



THE UNITED REPUBLIC OF TANZANIA

ACT NO. 1 OF 2024

ENGLISH VERSION

THE PRESIDENTIAL, PARLIAMENTARY AND COUNCILLORS' ELECTIONS ACT

[PRINCIPAL LEGISLATION]

This version of the Presidential, Parliamentary and Councillors' Elections Act, has been translated into English Language, and is published pursuant to section 84(4) of the Interpretation of Law Act, Chapter 1.

Dodoma,
8th July, 2024

ELIEZER MBUKI FELESHI,
Attorney General

THE PRESIDENTIAL, PARLIAMENTARY AND COUNCILLORS'
ELECTIONS ACT, 2024

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THE UNITED REPUBLIC OF TANZANIA



NO. 1 OF 2024

I ASSENT

SAMIA SULUHU HASSAN
President

[7th March, 2024]

An Act to provide for the regulation of the Presidential, Parliamentary and Councillors' elections, repealing the National Elections Act, 1985 and the Local Authorities Elections Act, 1979 and to provide for matters related thereto.

ENACTED by the Parliamentary of the United Republic of Tanzania.

CHAPTER I
PRELIMINARY PROVISIONS

Short title and
commencement

1. This Act may be cited as the Presidential, Parliamentary and Councillors' Elections Act, 2024 and shall come into operation on such date as the Minister may, by notice published in the *Gazette*, appoint.

Application

2. This Act shall apply to Mainland Tanzania as well as to Tanzania Zanzibar for Presidential and Parliamentary elections and for Councillors' elections in Mainland Tanzania.

Interpretation

3. In this Act, unless the context otherwise requires-
"registration officer" means a person appointed under section 7 and includes an assistant registration officer;

- Cap. 258 “political party” means a political party registered as such under the Political Parties Act;
- “Register” means the Permanent Voters’ Register established under section 12;
- “Provisional Voters’ Register” means a register established under section 11;
- “security for costs” means amount of money deposited in court by the petitioner before the election petition is scheduled for trial;
- “Councillor” means a Councillor elected in a ward and includes councillors for women special seats;
- “voters’ education” means dissemination of information relating to the electoral processes and procedures;
- “polling district” means-
- (a) for parliamentary elections, an area or division of a constituency made pursuant to the provisions of section 5(1), (2) and (3);
- (b) for councillor’s election, a ward declared as such under section 5(4);
- “Council” means-
- (a) in relation to a district, a District Council;
- (b) in relation to a city, a City Council;
- (c) in relation to a Municipality, a Municipal Council; and
- (d) in relation to a town, a Town Council, established or deemed to have been established under the Local Government (District Authorities) Act and the Local Government (Urban Authorities) Act;
- Caps. 287 and 288 “Judge” means a Justice of the Court of Appeal or Judge of the High Court of Tanzania;
- “constituency” means a constituency for purposes of election to the National Assembly;
- “voter’s card” means card issued under the provisions of this Act verifying that the person named in such card has been registered as a voter;
- “ward” means a division of the jurisdiction of a local government authority pursuant to the provisions of the Local Government (District Authorities) Act and the Local Government (Urban Authorities) Act;
- Caps. 287 and 288 “Constitution” means the Constitution of the United

Caps. 287 and 288

- Republic of Tanzania, 1977;
- “campaign period” in relation to Presidential, Parliamentary and Councillors’ elections means the period commencing immediately after the nomination day up to the day immediately preceding the election day;
- “polling station” means a polling station specified under the provisions of section 69;
- “close of polls” means the latest close of poll in a polling station in relation to any election;
- “local government authority” means a district authority established under the Local Government (District Authorities) Act or an urban authority established under the Local Government (Urban Authorities) Act;
- “Member of Parliament” means a member of Parliament in a constituency and includes a Member of Parliament for women special seats;
- “candidate” means a person who contests for election in Presidential, Parliamentary or Councillors’ election;
- “Presidential candidate” means a person nominated by a political party to contest for election of the office of the President;
- “member” means an elected councillor in the local government authority and includes a councillor for women special seats;
- “ordinary resident” means a person who is living whether for a long or short duration in a polling district for settlement purposes as part of regular order of his life for the time being;
- Provided that-
- (a) a person shall not be deemed to be an ordinary resident in a polling district on the ground only that he owns, or is in possession of a dwelling house therein;
 - (b) a member of Parliament shall not cease to be ordinarily resident in the respective constituency, if the reason for his absence from such constituency is in connection with his duties; and
 - (c) a person who is a patient in any establishment for reception and

treatment of persons suffering from illness or any health problem, or who is detained in prison or other legal custody at any place, shall not by reason thereof be deemed to be ordinarily resident therein;

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2 of 2024

“Director of Elections” means the person appointed to be the Director of Elections in accordance with the provisions of the Independent National Electoral Commission Act and includes a person for the time being performing any of the functions of the Director of Elections;

“voter” means any person who is qualified to vote at an election in accordance with the provisions of this Act;

“polling assistant” means a person appointed to be a polling assistant in a polling station under the provisions of section 76(b);

“presiding officer” means a person appointed to be a presiding officer in charge of a polling station under the provisions of section 76(c);

“returning officer” means a Returning Officer appointed under section 6 and includes an Assistant Returning Officer;

“observer” means a local or international observer registered by the Commission;

Act No.
2 of 2024

“Chairman” means the Chairman appointed under the Independent National Electoral Commission Act and includes the Vice Chairman or any person for the time being discharging the functions of the Chairman;

“electoral staff” includes the regional election coordinator, returning officer, assistant returning officer, election officer, presiding officer, polling assistant, regional registration coordinator, registration officer, assistant registration officer, registration assistant, biometric kit operator, direction clerk and any other person appointed to discharge the functions of the Commission;

“Act” means the Presidential, Parliamentary and Councillors' Elections Act;

“qualification” or “qualified” means -

- (a) when used in relation to a person claiming to be entitled to be registered as a voter, qualified to be or has qualification as a voter;
- (b) when used in relation to a person claiming to be qualified as a candidate for Presidential election, qualified to be a candidate for Presidential election in question;
- (c) when used in relation to a person claiming to be qualified as a candidate for a Parliamentary election, qualified to be a candidate for election to the National Assembly, for the constituency in question;
- (d) when used in relation to a person claiming to be qualified as a candidate for a councillors' election, qualified to be a candidate for a councillors' election for the ward in question;

“election day” means a day appointed under section 68 or any day substituted for that day in accordance with the provisions of that section;

“nomination day” means a day appointed for nomination of candidates;

“Commission” means the Independent National Electoral Commission of the United Republic established by the Constitution;

“election” means-

- (a) in the case of an election of the President, the Presidential election;
- (b) in the case of an election to the National Assembly, a Parliamentary election, and includes a by-election;
- (c) in the case of an election of a councillor, means an election of a Councillor and includes a by-election;

“contested election” means an election of a President of the United Republic, Member of Parliament in a constituency or Councillor in a ward where there are more candidates than vacancies;

“Presidential election” means the election of the President of the United Republic;

“nomination” means nomination of candidates for Presidential, Parliamentary and Councillors'

election and includes nomination of Members of Parliament and Councillors women special seats;

“counting agent” means a person appointed as a counting agent under the provisions of section 91;

“polling agent” means a person appointed as polling agent under the provisions of section 77; and

“Minister” means the Minister responsible for electoral matters.

Regulations,
directives and
notices

4. All regulations, directives and notices which the Commission is empowered to make, issue or give, shall be deemed to have been validly made, issued or given if they are made, issued or given under the signature of the Chairman of the Commission or the Director of Elections.

Polling districts

5.-(1) The Commission shall divide every constituency into polling districts and shall publish in the *Gazette*, a notice specifying such polling districts.

(2) Where the boundaries of any constituency are varied pursuant to Article 74(6)(c) of the Constitution or under any other circumstances in which the Commission thinks appropriate, the Commission may alter the number and area of polling districts within the constituency and upon such alteration, the Commission shall publish in the *Gazette* a notice specifying the alteration.

(3) Where as a consequence of establishment of a constituency, or variation in the boundaries of a constituency, an area which constituted a polling district in one constituency lies wholly within another constituency, the Commission may declare that such area shall cease to be a polling district within the first mentioned constituency and shall constitute a polling district in the constituency in which the area lies.

Caps. 287 and 288

(4) Where the Minister responsible for local authorities establishes a ward pursuant to the provisions of the Local Government (District Authorities) Act and Local Government (Urban Authorities) Act, that ward shall be a ward for the purpose of election under this Act.

Appointment of
Returning Officers
and other staff

6.-(1) The Commission may appoint a senior public officer to be a returning officer for the purposes of conducting an election in a constituency or ward and such returning officer may be for more than one constituency or ward.

(2) The Commission may appoint a person from amongst public officers, by name or office, to be an assistant returning officer for the purpose of conducting an election in a constituency or ward.

