variation of Expenditure Limits	IEBC may vary expenditure limits by Gazette Notice.	This provision confers an excessively broad discretionary power. The Commission may change expenditure limits at any time without specifying the circumstances, criteria or notice period. Political parties may have already budgeted, entered contracts or commenced campaigns based on existing limits. Mid-campaign changes would undermine legal certainty and financial planning.	**Articles 10, 38 and 47.** Administrative decisions affecting political rights should be predictable, reasonable and procedurally fair.	**Substantially Amend.** Variation of expenditure limits should only occur under exceptional circumstances (e.g., changes in law, inflation exceeding a prescribed threshold or delimitation of electoral boundaries). No variation should occur after commencement of the expenditure period except where expressly authorised by Parliament.	**Once gazetted the expenditure limits will apply for the specified election**
20(3). Constituency Limit as Base Formula	Constituency expenditure limit forms the base from which all other electoral limits are computed.	Political parties question the assumption that constituency campaigns accurately represent the cost of campaigns at county, presidential or political party level. Different elections involve different operational structures, media requirements and geographical coverage. A single base formula oversimplifies campaign	**Article 38.** Unrealistic expenditure limits may disproportionately restrict effective political participation.	**Amend.** Different categories of elections should have independent costing methodologies reflecting their operational realities rather than relying exclusively on constituency expenditure as the base calculation.	**The Commission appreciates the concerns raised. Regulation 20 has been amended taking into account independent costing methodologies**

					for the different electoral areas

		realities and may distort expenditure ceilings.			
20(4)(a). Standard Cost Components	Lists allowable expenditure categories including venues, publicity, media, personnel, transport, security, mobilisation and accommodation.	Political parties support identifying broad expenditure categories. However, the list is incomplete and outdated. It omits significant modern campaign costs such as digital campaigning, social media advertising, cyber-security, legal compliance, data management, polling, research, voter outreach technology and accessibility costs for persons with disabilities. The limitation of "other expenses" to 30% is arbitrary and may prevent legitimate campaign expenditure.	**Articles 27 and 38.** Campaign regulations should accommodate evolving campaign practices and avoid arbitrary restrictions on legitimate political activity.	**Amend.** Update the list to include digital communication, information technology, research, polling, accessibility, legal compliance, cybersecurity and other legitimate campaign expenses. Remove or substantially increase the 30% cap on "other allowable expenses."	**To be read with proposed amendments under 20 (3) above**

20(4)(b). Constituencies within ±30% Population Quota	Applies identical expenditure limits to constituencies within 30% of the national population quota.	Population alone is an inadequate measure of campaign cost. Constituencies with similar populations may differ significantly in terrain, infrastructure, security risks, urbanisation, transport costs	**Article 27.** Equal treatment does not always produce equitable outcomes where material differences exist.	**Amend.** Population should be one factor among several objective criteria including geography, transport infrastructure, accessibility, security, urban-rural classification and communication costs.	**To be read with proposed amendments under 20 (3) above**

		and communication challenges.			
20(4)(c). Constituencies 40% Below Population Quota	Reduces expenditure limit by 30% where constituency population is significantly below the national quota.	Smaller populations do not necessarily translate into lower campaign costs. Many sparsely populated constituencies require substantially greater travel distances and logistical expenditure. The formula may disproportionately disadvantage candidates in remote areas.	**Articles 27 and 38.** The formula may indirectly discriminate against candidates contesting in remote constituencies.	**Delete or Amend.** Replace automatic reductions with an evidence-based costing methodology considering actual campaign costs rather than population alone.	**To be read with proposed amendments under 20 (3) above**
20(4)(d). Constituencies Above Population Quota	Permits IEBC to increase expenditure limits by not more than 20%.	Political parties welcome recognition that larger constituencies require additional resources. However, limiting increases to 20% appears arbitrary and unsupported by empirical evidence. Actual campaign costs may exceed this threshold considerably.	**Article 47.** Administrative decisions should be rational and evidence-based.	**Amend.** Expenditure adjustments should be based on objective cost assessments rather than fixed percentage ceilings.	**To be read with proposed amendments under 20 (3) abo**

