

Independent Electoral and Boundaries Commission



PRESS RELEASE

FOR IMMEDIATE RELEASE

Mombasa, Kenya: Wednesday, 13th August 2025

SUBJECT: CLARIFICATION OF THE 90 DAY CONSTITUTIONAL LIMIT FOR BY-ELECTIONS

The Independent Electoral and Boundaries Commission (IEBC) has noted public concern and varied interpretations regarding the 90-day timeline for conducting by-elections, as provided under **Article 101(4)(b) of the Constitution of Kenya, 2010**.

This Article requires that a by-election for a vacant parliamentary seat (Member of the National Assembly and Senate) be conducted within 90 days, when the seat is declared vacant. In the case of the upcoming by-elections, the concerned vacancies arose way long before the Commission was constituted. For example, the people of Baringo County lost representation at the Senate on 16th February 2025, while Banissa Constituency lost representation on 28th March 2023, Magarini Constituency (3rd March 2023), Ugunja Constituency (8th August, 2024), Malava Constituency (17th February 2025), Mbeere North Constituency (17th April, 2025) and Kasipul Constituency (30th April 2025). The Commission is, therefore, operating under extraordinary circumstances for these by-elections.

In arriving at its decision, the Commission was guided by the provisions of **Article 259**, which offers guidance where constitutional timelines have lapsed. It allows flexibility in reckoning time where circumstances require, and where no contrary intention is expressly stated in the Constitution.

Moreover, **Article 259(1)** requires that the Constitution be interpreted in a manner that:

- Promotes its purposes, values and principles;
- Advances the rule of law and fundamental rights and freedoms;
- Permits development of the law; and
- Contributes to good governance.



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In line with these principles, the Commission considered both legal and logistical realities. Notably, many polling stations are located in schools, which are in session during the initial 90-day period. Conducting elections during school terms disrupts learning and limits access to polling centers.

It is also important to note that the Constitution does not prescribe specific timelines for by-elections to fill Members of County Assembly (MCA) vacancies.

The Commission affirms that the 90-day period would apply under normal and ideal circumstances. However, due to the unique situation at hand, the timelines for these by-elections have been set in full compliance with the Constitution and its guiding spirit.

For more information, contact:

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