(3) For purposes of subsections (1) and (2), a person shall be eligible for appointment as a returning officer or assistant returning officer if, five years prior to the respective election such person-

(a) has not been convicted of a disciplinary offence or criminal offence and sentenced to imprisonment for a term exceeding six months; and

(b) has not been a leader of a political party.

(4) The Commission shall, by notice in the *Gazette*, publish the names of persons appointed to be returning officers or assistant returning officers.

(5) Without prejudice to other provisions of this Act, the Commission may appoint any person for purposes of discharging the functions of the Commission relating to the election process.

(6) A Returning Officer may, subject to section 76 and to the directives of the Director of Elections, appoint such number of staff as may be necessary for the purposes of conducting an election in the constituency or ward.

(7) Every Returning Officer and Assistant Returning Officer shall, before embarking on the functions of that office, take and subscribe to an oath of secrecy and make declaration to withdraw from membership or not to be a member of a political party before a Magistrate in the prescribed form.

Registration
Officers

7.-(1) For the purpose of registration of voters under this Act, every City Director, Municipal Director, Town Director and District Executive Director shall be a Registration Officer for purposes of registration of voters in a constituency or ward and such registration

officer may be for one or more than one constituency.

(2) Notwithstanding the provisions of subsection (1), the Commission may appoint by office or name from amongst public officers, to be a Regional Registration Coordinator or Assistant Registration Officer for the purposes of registering voters as it may consider fit.

(3) Notwithstanding the provisions of subsection (1), the Commission may, where circumstances so require, by notice published in the *Gazette* appoint any person holding a public office by name or by office to be a Registration Officer in any constituency or ward instead of the one referred to in subsection (1) and where such person is so appointed, the City Director, Municipal Director, Town Director or District Executive Director shall cease to be a Registration Officer in the respective constituency or ward.

(4) The Registration Officer may, subject to the directives of the Director of Elections, appoint such number of staff as may be necessary for the purpose of conducting registration of voters in a constituency or ward.

(5) Staff appointed by the Registration Officer under subsection (4) shall take and subscribe to an oath of secrecy and make declaration to withdraw from membership or not to be a member of a political party before a registration officer in the prescribed form.

(6) Every Regional Registration Coordinator, Registration Officer or Assistant Registration Officer shall, before embarking on the functions of that office, take and subscribe to an oath of secrecy and make declaration to withdraw from membership or not to be a member of a political party before the Magistrate in the prescribed form.

(7) The Registration Officer shall be responsible for all matters relating to the registration of voters within the area of his jurisdiction.

Appointment of
Regional Election
Coordinators

8.-(1) The Commission may, during an election, appoint by office or by name in respect of every region, a Regional Election Coordinator to coordinate information, the availability of material, resources and

other matters necessary for the efficient conduct of elections in constituencies and wards within the Region.

(2) Every person holding a public office shall, upon request by the Commission, the Director of Elections, the Returning Officer, Assistant Returning Officer or the Regional Election Coordinator, provide such assistance or perform such other duty as shall be so requested for purposes of facilitating the conduct of election.

CHAPTER II REGISTRATION OF VOTERS

PART I QUALIFICATIONS AND DISQUALIFICATIONS FOR REGISTERING AS VOTERS AND VOTING

Qualification for
registration

9.-(1) Any person, who is a citizen of Tanzania and has attained the age of eighteen years and who is not disqualified by this Act or by any other written law, shall be entitled to be registered as a voter under the provisions of this Act.

(2) Notwithstanding the provisions of subsection (1), and subject to the proof of age, any Tanzanian not disqualified by this Act or any other written law, who on or before the date of election shall attain the age of eighteen years, shall be entitled to be registered as a voter under this Act.

Disqualification
from registration

10.-(1) A person shall not be qualified for registration or be registered as a voter under this Act if he is -

- (a) under a declaration of allegiance to some country other than Tanzania;
- (b) under any law in force in Tanzania, he is adjudged or otherwise declared to be of unsound mind or is detained as a mentally disordered person or is detained at the pleasure of the President;
- (c) convicted of an offence punishable by death or is under a sentence in respect of an offence punishable by imprisonment for a term exceeding six months imposed by a

court or as substituted by competent authority; or

(d) disqualified from registering as a voter under the provisions of this Act or any other law in force relating to offences connected with any election.

(2) For purposes of paragraph (c) of subsection

(1)-

(a) two or more sentences that are required to be served consecutively shall be regarded as separate sentences if none of them exceeds six months, but if any one of them exceeds six months, they shall be regarded as one sentence; and

(b) no account shall be taken of a sentence of imprisonment imposed as an alternative to, or in default of, the payment of a fine.

(3) Where any person registered under this Act ceases to be qualified for registration as a voter, his name shall be deleted from the Register:

Provided that, a name shall not be deleted from a Register, except in accordance with the provisions of Parts III and IV of this Chapter or on a report of a court that such person has been convicted of a practice which disqualifies that person from registering or voting.

(4) A person shall not be registered as a voter in more than one constituency or ward or in more than one polling district in a constituency or ward.

Provisional
Voters' Register

11.-(1) The Commission shall, for the purpose of preparation of a Permanent National Voters' Register, establish a Provisional Voters' Register.

(2) The Provisional Voters' Register shall be used for-

- (a) displaying for inspection by the public;
- (b) amendment regarding change of residence or any other particulars of the voter;
- (c) making objection against registration of any voter;
- (d) inclusion or deletion of the name of a voter in the register; and
- (e) effecting any other correction or amendment as may be required under this

Act.

Permanent
National Voters'
Register

12.-(1) Subject to this section, there shall, for purposes of this Act, be a Permanent National Voters' Register for the United Republic which shall be in such parts, chapters or other divisions as the Commission shall determine.

(2) The Director of Elections shall keep, maintain and up-date the Register established under subsection (1).

(3) The Register shall consist of names of all persons who are registered as voters in a polling district.

(4) The Register shall show relative to every registered voter, the number of the voter's card issued to such voter, disability if any, the sex of the voter and address at which the voter ordinarily resides and such other particulars as the Commission may direct.

(5) The Commission shall be the custodian of the Register established under subsection (1).

(6) The Director of Elections may give directives to the registration officer or assistant registration officer on matters relating to registration of voters, contents of a voter's register or any other related matters.

Registration of
voters in Tanzania
Zanzibar

13.-(1) Notwithstanding the provisions of section 12 and for purposes of the conduct of Presidential and Parliamentary elections in Tanzania Zanzibar, the law relating to the registration of voters and to the register of voters for elections to the House of Representatives of Zanzibar shall, *mutatis mutandis*, be the law for the registration of voters and the register of voters in Tanzania Zanzibar for the purpose of this Act.

(2) The Commission shall register any person in Tanzania Zanzibar who is entitled to be registered as a voter for election of the President of the United Republic.

Place of and
disqualification
from voting

14.-(1) Subject to the provisions of this Act, a person who is registered as a voter in any polling district shall be entitled to vote in any election in that

polling district and such person shall be entitled to vote at the polling station allocated to him in such a polling district.

(2) Notwithstanding the provisions of subsection (1), a presiding officer or polling assistant at any polling station shall not permit any person to vote at that polling station unless such person satisfies the presiding officer or as the case may be, a polling assistant, that he is the voter he claims to be by producing the voters card issued to such person or such other proof of identity as the Director of Elections may for the time being direct to be sufficient proof of identity of the person claiming to be entitled to vote.

(3) A person registered as a voter under this Act shall not be entitled to vote in any election if any circumstance arises in relation to that person which, if he were not so registered, would cause that person to be disqualified for registration under this Act.

(4) Notwithstanding any other provisions of this Act, the Director of Elections or any person authorised in that behalf may, by a certificate under his hand, authorise a registered voter who is a candidate at an election in a constituency or ward, to vote at the election in that constituency or ward at the polling station specified in such certificate, whether or not such candidate is registered as a voter in that polling district.

(5) Notwithstanding any other provisions of this Act, where a voter registered as such in any polling district is employed as a returning officer, presiding officer, polling assistant, direction clerk, station guard or in any other official capacity at a polling station in such polling district other than at the polling station allocated to that voter, the Director of Elections or any person authorised by the Director of Elections may, by a certificate under his hand, authorise the voter to vote at any other polling station in such polling district, and that polling station shall, for the purpose of this Act, be deemed to be the polling station allocated to such voter.

(6) A person who is serving a sentence of imprisonment may, subject to the provisions of this Act, be registered as a voter, or vote at an election only if permitted to do so by the written law governing that person's imprisonment:

Provided that, nothing in this subsection shall be construed as authorising any such person to vote at any polling station other than the polling station allocated to him.

Change of name

15. A person registered as a voter whose name has been changed consequent upon marriage or for any other reason since being registered shall, if not disqualified from voting under section 14, be entitled to vote under the name in which he is registered.