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20(4)(e). Sparsely Populated Constituencies	Adds KSh 100 per square kilometre exceeding the national average.	Political parties strongly support recognition of geographical challenges. However, KSh 100 per square kilometre is unrealistic and bears no	**Articles 27 and 38.** Unrealistic formulas may undermine effective political participation.	**Substantially Amend.** Replace the fixed KSh 100 rate with an objective formula linked to inflation, fuel prices or periodically reviewed indices published	**To be read with proposed amendments under 20 (3) above**

		relationship to actual transport, fuel or logistical costs. Inflation and regional cost differences are ignored.		by the Kenya National Bureau of Statistics.	**To be read with proposed amendments under 20 (3) above**
20(4)(f). County Assembly Ward Limit	Ward expenditure limit is fixed at 30% of constituency limit.	The 30% formula appears arbitrary and does not consider significant differences between wards in population, size and accessibility.	**Article 47.** Administrative formulas should be evidence-based.	**Amend.** Develop an independent methodology for ward elections based on objective campaign cost indicators.	**To be read with proposed amendments under 20 (3) above**
20(5). County Elections	County expenditure limit equals aggregate constituency limits less 30%.	Political parties question the mathematical deduction of 30%. County-wide campaigns often involve additional administrative structures, media campaigns and county-wide mobilisation exceeding constituency-level operations.	**Article 38.** Arbitrary reductions may restrict meaningful political competition.	**Amend.** County limits should be independently costed rather than mechanically derived from constituency expenditure.	**To be read with proposed amendments under 20 (3) above**
20(6). Presidential Elections	Presidential limit equals aggregate constituency limits less 40%.	Presidential campaigns are national in scope and require nationwide logistics, media engagement, security and compliance. The 40% deduction lacks empirical justification and may artificially constrain national campaigns.	**Articles 38 and 47.** Expenditure restrictions should be rational and proportionate.	**Substantially Amend.** Presidential expenditure limits should be determined through a transparent national costing model developed after stakeholder consultation and independent	**To be read with proposed amendments under 20 (3) above**

				economic assessment.	

20(7). By-Elections	By-election limit equals previous general election limit less 20%.	Political parties oppose automatic reduction. By-elections often attract greater media attention, concentrated campaigning and higher logistical costs than general elections. Inflation may also render previous limits obsolete.	**Article 47.** The formula ignores prevailing economic conditions and campaign realities.	**Amend.** By-election limits should reflect inflation, prevailing economic conditions and the unique characteristics of each by-election rather than an automatic 20% reduction.	**To be read with proposed amendments under 20 (3) above**
20(8). Political Parties	Political party expenditure limit equals presidential limit less 30%.	This formula disadvantages political parties fielding candidates across multiple elective positions. Party expenditure supports presidential, parliamentary, county and ward campaigns simultaneously and should not simply be tied to presidential expenditure.	**Articles 38 and 91.** Political parties perform constitutionally recognised democratic functions requiring adequate operational flexibility.	**Substantially Amend.** Develop an independent expenditure formula for political parties based on the number of candidates sponsored, geographical coverage, organisational structure and campaign activities.	**To be read with proposed amendments under 20 (3) above**

20(9). Referendum Committees	Referendum committee expenditure limit equals presidential limit plus 50%.	Political parties question the rationale for granting referendum committees substantially higher expenditure limits than political parties contesting multiple elections simultaneously. No objective justification is provided.	**Article 27.** Differential treatment should be objectively justified.	**Amend.** Establish referendum expenditure limits using objective criteria based on campaign scope and operational requirements rather than arbitrary percentage adjustments.	**To be read with proposed amendments under 20 (3) above**

20(10). Supporting Organisations	Supporting organisations shall not incur expenditure exceeding limits prescribed by IEBC.	Political parties support preventing circumvention of expenditure limits through third parties. However, the Regulation does not define "supporting organisation" with sufficient precision, potentially capturing civil society organisations, issue-based advocacy groups, faith-based organisations or ordinary supporters engaging in lawful political expression. This may have a chilling effect on freedom of association and expression.	**Articles 33, 36 and 38.** Restrictions on political participation and civic engagement must be narrowly tailored and clearly defined.	**Substantially Amend.** Clearly define "supporting organisation" and exclude organisations engaging solely in independent civic education, issue advocacy or constitutionally protected expression. Expenditure controls should apply only where coordinated campaigning or financial support is provided on behalf of a candidate or political party.	**To be read with proposed amendments under 20 (3) above**