PART II

REGISTRATION OF VOTERS

Time for
registration

16.-(1) The Commission shall be responsible for setting time for registration and updating of particulars of voters in every polling district within the constituency or ward.

(2) A person entitled to be registered as a voter at any polling district and who has not been so registered, may present himself at a place where facilities for registration have been made available in the relevant polling district.

(3) Notwithstanding any other provisions of this section to the contrary, it shall be lawful for the Commission to direct that the registration of voters in all or any polling district in the constituency or ward specified in such directives, shall be suspended for such period as the Commission may direct if, in the opinion of the Commission, it is desirable to suspend the registration of voters.

(4) Where the directives under subsection (3) have been issued in respect of any polling district, no registration of voters shall take place in such polling district during the period specified in such directives.

(5) For the purpose of this section, the Commission shall update the Register twice between the period commencing immediately after the General Elections and the date preceding the nomination day.

Registration
agents

17.-(1) A political party may appoint one person to be a registration agent for each registration centre within the constituency or ward, for the purpose of -

(a) detecting qualified persons for registration;
and

(b) assisting the registration assistant to secure smooth compliance with relevant laws and procedures pertaining to the conduct of registration of voters without interfering with his responsibilities.

(2) For the purpose of subsection (1), every political party shall, by notice in writing, notify the registration officer of the appointment not later than seven days before the date set for the commencement of registration of voters or within such shorter time as the Commission may allow.

(3) The notice given under subsection (2) shall state the name of the agent so appointed and the name and address of the registration center to which the agent is assigned.

(4) A political party may, in the notice given under subsection (2), appoint an alternate registration agent who may be present and perform, whether permanently or temporarily, any of the functions of a registration agent in his absence from the registration center.

(5) Where a registration agent dies or becomes incapable of acting as such, the respective political party may appoint another registration agent in his place, and shall immediately give to the registration officer and registration assistant concerned a notice in writing of the name and address of the registration agent so appointed and registration center to which that agent is appointed.

(6) The registration assistant shall, with the assistance and cooperation of the registration agent, as soon as practicable, handle each complaint brought by any person who wishes to be registered in the presence of the agent at the registration center.

(7) Every registration agent or alternate registration agent shall, before embarking on the functions of that office, take and subscribe to an oath of secrecy before the registration officer.

Voter's card

18.-(1) Where a person makes an application for registration as a voter in accordance with the provisions

of section 16, such person shall, if he satisfies the registration officer or any other officer for the time being responsible for the registration of voters, that he is qualified to be registered as a voter at a polling district within the jurisdiction of such registration officer or such other officer, be registered as a voter for such polling district and upon being so registered shall be issued with a voter's card in the prescribed form.

(2) The Commission may require any person applying for registration as a voter to fill in such forms as may be prescribed.

(3) Notwithstanding the provisions of this section, the Commission may prescribe the procedure for registration as voters persons who have been registered by the National Identification Authority.

Change of
residence

19.-(1) Where any voter who is registered in one polling district becomes ordinarily resident in some other polling district, such voter may apply in accordance with the provisions of section 14, to the registration officer, registration assistant or any other staff as directed by the Commission for the purposes of conducting registration of voters for the polling district in which he is ordinarily resident and the registration officer, registration assistant or any other staff as directed by the Commission for the purpose of conducting registration of voters shall-

(a) upon being satisfied that the applicant-

(i) is qualified for registration; and

(ii) is ordinarily resident in the polling district in respect of which he makes the application; and

(b) on the surrender by the applicant of his voter's card or upon the applicant satisfying the registration officer, registration assistant or any other staff directed by the Commission for the purpose of conducting registration of voters that the voter's card is lost or destroyed,

register the applicant in the prescribed form for the polling district and cause to be issued another voter's card.

(2) Where a registration officer, registration

assistant or any other staff as directed by the Commission for purposes of conducting registration of voters registers an applicant under this section, the registration officer, registration assistant or such other staff shall immediately cancel the voter's card surrendered by the applicant.

(3) Notwithstanding the provisions of section 18(1) or subsection (1) of this section, where by reason of-

- (a) any change of name of a constituency or ward;
- (b) any adjustment in the number of constituencies or wards; or
- (c) any adjustment in the boundaries or areas of one or more constituencies or wards, a constituency or ward becomes part of another constituency or ward or a polling district of one constituency or ward becomes a polling district or part of a polling district of another constituency or ward,

it shall not be necessary for a voter whose name is in any register affected by such adjustment, to apply for the transfer of name to the appropriate register but the Director of Elections shall, as soon as possible, effect such amendment of transfer as may be necessary to give effect to such adjustment as if an application for transfer had been made by a voter concerned pursuant to the provisions of this Act.

Lost, defaced or
destroyed voter's
card

20.-(1) Where a voter's card issued to any person is lost, defaced or destroyed, the person to whom such voter's card was issued may apply in person to the registration officer, registration assistant or any other staff as directed by the Commission for the purpose of conducting registration of voters for the issue of a new voter's card.

(2) Upon any such application, the registration officer, registration assistant or any other staff as directed by the Commission for the purpose of conducting registration of voters shall, if satisfied that the application is properly made and that the applicant remains qualified for registration, issue the applicant with a new voter's card and where the application is

made in respect of a destroyed or defaced voter's card, the applicant shall surrender such destroyed or defaced voter's card.

Amendment of particulars

21.-(1) Where any of the particulars on a voter's card or in a Provisional Voter's Register require to be amended by reason of a change of name or of any other alteration in the circumstances affecting the person to whom a voter's card was issued, other than a change of residence from one polling district to another, the person to whom such voter's card was issued may apply for a new voter's card.

(2) Upon such application being made and upon being satisfied that the application is properly made and that the applicant remains qualified for registration, the registration officer, registration assistant or any other staff as directed by the Commission for the purposes of conducting registration of voters, register the applicant in the prescribed form and cause to be issued another voter's card:

Provided that, a new voter's card shall not be issued under this section unless the applicant-

- (a) submits a legally recognised document, in the case of change of name; and
- (b) surrenders his voter's card or satisfies the registration officer, registration assistant or any other staff as directed by the Commission for purposes of conducting registration of voters that it is lost or destroyed.

Declaration relating to lost or destroyed voter's card

22. Where, under the provisions of this Part, an application is made to a registration officer, registration assistant or any other staff as directed by the Commission for the purpose of conducting registration of voters, by a person who claims to have lost a voter's card issued to him or that such voter's card has been destroyed, the registration officer, registration assistant or any other staff as directed by the Commission for the purposes of conducting registration of voters shall require the applicant to make a declaration in the prescribed form relating to such loss or destruction, and, without prejudice to the power to refuse the application on other grounds, the registration officer,

registration assistant or any other staff as directed by the Commission for the purpose of conducting registration of voters, may refuse the application unless the applicant makes such a declaration.

Refusal of
application

23.-(1) Where a registration assistant or any other staff as directed by the Commission for the purpose of conducting registration of voters, refuses an application under the provisions of this Part, he shall, if so required by the applicant, give to the applicant a written statement in the prescribed form setting out the grounds for refusal, and where any applicant is aggrieved by such refusal he may, within seven days after receipt of such statement, submit an application for review against such refusal to a registration officer.

(2) The registration officer shall, within fourteen days after receipt of an application for review, make a decision of such application.

(3) Where the applicant is aggrieved by the decision of the registration officer, he may appeal to the Primary Court against such refusal within fourteen days from the date of the decision of the registration officer.

(4) The Primary Court shall make decision of an appeal within fourteen days from the date where such appeal was lodged.

PART III

OBJECTION TO REGISTRATION OR CONTINUED REGISTRATION

Inspection of
Provisional
Voters' Register

24.-(1) Any person may inspect the Provisional Voter's Register of any polling district on such day and at such time as the registration officer or, as the case may be, the Director of Elections, may determine.

(2) The registration officer shall display the Provisional Voters' Register in every ward and may amend it, if necessary, in the manner as may be prescribed by the Commission.

Inclusion of name
in Provisional
Voters' Register

25.-(1) Where any person who has been registered as a voter and holds a valid voter's card in respect of a polling district pursuant to an inspection made in accordance with the provisions of section 24,

discovers that his name does not appear in the Provisional Voters' Register of the polling district such person may apply to the Director of Elections, and the Director of Elections or, as the case may be, the registration officer shall, if satisfied that the name of such person should have been included in the Provisional Voters' Register of the polling district, amend or cause to be amended the Provisional Voters' Register by inclusion of the name of such person.

(2) Where the Director of Elections or the registration officer refuses to amend the Provisional Voters' Register to include the name of any person, the person aggrieved by such refusal may object to such refusal in accordance with the succeeding provisions of this Part.

Objections

26.-(1) A person whose name appears in the Provisional Voters' Register for any polling district may object to the retention in that Provisional Voters' Register of his own name or the name of any other person on the ground that he or such other person is not qualified or is no longer qualified to be so registered or that such other person is dead.

(2) Any person who makes an objection under this section is hereinafter referred to as "the objector".

Procedure for making objections

27.-(1) Every objection shall be made in duplicate in the prescribed form and shall be made to the registration officer within such period as may be prescribed.

(2) Every objection shall be accompanied by a deposit of such sum as the Commission may, by notice in the *Gazette*, prescribe.

(3) The registration officer shall, as soon as practicable after receiving an objection made in accordance with this Part, serve notice of such objection to the person in regard to whom such objection has been made:

Provided that, a registration officer shall be required to affix a notice of objection on the notice board at a registration centre where an objection is made on the ground that a person whose name appears in the Provisional Voters' Register is dead.

Inquiry and
determination by
registration officer

28.-(1) The registration officer shall as soon as practicable hold a public inquiry into all objections which have been duly made, by giving not less than seven days written notice of the date on which and the time and place at which such inquiry shall commence to each objector and the person in regard to whom the objection has been made, and, at any such public inquiry, any person appearing to the registration officer to be interested in or affected by the subject matter of the inquiry, may appear and be heard either in person or by any other person duly authorised by the person interested or affected in writing in that behalf.

(2) Where an objection is made to the retention or non-inclusion of any name in the Provisional Voters' Register, the registration officer shall call upon the objector or any person authorised in writing in that behalf by the objector to give *prima facie* proof of the ground of the objection.

(3) Where in the opinion of the registration officer such *prima facie* proof is given, the registration officer shall require proof of the present qualification for registration of the person in regard to whom the objection has been made and-

- (a) if such person's qualification is not proved to the satisfaction of the registration officer, the registration officer shall inform the Director of Elections of the same and the Director of Elections shall delete or cause to be deleted such person's name from the Provisional Voters' Register; or
- (b) if such person's qualification is so proved, the registration officer shall inform the Director of Elections of the same and the Director of Elections shall retain, or as the case may be, include or cause to be retained or included, such person's name in the Provisional Voters' Register.

(4) Where on the date fixed for inquiry into any objection, the objector or any person authorised in writing in that behalf by the objector, fails to appear or appears but fails to give *prima facie* proof to the satisfaction of the registration officer, the registration

officer shall retain or cause to be retained the name of the person in regard to whom the objection is made in the register or, as the case may be, take no steps for the amendment of the Provisional Voters' Register so as to retain in the Provisional Voters' Register the name of the person in regard to whom the objection is made.

(5) Where an objection is disallowed by the registration officer and in his opinion, the objection was made without reasonable cause, the registration officer may, if he thinks fit, order in writing the objector to pay the person in regard to whom the objection has been made, compensation in such sum as the Commission may, by notice in the *Gazette*, prescribe.

(6) Any sum awarded as compensation under this section shall be recoverable as if the order of the registration officer were a decree of a Primary Court for the recovery of money.

(7) Where an objection is disallowed by the registration officer and he is of the opinion that the objection was made without reasonable cause, the deposit of such sum as the Commission may, by notice in the *Gazette* prescribe to be deposited by an objector, shall be liable to be forfeited to the Government by order of the registration officer, or if no such order is made, the deposit shall be refunded.

(8) The registration officer shall decide on the objection under this Part within seven days from the last day of the issuance of the notice of inquiry.

Objector or person
objected to may
appeal

29.-(1) Where any objector or person in regard to whom objection has been made is aggrieved with the decision of the registration officer under section 28, the objector or person may, within seven days from the date of such decision, appeal to a Primary Court.

(2) The Primary Court shall determine such appeal within fourteen days from the date of submission of the appeal.

PART IV
APPEALS AND ADDITIONS TO OR DELETION FROM THE
PROVISIONAL VOTERS' REGISTER

Appeals to Primary
Court

30.-(1) Every appeal under section 23 or 29 shall state shortly the grounds of appeal, and shall be accompanied by such sum as the Commission may, by notice in the *Gazette*, prescribe as a deposit.

(2) The Primary Court shall hear every such appeal in public giving notice of the time, date and place of the hearing of the appeal to the respective parties and it shall be in its discretion whether to hear or not to hear any evidence and, its determination of the appeal shall be final and conclusive and shall not be called in question in any court.

(3) Where the Primary Court has determined an appeal which has been lodged with respect to any Provisional Voter's Register on a voter's card, it shall forward to the registration officer a statement under the hand of the Magistrate containing the names which it has decided shall be deleted from the Provisional Voters' Register and a statement of a name of any person to whom a voter's card shall be issued, and the registration officer shall inform the Director of Elections on the results of the appeal, and the Director of Elections shall amend or cause to be amended the Provisional Voters' Register and issue a voter's card accordingly:

Provided that-

- (a) the Primary Court shall not require the registration officer to cause the issuance of another voter's card where the previous voter's card has been lost or destroyed, unless such person shall have made the declaration to the registration officer as required under section 22; and
- (b) in any case to which section 19, 20 or 21 applies and no declaration has been made in accordance with section 22, the registration officer may refuse to cause the issuance of another voter's card until the previous voter's card issued to the person concerned has been surrendered.

(4) Where an appeal is dismissed and the Primary Court is of the opinion that the appeal was made without reasonable cause, it may order that the deposit of such sum as the Commission may, by notice in the *Gazette*, prescribe to be deposited upon appeal, be forfeited to the Government, or if no such order is made, the deposit shall be refunded.

(5) Parties to an appeal shall not be entitled to any costs or compensation:

Provided that, if an appeal is made and allowed by the Primary Court and in its opinion the appeal was made without cause, the Court may, if it deems fit, order the appellant to pay compensation of such sum as the Commission may, by notice in the *Gazette*, prescribe and any sum so awarded, shall be recoverable as if the order were a decree of a Primary Court for the recovery of money.

(6) Where an appeal has been made under this section, the Primary Court may, whether it allows or dismisses the appeal, order that any deposit forfeited or to be forfeited to the Government or any sum of money paid or to be paid by way of compensation in accordance with an order of the registration officer under section 28 or so much of such deposit or such sum as the Primary Court may specify shall not be paid or forfeited, or shall be returned to the objector, as the case may be, and any sum ordered to be returned shall be recoverable as if the order were a decree of a Primary Court for the recovery of the money.

(7) A witness may be summoned and sworn at the hearing of an appeal under the provisions of this section in the same manner as nearly as circumstances permit as in a trial by a Primary Court in the exercise of its criminal jurisdiction and shall, without prejudice to the provisions of any other written law, be subject to the same penalties for giving false evidence or for non-attendance.

(8) Any person entitled to appear as a party at an appeal brought under the provisions of this section may appear either in person or by an advocate.

(9) The procedure and practice of hearing appeals under this section shall be regulated in such manner as the Primary Court shall decide and, without prejudice

to the generality of the foregoing, a Primary Court may, if satisfied that two or more appeals involve the same question, declare that the decision given in an appeal heard previously shall be binding on the parties to such other appeal or appeals as it shall specify.

Provisions consequential upon additions to, or deletions from Provisional Voters' Register

31.-(1) Where the name of any person has been added to a Provisional Voters' Register pursuant to section 28, or any voter's card has been issued to any person in pursuance of that section, the registration officer shall take steps in relation to that person as if he had not refused the application to which the appeal relates.

(2) Where the name of any person has been deleted from the Provisional Voters' Register pursuant to section 28, the registration officer shall require such person either-

(a) to surrender any voter's card issued to such person under this Act; or

(b) to make and deliver to the registration officer the declaration provided for in section 22, within such period, being not less than ten days, as the registration officer shall specify, and the registration officer shall cause to be cancelled any voter's card so surrendered.

CHAPTER III

PRESIDENTIAL ELECTION

PART I

PRESIDENTIAL AND VICE-PRESIDENTIAL CANDIDATES NOMINATION

Nomination of Presidential and Vice-Presidential candidates

32. Whenever a Presidential election is to be held, each registered political party intending to participate in the Presidential election shall submit to the Commission, the name of a Presidential candidate and the name of the candidate for the office of the Vice-President of that political party.

Number of
nominators

33.-(1) In order to be validly nominated to stand as a Presidential candidate, a person must be nominated in writing, by not less than two hundred nominators who are registered voters for the purpose of elections under this Act from each of at least ten regions of the United Republic, out of which at least two regions are in Tanzania Zanzibar.

(2) Subject to the provisions of subsection (1), the nominators of the Presidential candidate and Vice President shall be confirmed by the returning officer of the respective constituency which the said nominators were registered as voters.

Nomination of
Presidential
candidate

34.-(1) The Commission shall issue nomination forms to the Presidential candidate who has been proposed by a political party or a voter authorised in writing by a political party in such number as may be directed by the Commission.