PART VI: REPORTING AND DISCLOSURE (REGULATIONS 21–26)

Regulation	Issue / Provision	Key Concerns	Constitutional / Legal Conflict	Political Parties' Position & Recommendation	
21(1): Preliminary and Final Expenditure Reports	Requires every authorised person to prepare and submit a preliminary expenditure report and a final expenditure report in Form ECF 6.	Political parties support financial reporting as an accountability mechanism. However, the Regulation does not specify the timelines for submission of the preliminary and final reports, leaving the obligation uncertain and exposing parties to arbitrary enforcement. In addition, the reporting requirements duplicate earlier reporting obligations under Regulation 11, creating unnecessary administrative burdens.	**Articles 47 and 10 of the Constitution.** Administrative obligations must be clear, predictable and capable of compliance. Ambiguous reporting timelines undermine legal certainty and procedural fairness.	**Amend.** Clearly prescribe statutory timelines for submission of the preliminary and final reports. Eliminate duplication by consolidating all reporting obligations into a single reporting framework.	**The timelines are prescribed under the Act**
21(2)(a): Donations and Contributions Report	Requires disclosure of all cash contributions, in-kind contributions, harambee contributions, anonymous contributions and	While transparency is essential, requiring disclosure of **all contributions**, irrespective of value, imposes an excessive compliance burden. Small political donations made through mobile money, fundraising	**Articles 31, 38 and 47.** Excessive disclosure obligations may unnecessarily interfere with privacy and discourage citizens from making lawful political contributions.	**Substantially Amend.** Require detailed disclosure only for contributions above the statutory disclosure threshold. Smaller contributions should be reported in aggregate. IEBC should specify the minimum	**It is important to keep a record of all contributions to ensure that no contribution from a single source shall exceed 20% of the total contributions as**

				supporting documentation	**provided by section 12(2) of the Act.** **Section 15 of the Act requires the issuance of receipts for any contribution exceeding Ksh 20,000**

	supporting documents.	events or digital platforms may involve thousands of contributors, making individual reporting impractical. The requirement to submit all supporting documents is similarly onerous.		necessary for audit purposes rather than requiring all supporting documents. The Regulations should establish a clear framework for the valuation, disclosure and reporting of in-kind contributions, including donations of vehicles, goods, food, professional services, equipment, venues and other non-monetary support.	

21(2)(b): Expenditure Report	Requires disclosure of all campaign expenditure, constructive expenditure, media expenses, receipts, invoices and supporting documents.	Political parties support expenditure disclosure. However, the requirement to submit **all receipts, invoices and supporting documents** may involve thousands of documents, particularly for national political parties. The Regulation does not distinguish between material and immaterial expenditure and may significantly increase compliance costs. The concept of **constructive expenditure** is also not clearly defined.	**Article 47.** Compliance obligations should be reasonable, proportionate and sufficiently certain.	**Amend.** Permit summary reporting supported by schedules, with original receipts retained by political parties for inspection upon request. Define "constructive expenditure" in greater detail and provide valuation guidelines.	**The items in the expenditure report are important in enabling the Commission to effectively regulate Election Campaign Financing**