(2) Every Presidential candidate shall submit nomination forms in such manner and at such place as the Commission may direct, not later than four o'clock in the afternoon on the nomination day.

(3) Nomination forms shall be submitted and shall contain the following particulars:

- (a) name, sex, disability if any and address of the candidate for the office of President and of the Vice-President who shall be the running mate;
- (b) candidate's declaration that he is ready and qualified to contest for election;
- (c) an oath of Presidential candidate and Vice-Presidential candidate of the United Republic to be completed and signed before a Judge;
- (d) names and addresses of the nominators;
- (e) the numbers of the voter's cards of nominators; and
- (f) verification by the returning officer that the nominators are registered in the respective constituency,

Provided that, where the Commission is satisfied that there are reasonable grounds for a candidate's failure to submit nomination forms

personally, the sponsoring political party leader may submit such forms on his behalf.

(4) Every nomination form shall be accompanied by-

(a) such number of candidate's passport size pictures as the Commission may direct, taken not more than three months prior to nomination day; and

(b) such biographical information relating to the candidate as may be required to be given by regulations in such form as may be prescribed.

(5) Where, in any case, a nomination form is not accompanied by the documents specified in subsection (4), the nomination of the candidate shall be deemed to be void:

Provided that, the Commission may, in any particular case, if it finds reasonable to do so, direct that the nomination form shall be accepted as valid notwithstanding that such nomination form is not accompanied by any of the documents if the documents in question are submitted to the Director of Elections within such further time as the Commission may allow.

(6) For purposes of this Part, "nomination day" means the day declared by the Commission as the last day for receiving names of aspiring Presidential candidates.

(7) The Commission shall forthwith cause a copy of the nomination form to be posted in a conspicuous place outside its office.

(8) A person shall not be a nominator for more than one Presidential candidate and where a returning officer has issued a certificate under subsection (3)(f) in respect of a person's nomination of one candidate he shall refuse to issue a certificate in respect of that person nomination of another candidate for the same election:

Provided that, a person shall not be prevented from signing a nomination form by reason only of having signed that of a candidate who had died or withdrawn his candidature before delivery of the first mentioned nomination form.

(9) Notwithstanding the provisions of

subsection (8), where a nominator nominates more than one candidate in the same election and certificates have been issued under subsection (3)(f) in respect of registration of such person, nomination of both candidates shall be valid.

(10) Any person who knowingly nominates more than one candidate commits an offence, and upon conviction shall be liable to a fine not exceeding two hundred thousand shillings.

(11) The returning officer may, where he is satisfied that any person has committed an offence under subsection (10), by order under his hand compound such offence by requiring such person to make payment of a sum of money:

Provided that-

- (a) such sum of money shall not be more than the maximum fine provided for such offence;
- (b) the power conferred by this subsection shall be exercised where the person admits in writing that he has committed the offence; and
- (c) the returning officer shall issue to the person from whom he receives such sum of money a receipt thereof.

(12) A returning officer shall, when requested by or on behalf of a candidate to issue a certificate in respect of a nominator who is registered in a polling district, of which he is in charge, issue such certificate accordingly.

(13) Where, subsequent to primary nomination day, the name of a person who has nominated a candidate is deleted from the Register for the relevant polling district, such deletion shall not invalidate the nomination of the candidate.

Deposits

35.-(1) Every Presidential candidate shall, at the time of delivering nomination form pursuant to other provisions of this Part, deposit with the office of the Commission, such sum of money as may be prescribed in the regulations.

(2) The deposit by a candidate shall be forfeited to the Government if-

- (a) the Presidential candidate withdraws his candidature after nomination day; or

- (b) the number of votes counted in his favour at the election is less than one-tenth of the total number of valid votes cast,

except that such deposit shall not be forfeited if the candidate dies before the election.

(3) Where the deposit is not forfeited under the provisions of subsection (2), it shall, as soon as practicable after the declaration of the results of the election, be refunded to the Presidential candidate or paid to his personal legal representative, as the case may be.

Refusal to
nomination of
Presidential
candidate

36. The Commission may, on nomination day, refuse to nominate a person as a Presidential candidate upon being satisfied that such person is disqualified from participating in nomination process by the Registrar of Political Parties in accordance with the provisions of Election Expenses Act.

Cap. 278

Objections against
nomination of
Presidential and
Vice-Presidential
candidate

37.-(1) Objection may be made to a nomination form of a Presidential or Vice-Presidential candidate on all or any of the following grounds:

- (a) that the particulars given in respect of the candidate are insufficient to identify him;
- (b) that the nomination form does not comply with or was not delivered in accordance with the provisions of this Part;
- (c) that from the contents of the nomination form, that the candidate is not qualified to stand for election;
- (d) that the requirements of section 34(2) of this Act have not been complied with; and
- (e) if the requirements of the Election Expenses Act have not been complied with.

Cap. 278

(2) An objection to a nomination form shall not be allowed unless it is made to the Commission not later than four o'clock in the afternoon of the day following nomination day.

(3) Objection may be made by another candidate, by the Registrar of Political Parties, or the Attorney General except for the objection under subsection (1)(e) which may be made by the Registrar of Political Parties and shall be made in writing and

signed by the objector stating the reasons for objection.

(4) The Commission shall, before deciding on the validity of any objection with the least possible delay-

- (a) notify the person against whom the objection is made; and
- (b) avail such person an opportunity to be heard.

(5) Where the Commission decides on any objection under subsection (3), it shall notify in writing the respective candidate of the decision and grounds of its decision.

(6) The decision of the Commission under this section shall be final and conclusive, and shall not be called in question on any court of law.

(7) Notwithstanding any provision of this section, where the Registrar of Political Parties lodges an objection under subsection (3), such objection shall be submitted within fourteen days after nomination day.

Sole Presidential
candidate

38.-(1) Where there is only one validly nominated Presidential candidate, the Commission shall declare such person as the sole Presidential candidate.

(2) The Presidential candidate declared under subsection (1) shall be voted for or against and duly elected as President if he obtains more votes of the total valid votes cast.

(3) Where the sole Presidential candidate has failed to secure the majority votes in accordance with subsection (2), the Commission shall, by notice published in the *Gazette*, declare another nomination day for the purpose of Presidential election.

Withdrawal of
candidature

39.-(1) A Presidential candidate may withdraw his candidature by notice in writing signed and delivered by that candidate to the Commission and a copy to the Permanent Secretary of such nominated political party, not later than four o'clock in the afternoon on the nomination day.

(2) Every withdrawal notice under subsection (1) shall be accompanied by a statutory declaration in the prescribed form made and signed by the candidate before a Judge.

(3) Subject to the provisions of subsection (1), where a candidate withdraws his candidature after four o'clock in the afternoon on nomination day, his party shall not be allowed to substitute another alternate candidate and deposit submitted by such candidate shall be forfeited.

Death or absence
of candidates

40.-(1) Where-

- (a) after four o'clock in the afternoon on the nomination day there is no validly nominated candidate, the Commission shall immediately, by notice in the *Gazette*, appoint a further nomination day; or
- (b) at any time after four o'clock in the afternoon on the nomination day and before the determination of an election, any Presidential or Vice-Presidential candidate dies, the Commission shall immediately, by notice in the *Gazette*, appoint a further nomination day not later than fourteen days from the date of death, to give time to the political party concerned to nominate a new Presidential or Vice-Presidential candidate, as the case may be.

(2) Where a further nomination day is appointed under this section, the Commission shall appoint another Presidential election day and the appropriate procedures shall be commenced afresh, except that no new nomination shall be required in the case of the other Presidential candidates, if there are any.

PART II
ELECTION PROCEDURE AND QUALIFICATIONS OF
PRESIDENTIAL CANDIDATE

Presidential
election day

41.-(1) The Commission shall appoint a day, in this Act referred to as Presidential election day, for the holding of a ballot in every constituency for the election of the President.

(2) Subject to the provisions of this section, the Commission may appoint different Presidential election days for different constituencies and may revoke the appointment of a Presidential election day and appoint

some other Presidential election day.

(3) The Commission shall appoint as Presidential election day-

(a) in the case of a Presidential election held by reason of dissolution of Parliament other than in the circumstances provided for by paragraphs (b), (c), (d) or (e) of Article 38(2) of the Constitution-

(i) for each constituency in which there is a Parliamentary election, the day appointed as election day for that Parliamentary election;

(ii) for every other constituency, a day not less than forty days and not more than fifty days after the nomination day;

(b) in the case of a Presidential election to which paragraph (a) of this subsection does not apply, for every constituency, a day not less than forty days and not more than fifty days after the nomination of the Presidential candidates.

(4) Different days may be appointed under subsection (3)(a)(ii) or (b) for different constituencies.

(5) For the purpose of subsection (3), a constituency for which a Parliamentary election is commenced afresh, shall be deemed to be a constituency in which there is no Parliamentary election.

Persons entitled to
vote at
Presidential
election

42.-(1) Every person registered as a voter under this Act shall be entitled to vote at a Presidential election.

(2) Subject to the provisions of subsection (3), a registered voter may vote-

(a) on the Presidential election day appointed for the constituency for which he is registered as a voter; and

(b) at the polling station allotted to him in the polling district for which he is so registered.

(3) The Commission may give directives and prescribe conditions under which a person may, on the Presidential election day, be allowed to vote at a polling

station other than that allotted to him.

Qualification of
candidates for
Presidential
election

43. A person shall not be qualified to be a candidate for Presidential election unless he is qualified to be so elected in accordance with the provisions of Article 39 of the Constitution.

Application of
Chapter VI

44. The ballot for the election of a President in each constituency shall be held in the like manner as the ballot in a Parliamentary election and the provisions of Chapter VI of this Act shall apply *mutatis mutandis*.

Addition of
Presidential votes

45.-(1) The following persons shall be authorised to be present at the station for addition of votes:

- (a) a member of the Commission;
- (b) Director of Elections;
- (c) Secretary General of a political party or his representative in writing;
- (d) electoral officer of the Commission;
- (e) a candidate;
- (f) a counting agent;
- (g) a police officer or such other person responsible for security at the place of counting;
- (h) an observer duly authorised in writing by the Commission; or
- (i) any other person authorised by the Commission.

(2) After all the reports of the results and the ballot boxes containing the ballot papers relating to Presidential election, have been received from all the polling stations in the constituency, the returning officer shall, after determining the validity of any disputed votes, add together the figures of-

- (a) all the votes cast in the constituency;
- (b) the votes in favour of each candidate; and
- (c) the rejected votes.

(3) The returning officer shall, after compiling the Presidential results in the constituency, display such results at a conspicuous public place.

(4) Subject to subsection (3), the returning officer shall prepare and submit to the Commission, a

report of the preliminary results of the Presidential election in the constituency.

(5) The returning officer shall certify and give a copy of the report to each of the polling agents or if present, to the Presidential candidates.

(6) The Commission may direct that the returning officer shall, after preparing the report of the results under subsection (3) of this section, display a copy of the report in such conspicuous public place.

(7) The Commission may, where there is any doubt as to the accuracy in the addition of Presidential votes in any constituency, require the repetition of the addition of the figures from the preliminary results from some or all of the polling stations in the constituency.

(8) The Commission shall, after receiving the results submitted to it under subsection (4), declare the results of Presidential election for the particular constituency.

(9) Subject to subsection (3), the Commission shall, after adding together all the respective total results submitted to it by each returning officer in accordance with subsection (4), declare the results of the Presidential election in the country.

(10) Any Presidential candidate shall be declared to have been elected President if he receives more votes of all the valid votes cast than any other candidate.

Second ballot

46.-(1) Where at the initial ballot no Presidential candidate has received more votes of all the valid votes cast, the Commission shall, by notice published in the *Gazette*, appoint some other convenient day, being not more than forty days after the election day for the second ballot of the Presidential election.

(2) Where there is a tie up in the votes of candidates with more votes of all the valid votes cast, the Presidential candidates who tied up shall be the only candidates in the second ballot.

Election of
President to be
deemed election
of Vice-President

47. Where a Presidential candidate is declared to have been elected, the running mate shall be deemed to have been elected to the office of the Vice-President.

CHAPTER IV
PARLIAMENTARY ELECTIONS

PART I
QUALIFICATION OF CANDIDATES

Qualification of
candidates for
Parliamentary
elections

48. A person shall not be qualified to be a candidate for Parliamentary election or elected to be as a Member of Parliament unless he is qualified to be so elected by and in accordance with the provisions of Article 67 of the Constitution.

PART II
NOMINATION OF CANDIDATES

Nomination day

49.-(1) Where a Parliamentary election is to be held in a constituency or where such election is countermanded and the election procedures are to commence afresh, the Commission shall, by notice published in the *Gazette*, appoint a nomination day for the Parliamentary election:

Provided that-

- (a) where a Parliamentary election is to be held after dissolution of Parliament, the nomination day for any constituency shall be not less than five and not more than twenty-five days after the dissolution of Parliament;
- (b) where a by-election is to be held, the nomination day shall be not less than twenty days and not more than fifty days after the occurrence of the event by reason of which the election is to be held.

(2) Where a Member of Parliament resigns, dies or otherwise relinquishes office for reasons other than under section 142, the Speaker shall in writing to the Chairman of the Commission, and by notice published in the *Gazette*, declare that there is a vacancy in the seat of a Member of Parliament.

(3) The Commission may appoint different nomination days for different constituencies and may revoke the appointment for any nomination day and appoint another nomination day:

Provided that, any such later day appointed as a

nomination day for a Parliamentary election shall be within the period provided for under the proviso to subsection (1).

(4) The Commission shall give at least seven days notice of nomination day and, in the case of a Parliamentary election to be held where the President has given notice of the intention to dissolve Parliament, the notice of a nomination day may be given before such dissolution.

(5) Where a by-election is to be held and the date for dissolution of Parliament has been proclaimed or is known on account of the events specified in Article 90(3) of the Constitution, a by-election shall not take place at any time during the period of twelve months immediately preceding the date of the dissolution of Parliament.

Nomination of
candidates for
Parliamentary
election

50.-(1) In order to be validly nominated as a candidate for Parliamentary election, a person must be nominated in writing by not less than twenty-five nominators who are voters registered in the polling districts within the constituency for which that person is a candidate.

(2) Notwithstanding the provisions of subsection (1), the Commission may, on the nomination day, refuse to nominate a person as a candidate if it is satisfied that the person has been disqualified from participating in the nomination process by the Registrar of Political Parties pursuant to the provisions of the Election Expenses Act.

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(3) Nomination shall be in the prescribed form, accommodating usage by people with special needs, signed by the candidate and by the persons nominating him and shall contain the following particulars:

- (a) name, sex, disability if any, address and occupation of the candidate;
- (b) names and addresses of the nominators and the numbers of their voter's cards;
- (c) a declaration by the candidate that he is willing and qualified to stand for election;
- (d) certification by the returning officer in a constituency that the nominators are registered; and

(e) an oath of the candidate to be completed and signed before a Magistrate and declaring the candidate's qualifications and that he is not disqualified for election.

(4) Every nomination form shall be accompanied by-

(a) such number of candidate's passport size pictures as the Commission may direct, taken not more than three months prior to nomination day; and

(b) such biographical information relating to the candidate as may be required to be given by regulations in such form as may be prescribed.

(5) Where, in any case, a nomination form is not accompanied by the documents specified in subsection (4) the nomination of the candidate shall be deemed to be void:

Provided that, the Commission may, in any particular case, if it thinks reasonable to do so, direct that the nomination form shall be accepted as valid notwithstanding that such nomination form was not accompanied by any of the documents if the documents in question are submitted to the Director of Elections within further time as the Commission may allow.

(6) The returning officer shall issue nomination forms to the candidate proposed by a political party or voter authorised in writing by a political party and shall issue such number of nomination forms as may be directed by the Commission.

(7) Every candidate shall deliver the nomination forms signed, as provided for under this section, at the office of the returning officer not later than four o'clock in the afternoon of the nomination day.

Provided that, where the Commission is satisfied that there are reasonable grounds for the candidate's failure to submit nomination forms in person, the sponsoring political party leader may submit the forms on his behalf.

(8) The returning officer shall forthwith cause a copy of the nomination form to be posted in a conspicuous public place outside his office.

(9) A person shall not be a nominator for more

than one candidate in respect of the same election and where a returning officer has issued a certificate under subsection (3)(d) in respect of a person's nomination of one candidate he shall refuse to issue a certificate in respect of that person nomination of another candidate for the same election:

Provided that, a person shall not be prevented from signing a nomination form by reason only of having signed that of a candidate who has died or withdrawn his candidature before delivery of the first mentioned nomination form.

(10) Notwithstanding the provisions of subsection (9), where a nominator nominates more than one candidate for the same election and certificates have been issued under subsection (3)(d) in respect of such person's registration, both such candidates' nomination shall be valid.

(11) Any person who nominates more than one candidate commits an offence, and upon conviction shall be liable to a fine not exceeding two hundred thousand shillings.

(12) The returning officer may, where he is satisfied that any person has committed an offence under subsection (11), by order under his hand compound such offence by requiring such person to make payment of a sum of money:

Provided that-

- (a) such sum of money shall not be more than the maximum fine provided for such offence;
- (b) the power conferred by this subsection shall be exercised where the person admits in writing that he has committed the offence; and
- (c) the returning officer shall issue to the person from whom he receives such sum of money a receipt thereof.

(13) A returning officer shall, when requested by or on behalf of a candidate to issue a certificate in respect of a nominator who is registered in polling district of which he has charge, issue a certificate accordingly.