21(2)(c)–(f): Other Particulars, Balance Sheet, Bank Statements and Auditor's Report	Requires additional particulars prescribed by IEBC, balance sheets, complete bank statements and auditors' reports.	The Regulation grants IEBC broad discretion to require **"any other particulars"**, creating uncertainty regarding compliance obligations. Mandatory audited reports for qualifying campaigns are appropriate, but the Regulation should clearly distinguish campaigns below and above the statutory audit threshold.	**Articles 31 and 47 of the Constitution** and the **Data Protection Act, 2019.** Collection of financial information must be necessary, proportionate and supported by adequate safeguards.	**Substantially Amend.** Limit additional reporting requirements to matters expressly authorised by the Act. Require submission of certified campaign transaction summaries instead of unrestricted bank statements except where IEBC has reasonable grounds for investigation. Maintain audit requirements only for campaigns exceeding the statutory expenditure threshold.	**The items in the expenditure report are important in enabling the Commission to effectively regulate Election Campaign Financing**
22(1): Scrutiny of Expenditure Reports	IEBC may request additional information, direct correction of reports, order further audits or investigations where breaches are suspected.	Political parties support IEBC's oversight role. However, the powers are extremely broad and are not accompanied by objective thresholds or procedural safeguards. The Regulation does not require IEBC to demonstrate reasonable grounds before directing further audits or investigations, creating the risk of selective or arbitrary enforcement.	**Articles 47 and 50.** Administrative investigations should be based on objective criteria and comply with procedural fairness.	**Substantially Amend.** Require IEBC to demonstrate reasonable grounds before directing further audits or investigations. Any directive should be issued in writing with reasons and should be subject to review or appeal.	**The Commission under part 5 of the Act to scrutinize reports submitted under the Act for purposes of ensuring Financial accountability**

22(2): Rectification of Errors	IEBC may require amended reports where technical errors or omissions are identified.	This provision promotes compliance rather than punishment and is consistent with good regulatory practice. However, the Regulation does not prescribe a minimum period within which corrections may be made.	None.	**Support with Minor Amendment.** Specify a reasonable period (e.g., **14 days**) for rectification of technical errors before enforcement action is initiated.	**Regulation 22 (2) allows the Commission, candidates and political parties time to issues notices and to respond without undue restrictions**
22(3)–(6): Notices, Show Cause Process and Sanctions	IEBC may require candidates to submit expenditure accounts, issue notices to show cause and impose sanctions under section 23 of the Act where non-compliance persists.	Political parties support due process before sanctions are imposed. However, the Regulation focuses almost exclusively on candidates and does not expressly provide equivalent procedural safeguards for political parties or referendum committees. Furthermore, the Regulation does not distinguish deliberate non-compliance from technical or inadvertent administrative errors.	**Articles 47 and 50.** Administrative sanctions should be proportionate and preceded by fair procedures applicable to all regulated entities.	**Amend.** Extend the procedural safeguards equally to political parties, authorized persons, referendum committees and supporting organisations. Require IEBC to apply graduated enforcement measures, beginning with compliance notices before imposing statutory sanctions.	**The graduated enforcement measures are provided**
23. Surplus Funds	Requires candidates, political parties and referendum committees to report surplus campaign funds, explain how	Political parties support accountability regarding surplus campaign funds. However, the Regulation does not define **"surplus funds"** with sufficient clarity	**Article 47.** Legal obligations should be certain and capable of compliance.	**Amend.** Clarify the definition of surplus funds and expressly exclude funds reserved for unresolved lawful liabilities, election petitions and pending	**The Commission appreciates the proposal. A definition of surplus funds has been provided under**

				contractual claims. Limit	**Regulation 2 as follows; 'Funds remaining after the settlement of all lawful campaign expenses and other financial obligations incurred during the election period'**

	the funds were dealt with and make statutory declarations.	or address situations involving pending election petitions, outstanding debts, litigation costs or disputed contractual obligations. The declaration requirements are reasonable but should not expose officials to liability for matters outside their knowledge or control.		declarations to matters within the declarant's knowledge and reasonable belief. Amend the Regulation to introduce safeguards governing the disposal of surplus campaign funds by independent candidates and referendum committees. The Regulations should require due diligence to verify that recipient charitable organisations are independent and not directly or indirectly associated with, controlled by, or benefiting the candidate, referendum committee or their related persons.	