(14) Where, subsequent to nomination day, the

name of a person who has nominated a candidate is deleted from a register of voters for the relevant polling district, such deletion shall not invalidate the nomination of the candidate.

Deposits

51.-(1) At the time of delivering the nomination form pursuant to the provisions of section 50, a candidate shall deposit with a returning officer such sum of money as may be prescribed.

(2) The deposit of an opposed candidate shall be forfeited to the Government if he withdraws his candidature after nomination day or if the number of votes counted in his favour at the election, is less than one-tenth of the total number of votes counted for the constituency for which he was a candidate, except that such deposit shall not be forfeited if the candidate dies.

(3) Where the deposit of a candidate is not forfeited under the provisions of subsection (2), it shall, as soon as is reasonably practicable after the declaration of the results of the election, be returned to the candidate or paid to his personal legal representative, as the case may be, by the returning officer.

Candidate to be nominated for one constituency only

52. A person shall not be nominated as a candidate for election in more than one constituency or any other elected vacancy under this Act.

Objections to and decisions as to validity of nomination form

53.-(1) Objections may be made to a nomination form on all or any of the following grounds:

- (a) that the particulars given in respect of the candidate are insufficient to identify him;
- (b) that the nomination form does not comply with or was not delivered in accordance with the provisions of this Part;
- (c) that from the contents of the nomination form, the candidate is not qualified to stand for election;
- (d) that the requirements of section 50(3) have not been complied with; and
- (e) that the requirements of the Election Expenses Act have not been complied with.

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(2) An objection to a nomination form shall not be allowed unless it is made to the returning officer not

later than four o'clock in the afternoon of the day following nomination day.

(3) An objection may be made by another candidate, the Registrar of Political Parties or the Attorney General except for the objection under subsection (1)(e) which may be made by the Registrar of Political Parties and it shall be made in writing and signed by the objector stating the reasons for objection.

(4) The returning officer shall, before deciding on the validity of any objection with the least possible delay-

(a) notify the person against whom the objection is made; and

(b) avail such person an opportunity to be heard.

(5) Where the returning officer decides on any objection under subsection (4), he shall notify in writing the candidate concerned of the decision and the grounds for the decision.

(6) A candidate who is aggrieved by the decision of the returning officer on the validity of an objection may, in such manner and within such period as the Commission may prescribe, appeal to the Commission and the decision of the Commission shall be final and conclusive and shall not be challenged in any court, except by way of an election petition presented pursuant to the provisions of Chapter VIII on one or other of the grounds specified in that Chapter.

(7) Notwithstanding any provisions of this section, where the Registrar of Political Parties files an objection under subsection (3), such objection shall be submitted within fourteen days after nomination day.

Sole or absence of
Parliamentary
candidate

54.-(1) Where there is only one validly nominated Parliamentary candidate, the returning officer shall declare such candidate as the sole Parliamentary candidate.

(2) The Parliamentary candidate declared under subsection (1) shall be voted for or against and duly elected as a Member of Parliament if he obtains more votes of the total valid votes cast.

(3) Where the sole Parliamentary candidate has failed to secure the required votes subject to subsection

(2), the returning officer shall inform the Commission concerning the results and the Commission shall, by notice published in the *Gazette*, appoint another convenient nomination and election day not more than forty days after election day.

(4) Where a returning officer determines that no candidate has been validly nominated for Parliamentary election in a constituency, the returning officer shall inform the Commission.

Photographs

55.-(1) For the purpose of assisting voters to identify a candidate when voting, every candidate shall be identified by a photograph of the candidate which has been approved by the returning officer.

(2) The photograph of a candidate to be displayed during the election campaign shall be subject to the control of the returning officer.

CHAPTER V COUNCILLORS' ELECTION

PART I HOLDING OF ELECTIONS AND TENURE OF OFFICE OF COUNCILLORS

Councillors'
election

56.-(1) There shall be held a councillors' election in local government authorities in every fifth year after the previous councillors' election, and whenever a new Council is established.

(2) Notwithstanding the provisions of subsection (1), a councillors' election shall not be held where establishment of a new Council has not altered the boundaries of the Parliamentary constituencies.

(3) A councillors' election of a local government authority shall be held in every ward or, as the case may be, in any particular ward of that local government authority on such date as the Commission shall, by notice published in the *Gazette*, prescribe.

(4) A notice made under this section shall specify the day or days on which returning officers may receive nomination forms of candidates for election in any ward to which the notice relates.

(5) Every election procedure shall be in

accordance with directives and supervision by Commission in every polling district in which election is conducted.

By-election

57.-(1) The Commission shall declare a seat of any member of a Council to be vacant when informed in writing by the Minister responsible for local government authorities that-

- (a) a member has died or resigned;
- (b) a member is, by virtue of the terms of or under this Act or any other written law, disqualified from or should be declared to be incapable of becoming or continuing to be a member;
- (c) the election of a member is declared void;
- (d) the seat of a member is deemed to be vacant under this Act; or
- (e) a member has ceased to be a member of a political party which sponsored that member as a candidate.

(2) For the purpose of filling vacancies which occurred in various wards during the calendar year, the Commission shall hold the by-election at least twice in a year on such dates as the Commission shall, by notice published in the *Gazette*, appoint.

(3) A notice under this section shall specify the day and the hours within which returning officers may receive nominations forms of candidates for election in any ward to which the vacancy occurred.

Representation of wards and tenure of office of councillors

58.-(1) There shall be one councillor elected for each ward into which the area of a Council is divided and every councillor shall, with effect from the date following the date on which the election results are confirmed by the returning officer, be an elected member of the Council for which he has been elected.

(2) Subject to the provisions of this Act, the term of office of an elected member of a Council shall be five years except that a member elected in a by election shall hold office only for the remainder of the term of office of his predecessor.

(3) Where a vacancy occurs within twelve months immediately preceding the ordinary date of the

expiry of the term of the member in respect of whom the vacancy occurs, a nomination or election shall not be made or held to fill the vacancy, but the vacancy shall be filled at the next ordinary nomination or election.

PART II QUALIFICATION OF COUNCILLOR CANDIDATES

Qualification of
candidate

59.-(1) A person shall be nominated as a candidate for councillors' election if he is qualified to be elected.

(2) A person shall be qualified for election if he fulfills the following conditions:

- (a) he is a citizen of the United Republic;
- (b) he has attained the age of twenty one years;
- (c) he is not disqualified for election under the provisions of section 60;
- (d) he is an ordinary resident within the area of jurisdiction of local authority;
- (e) he can read and write in Kiswahili or English;
- (f) he is a member and sponsored by a political party registered as such under the Political Parties Act; and
- (g) he has a lawful means of livelihood.

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Disqualification
for nomination

60.-(1) A person shall be disqualified for nomination for election-

- (a) if he is under a declaration of allegiance to some country other than the United Republic;
- (b) if under any law in force in Tanzania he is adjudged or otherwise declared to be of unsound mind;
- (c) if he has been convicted for an offence of tax evasion within a period of five years before election;
- (d) if he is under sentence of death imposed on him by any court in Tanzania or a sentence of imprisonment exceeding six months imposed on him by a court;
- (e) if he is detained under an order made under

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the Preventive Detention Act and has so been detained under the order for a period exceeding six months;

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- (f) if he has been deported, in accordance with the provisions of the Deportation Act, under an order made under that Act which has been in force for a period exceeding six months, and is still in force;
 - (g) if he is a party to, or a partner in a firm or manager of a company which is a party to any subsisting contract with the local government authority to which he seeks election and has not, published in the Kiswahili language and English language newspapers circulating within the area of authority concerned, a notice setting the nature of the contract and his interest or the interest of the firm or company in the contract;
 - (h) if he is disqualified from becoming a member of a local authority by or under any written law;
 - (i) if he is disqualified from being registered as a voter under this Act or disqualified from voting at any election under this Act or under any written law relating to offences connected with any election; or
 - (j) subject to such exceptions and limitation as the President may, by order published in the *Gazette*, prescribe, if he holds or acts in any office or appointment in the service of the United Republic or a local authority.
- (2) For the purposes of subsection (1)(d)-
- (a) two or more sentences that are required to be served consecutively shall be regarded as separate sentences, and if none of them exceeds six months they shall be regarded as one sentence; and
 - (b) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.

PART III
NOMINATION OF CANDIDATES FOR COUNCILLORS'
ELECTION

Nomination day

61.-(1) Where a councillors' election is to be held in a ward, or where the election is countermanded and the election procedures are to be commenced afresh, the Commission shall, by notice published in the *Gazette*, appoint a day for the nomination of candidates for the election.

(2) The Commission may appoint different nomination days for the different wards and may revoke the appointment of a nomination day and appoint some later day as the nomination day.

(3) The Commission shall give at least seven days notice of a nomination day.