24. Certificate of Compliance	IEBC issues a Certificate of Compliance where satisfied that reporting requirements have been met.	Political parties support issuance of compliance certificates. However, the Regulation does not prescribe the criteria, timelines or procedure for issuing or refusing certificates. There is no right of review where IEBC declines to issue the certificate.	**Article 47.** Administrative decisions must be timely, reasoned and reviewable.	**Amend.** Require IEBC to issue or decline the Certificate of Compliance within a prescribed period (Proposes 7 **days**) and provide written reasons where certification is refused. A review mechanism should also be established.	**The Commission welcomes the proposal to provide a timeline for the issuance of a certificate of compliance, however, the Commission proposes 90 days**

25. Public Disclosure of Contributors and Amounts	Requires IEBC to publish the list of contributors and contribution amounts, subject to data protection principles.	This is one of the most significant concerns for political parties. Public disclosure of contributors may expose donors to intimidation, political retaliation, harassment or discrimination, particularly in highly contested electoral environments. Although the Regulation refers to data protection principles, it does not define what information will be published, applicable monetary thresholds or safeguards against misuse. The blanket publication of contributor identities is disproportionate and likely to discourage legitimate political participation.	**Articles 31 and 38 of the Constitution**, together with the **Data Protection Act, 2019**, require that disclosure of personal information be necessary, proportionate and accompanied by appropriate safeguards.	**Substantially Amend.** Limit public disclosure to donations exceeding a statutory threshold prescribed by the Act. Personal information should be anonymised where appropriate, and detailed donor information should remain accessible only to IEBC for regulatory and enforcement purposes unless disclosure is expressly required by law.	**The Commission shall process all the information received under the Act and Regulations as per the principles of data protection**
26. Auditor's Report on Returns	Requires candidates, political parties or referendum committees incurring campaign expenditure exceeding KSh 5 million to submit an audited report	Political parties support independent audits for large-scale campaigns. However, the KSh 5 million threshold may become outdated due to inflation and changing campaign costs. Smaller parties may also struggle to		Recommend Kes 20 Million Threshold.	The proposed 20 Million limit is too high. To achieve transparency and accountability, the Commission has amended regulation 26 to require audit where campaign

					expenses exceed Ksh 750,000

	prepared by a registered auditor.	obtain audit services within statutory timelines.		

PART VII: DISPUTE RESOLUTION (REGULATIONS 27–35)

Regulation	Issue / Provision	Key Concerns	Constitutional / Legal Conflict	Political Parties' Position & Recommendation	
27. Overriding Objective	Establishes that dispute resolution under the Regulations should be just, expeditious, proportionate and affordable, and obligates parties, IEBC and the Court to give effect to these objectives. It also empowers IEBC or the Court to impose sanctions, penalties and costs where a party breaches the overriding objective.	Political parties support efficient and expeditious dispute resolution. However, the Regulation is overly broad in empowering IEBC to impose sanctions for breach of an undefined "overriding objective." The Regulation does not specify what conduct constitutes a breach, the applicable sanctions or the procedural safeguards before penalties are imposed. This creates uncertainty and exposes parties to subjective enforcement.	**Articles 47 and 50 of the Constitution.** Administrative sanctions must be based on clear legal standards and follow fair hearing procedures. Undefined enforcement powers offend the principles of legality and procedural fairness.	**Substantially Amend.** Retain the overriding objective but remove or limit the power to impose sanctions for its breach. Any sanctions should only arise from specific violations expressly provided in the Act or Regulations after due process. Clearly define the conduct that may constitute abuse of the dispute resolution process. From the foregoing, 27(5) clause to be removed.	**The Commission has amended part vii of regulations on dispute resolution. The part takes into consideration fair administrative action**
28. Complaints to IEBC	Confers jurisdiction upon IEBC to determine complaints arising under the Act and the Regulations and permits	Political parties recognise IEBC's statutory mandate to resolve campaign finance disputes. However, the Regulation	**Articles 47, 50 and 249.** Independent constitutional commissions must exercise their powers	**Amend.** Require IEBC to commence investigations on its own initiative only where there are reasonable and objectively verifiable	**The Act requires the Commission to investigate any breach under the Act pursuant to the**

				grounds	**principles of natural justice**

	IEBC to investigate breaches on its own motion.	does not prescribe the circumstances under which IEBC may initiate investigations on its own motion, nor does it require reasonable grounds before investigations commence. This broad discretion creates the risk of selective enforcement and perceived political bias.	fairly, transparently and impartially.	supported by information or evidence. Decisions to commence investigations should be recorded in writing.	
30. Procedure for Lodging a Complaint	Prescribes the contents of complaints, supporting affidavits, witness statements and service within twenty-four hours.	Political parties support a structured complaints process. However, the requirement that complaints be accompanied by sworn statements from all witnesses may be impractical during election periods. The twenty-four-hour service requirement may also be unrealistic where respondents are located in remote areas or where numerous parties are involved.	**Articles 47 and 50.** Procedural rules should facilitate access to justice rather than create unnecessary technical barriers.	**Amend.** Permit complaints to be filed with available evidence, with witness statements filed within a reasonable period where necessary. Allow electronic service and provide flexibility where strict timelines cannot reasonably be met.	**The Commission has amended part vii of regulations on dispute resolution including timelines to ensure effective dispute resolution**
31. Response to Complaints	Requires respondents to file responses within four days. Where no response	Political parties appreciate the need for expedited electoral dispute	**Articles 47, 50 and 159.** The right to be heard should not be	**Amend.** Extend the response period to **seven days**, with IEBC retaining discretion	

				to	

	is filed, IEBC may make appropriate findings and orders.	resolution. However, four days may be insufficient for complex complaints involving financial records, auditors or multiple respondents. The Regulation also permits adverse findings where responses are not filed without requiring IEBC to satisfy itself that the complaint is legally and factually sustainable.	defeated by impractical timelines.	shorten timelines in exceptional circumstances. Where no response is filed, IEBC should still satisfy itself that the complaint establishes a prima facie case before granting relief.	**The Commission has amended part vii of regulations on dispute resolution including timelines to ensure effective dispute resolution**
32. Withdrawal of Complaints and Joinder of Parties	Permits withdrawal of complaints with leave of IEBC and allows IEBC to join additional parties where necessary.	Political parties support these provisions as they promote complete determination of disputes. However, the Regulation should require that newly joined parties receive adequate notice and reasonable time to prepare their responses before adverse orders are made.	**Article 50.** Joined parties are entitled to a fair hearing before being affected by proceedings.	**Support with Minor Amendment.** Require IEBC to provide newly joined parties with sufficient time to respond before hearings proceed. Cogent reasons to be given before withdrawal.	**A complainant has the right to withdraw a complaint at any time before a decision is issued.**
33. Summary Determination	Permits IEBC to determine complaints summarily within twenty-four hours based on the record and dismiss	This is one of the most concerning provisions. Summary determination within twenty-four hours may deny parties a meaningful opportunity to	**Articles 47, 50 and 159.** Summary procedures must still comply with the constitutional right to a	**Substantially Amend.** Restrict summary determination to straightforward procedural matters or uncontested cases.	**The Commission can make summary determination but must give written reasons.**

	complaints where parties fail to appear.	present evidence or respond to allegations, particularly in complex campaign finance disputes. Dismissing complaints solely because of non-attendance, without considering the reasons or the merits, may produce unjust outcomes.	fair hearing and substantive justice.	Parties to appear before the committee. Parties discretion to waive right to appearance. Non-attendance should not automatically result in dismissal where reasonable explanations exist or where the interests of justice require determination on the merits.	
34. Hearing of Complaints	Empowers IEBC to issue hearing notices, conduct inquiries, summon witnesses, require production of documents and deliver summary decisions within twenty-four hours, followed by a reasoned ruling within three days.	Political parties support prompt hearing of electoral disputes. However, the Regulation grants extensive investigative powers without expressly recognising parties' rights to legal representation. Delivering summary decisions before issuing reasoned rulings may also prejudice parties wishing to challenge the decision.	**Articles 47, 50 and 35.** Fair administrative action and the right to a fair hearing legal representation and adequate reasons for decisions.	**Substantially Amend.** Expressly recognize parties' rights to legal representation. Reasoned decisions should be delivered simultaneously with or before enforcement of any orders.	**Nothing bars any party from having legal representation during hearing of complaints before the Committee.**

35. Orders	Provides that IEBC may make the orders contemplated under section 21(5) of the Act and that determinations	Political parties support written, reasoned decisions.			

	shall be in writing with reasons.			

PART VIII: MISCELLANEOUS PROVISIONS (REGULATIONS 36–40)

Regulation	Issue / Provision	Key Concerns	Constitutional / Legal Conflict	Political Parties' Position & Recommendation	IEBC's Comments
36. Service and Lodgement of Notices and Reports	Provides that notices and reports shall be deemed properly lodged if delivered personally, left at the office of an officer, sent by registered post or transmitted electronically.	Political parties support multiple methods of filing as they improve accessibility and flexibility. However, the Regulation does not define **when electronic service is deemed complete**, what constitutes proof of transmission, or what happens where electronic systems fail. It also does not require IEBC to acknowledge receipt of documents, potentially exposing parties to disputes over whether documents were filed on time. The reference to "electronic means" is too broad and does not specify approved platforms.	**Articles 47 and 48 of the Constitution.** Fair administrative action requires certainty regarding filing requirements. Ambiguous filing procedures may result in arbitrary rejection of documents and impede access to justice.	**Amend.** Provide that electronic filing shall be deemed complete upon issuance of an electronic acknowledgement generated by the Commission's official system. The Regulations should specify approved electronic platforms, require IEBC to issue automatic receipts and provide contingency procedures where electronic systems are unavailable or malfunction.	**The Rules of service under the Civil Procedure Act and Rules shall apply.**

37. Filing Where Deadline Falls on Weekend or Public Holiday	Provides that where the deadline for filing falls on a weekend or public holiday, the report shall be filed on the next working day.	Political parties support this provision as it reflects sound administrative practice and prevents unfair penalisation. However, the Regulation does not address situations where IEBC offices are closed due to unforeseen events, system outages, national emergencies or public disruptions affecting electronic filing.	None. The provision is generally consistent with principles of fairness.	**Support with Minor Amendment.** Extend the provision to include circumstances where the Commission's electronic filing system is unavailable or where official offices are inaccessible due to emergencies. Filing deadlines should automatically extend until the first day normal services resume.	**To be read with the comment on 36 above.**
38(1). Retention of Campaign Finance Records	Requires IEBC to retain campaign finance reports and related documents for three years after declaration of election results.	Political parties support proper record retention for audit and dispute resolution purposes. However, a fixed three-year retention period may be insufficient where election petitions, criminal investigations, audits or civil proceedings remain pending beyond three years. Conversely, indefinite retention without clear disposal procedures may unnecessarily expose confidential personal information.	**Articles 31 and 35 of the Constitution** and the **Data Protection Act, 2019** require secure storage of personal information and appropriate retention periods linked to legitimate regulatory purposes.	**Amend.** Provide that records shall be retained for **at least three years**, but where proceedings, investigations or audits remain pending, records shall be retained until final determination of all related proceedings. Thereafter, disposal should comply with applicable records management and data protection laws. Further, a proposal to ensure documents are stored and managed in digital format.	**The Commission is obligated to dispose information and documents in compliance with Public Archives and Documentation Service Act.** **There is a provision that requires the Commission to integrate technology and specifically, to**

					ensure that the Commission stores such records by electronic means.

38(2). Disposal of Records	Requires disposal of campaign finance documents in accordance with the Public Archives and Documentation Service Act.	Political parties support lawful disposal of records. However, the Regulation should also expressly require compliance with the **Data Protection Act, 2019**, particularly regarding destruction of personal information and confidential financial records. The current provision refers only to archival legislation and not to modern data protection requirements.	**Article 31 of the Constitution** and the **Data Protection Act, 2019.** Personal information should be securely destroyed or anonymized where no longer required for lawful purposes.	**Amend.** Require disposal of records in accordance with both the **Public Archives and Documentation Service Act** and the **Data Protection Act, 2019**, including secure destruction of confidential information and maintenance of audit trails documenting disposal.	**The Commission welcomes the proposal. The Regulation has been amended to include both the Public Archives and Documentation Service Act and the Data Protection Act, 2019**,
39(1). Commission's Power to Issue Directives, Guidelines and Orders	Empowers IEBC, by Gazette Notice, to issue measures, guidelines, directives and orders necessary for effective implementation of the campaign finance regime.	This is one of the broadest delegated powers in the Regulations. While political parties recognise IEBC's need to issue implementation guidance, the Regulation effectively allows IEBC to create substantive obligations through directives without Parliamentary scrutiny or stakeholder consultation. There are no statutory limits on the scope of directives, creating	**Articles 10, 47 and 94 of the Constitution.** Legislative power belongs to Parliament and delegated legislation must remain within statutory authority. Broad powers to create binding obligations through administrative directives may amount to unlawful sub-delegation of legislative authority.	**Substantially Amend.** Limit directives to administrative or procedural matters necessary to implement the Act and Regulations. Any directive imposing new substantive obligations should be made through formal subsidiary legislation under the Statutory Instruments Act following public participation and Parliamentary oversight. The Regulation should also require stakeholder consultation	**Directives or directions given by the Commission under this regulation relate to procedural or administrative matters for the efficient operationalization of the Act and Regulations.**

		uncertainty and the possibility of introducing new compliance obligations beyond the Act or Regulations.		before major directives are issued. The measures, guidelines, directives and orders should not be arbitrary and punitive.	
39(2). Power to Modify Prescribed Forms by Directive	Authorises IEBC to vary or replace prescribed forms through directives where necessary for implementation of the Act and Regulations.	Political parties appreciate the need for administrative flexibility. However, permitting IEBC to replace statutory forms through directives undermines legal certainty because reporting obligations may change without amendment of the Regulations. Frequent modifications may also increase compliance costs and create confusion during active election campaigns.	**Articles 10, 47 and 94 of the Constitution** and the **Statutory Instruments Act, 2013.** Material changes affecting legal obligations should be made through lawful legislative processes rather than administrative directives.	**Substantially Amend.** Limit IEBC's power to making minor administrative or formatting changes that do not alter substantive reporting obligations. Any significant modification to prescribed forms affecting legal duties should be effected through amendment of the Regulations following public participation.	**To be read with the response to 39(1) above**
40(1). Electronic Record Keeping	Requires IEBC to provide systems for electronic submission and maintenance of campaign finance records.	Political parties strongly support digitisation because it promotes efficiency, transparency and timely reporting. However, the Regulation does not guarantee system reliability, cybersecurity, accessibility,	**Articles 27, 35 and 47 of the Constitution.** Digital systems should promote equal access and fair administration without disadvantaging smaller political actors or persons with disabilities.	**Support with Amendment.** Require IEBC to establish secure, reliable and accessible electronic filing systems, provide user training, maintain system uptime standards and ensure accessibility for persons with disabilities and users in low-connectivity	**In establishing an electronic filing system, the Commission will ensure security and reliability to enhance credibility of the system.**

		interoperability or user support. Smaller political parties and independent candidates operating in remote areas may also face technological challenges.		areas. Alternative filing mechanisms should remain available where necessary.	
40(2). Legal Effect of Electronic Records	Provides that electronically submitted records shall have the same legal effect as printed records.	Political parties fully support legal recognition of electronic records as this aligns with modern governance and digital administration. However, the Regulation should clarify admissibility standards, authentication procedures and electronic signature requirements to minimise disputes regarding authenticity.	Consistent with the **Kenya Information and Communications Act**, the **Evidence Act** and constitutional principles promoting access to public services.	**Support with Minor Amendment.** Expressly recognize electronic signatures and electronic acknowledgements as sufficient proof of submission. Align the Regulation with the Kenya Information and Communications Act, the Evidence Act and the Data Protection Act.	**This is already provided for under the regulations.**
40(3). Guidelines for Electronic Filing	Empowers IEBC to issue directives and guidelines governing electronic submission and maintenance of records.	Political parties support operational guidance for electronic systems. However, similar to Regulation 39, unrestricted power to issue directives may result in changing compliance requirements without consultation or adequate notice. Frequent changes during campaign			

		periods may create uncertainty and expose parties to inadvertent non-compliance.			