Nomination of
candidate

62.-(1) In order to be validly nominated at a nomination to stand as a candidate for a ward, a person must be nominated in writing by not less than ten voters registered in the ward for which he is a candidate.

(2) Nomination shall be in the prescribed form, accommodating usage by people with special needs, signed by the candidate and by the persons nominating him and contain the following particulars:

- (a) name, sex, disability if any, address and occupation of the candidate;
- (b) names and addresses of the nominators and the numbers of their voter's cards;
- (c) a declaration by the candidate that he is willing and otherwise qualified to stand for election;
- (d) verification by the returning officer in a ward that the nominators are registered; and
- (e) an oath which shall be made and signed by the candidate before a magistrate and declaring the candidate's qualifications and that he is not disqualified for election.

(3) Every nomination form shall be accompanied by-

- (a) such number of candidate's passport size pictures as the Commission may direct, taken not more than three months prior to

nomination day; and

- (b) such biographical information relating to the candidate as may be required to be given by regulations in such form as may be prescribed.

(4) Where, in any case, a nomination form is not accompanied by the documents specified in subsection (3) the nomination of the candidate shall be deemed to be void:

Provided that, the Commission may, in any particular case, if it thinks reasonable to do so, direct that the nomination form shall be accepted as valid notwithstanding that the nomination form was not accompanied by any of the documents if the documents in question are submitted to the returning officer within such further time as the Commission may allow.

(5) Notwithstanding the provisions of subsection (1), the Commission may, on the nomination day, refuse to nominate a person as a candidate if it is satisfied that the person has been disqualified from participating in the nomination process by the Registrar of Political Parties pursuant to the provisions of the Election Expenses Act.

(6) The returning officer shall issue nomination forms to a candidate proposed by a political party or voter authorised in writing by a political party and shall issue such number of nomination forms as may be directed by the Commission.

(7) Every candidate shall deliver nomination forms signed as provided for under this section, at the office of the returning officer not later than four o'clock in the afternoon of the nomination day:

Provided that, where the Commission is satisfied that there are reasonable grounds for a candidate's failure to submit the nomination forms in person, the sponsoring political party leader may submit the forms on his behalf.

(8) The returning officer shall immediately cause a copy of the nomination form to be posted in a conspicuous public place outside his office.

(9) A person shall not nominate more than one candidate in respect of the same election and where a returning officer has issued a certificate under

subsection (4)(b) in respect of a person's nomination of one candidate he shall refuse to issue a certificate in respect of that person's nomination of another candidate for the same election:

Provided that, a person may not be prevented from signing a nomination form by reason only of having signed a nomination form of a candidate who has died or withdrawn his candidature before submitting of such first mentioned nomination form.

(10) Notwithstanding the provisions of subsection (9), where a nominator nominates more than one candidate for the same election and certificates have been issued under subsection (2)(d) in respect of such person's registration, both such candidates nomination shall be valid.

(11) Any person who nominates more than one candidate commits an offence, and upon conviction shall be liable to a fine not exceeding two hundred thousand shillings.

(12) The returning officer may, where he is satisfied that any person has committed an offence under subsection (11), compound such offence by requiring such person to make payment of a sum of money:

Provided that-

- (a) such sum of money shall not be more than the maximum fine provided for such offence;
- (b) the power conferred by this subsection shall only be exercised where the person admits in writing that he has committed the offence; and
- (c) the returning officer shall issue to the person from whom he receives such sum of money a receipt thereof.

(13) A returning officer shall, when requested by or on behalf of a candidate to issue a certificate in respect of a nominator who is registered in a polling district, of which he is in charge, issue a certificate accordingly.

(14) Where subsequent to the nomination day, the name of a person who has nominated a candidate is deleted from the register of voters for the relevant ward,

such deletion shall not invalidate the nomination of the candidate.

Deposits

63.-(1) At the time of submitting the nomination form pursuant to the provisions of section 62, a candidate shall deposit with a returning officer such sum of money as may be prescribed.

(2) The deposit of an opposed candidate shall be forfeited to the Government if he withdraws his candidature after nomination day or if the number of votes counted in his favour at the election, is less than one-tenth of the total number of votes counted for the ward for which he was a candidate, except that such deposit shall not be forfeited if the candidate dies.

(3) Where the deposit of a candidate is not forfeited under the provisions of subsection (2), it shall, as soon as is reasonably practicable after the declaration of the results of the election, be returned to the candidate or paid to his personal legal representative, as the case may be, by the returning officer.

Candidate to be nominated for one ward only

64. A person shall not be nominated as a candidate for election in more than one ward.

Objection to and decisions as to validity of nomination form

65.-(1) Objection may be made to a nomination form on all or any of the following grounds:

- (a) that the particulars given in respect of the candidate are insufficient to identify him;
- (b) that the nomination form does not comply with or was not submitted in accordance with the provisions of this Part;
- (c) that from the contents of the nomination form, the candidate is not qualified to stand for election;
- (d) that the requirements of section 62(2) have not been complied with;
- (e) that the requirements of the Election Expenses Act have not been complied with.

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(2) An objection to a nomination form shall not be allowed unless it is made to the Returning Officer or Assistant Returning Officer, before four o'clock in the afternoon of the day following nomination day.

(3) The objection may be made by another candidate in constituency, the Registrar of Political Parties or by the Attorney General except for an objection under subsection (1) (e) which may be made by the Registrar of Political Parties only and shall be in writing, signed by the objector, specifying the grounds of objection.

(4) The returning officer or the assistant returning officer shall before deciding on the validity of any objection with the least possible delay-

(a) notify the person against whom the objection is made; and

(b) avail him an opportunity to be heard.

(5) Where the assistant returning officer decides on any objection under subsection (4), he shall forward that decision to the returning officer who shall, with the least possible delay, review the matter, and may uphold or reverse the decision of the assistant returning officer.

(6) Where the returning officer decides on any objection under subsection (4) or (5), he shall inform the candidate concerned of his decision and the grounds of his decision.

(7) Any candidate who is aggrieved by the decision of the returning officer on the validity of nomination, in consideration of procedures and within time prescribed by the Commission, may appeal to the Commission and the decision by the Commission shall be final and conclusive, and shall not be called in question on any court except by election petition submitted pursuant to provisions of Part VIII, on one or more grounds specified in that Part.

(8) Notwithstanding any provisions of this section, an objection filed by the Registrar of Political Parties shall be submitted within fourteen days after nomination day.

Sole councillor
candidate

66.-(1) Where there is only one validly nominated councillor candidate for an election, the returning officer shall declare such candidate to be the sole councillor candidate.

(2) The councillor candidate declared under subsection (1) shall be duly elected as councillor if he obtains more votes of the total valid votes cast.

(3) Where the sole councillor candidate has failed to secure the required number of votes pursuant to the provisions of subsection (2), the assistant returning officer shall inform the Commission on such result and the Commission shall, by notice published in the *Gazette*, declare another nomination and election day, as the case may be, not more than forty days after the election day.

(4) Where a returning officer in any ward determines that no candidate has been validly nominated for election in a ward, the returning officer shall inform the Commission.

Photographs

67.-(1) For the purpose of assisting voters to identify a candidate when voting, every candidate shall be identified by a photograph of the candidate which has been approved by the returning officer.

(2) The photograph of a candidate which shall be displayed during the election campaign shall be subject to the control of the returning officer.

CHAPTER SIX ELECTION, VOTING PROCEDURE AND NOMINATION OF MEMBERS OF PARLIAMENT AND COUNCILLORS FOR WOMEN SPECIAL SEATS

PART I ELECTION DAY

Nominated
candidates and
election day

68.-(1) Where candidates are nominated for election other than a by-election in a constituency or ward, the Commission shall, by notice published in the *Gazette*, appoint a day not less than sixty days and not more than ninety days after the nomination day for election in the constituency or ward:

Provided that, where there are two or more contested elections during a Parliamentary or Councillors' election, the Commission may appoint different election days for different constituencies or wards.

(2) Where candidates are nominated for a by-election in a constituency or ward, the Commission shall, by notice published in a *Gazette*, appoint a day

not more than thirty days after the nomination for election in the constituency or ward.

(3) Notwithstanding the provisions of subsections (1) and (2), the Commission may, for a reasonable cause or upon the occurrence of an event preventing an election to take place, revoke the election day previously appointed and appoint another election day.

(4) Where the election is adjourned under subsection (3), the time, procedure and manner of the subsequent polling shall be as on the original polling day.

Notice of election

69.-(1) Where there is a contested election, the returning officer shall on or before the eighth day before the election day, give notice in the constituency or ward in such manner as he may think fit as to the following matters:

- (a) the day and time of commencement and close of the poll, subject to the provisions of subsection (3);
- (b) the address of the polling station or stations;
- (c) in any polling district where there are two or more polling stations, the voters assigned to each polling station; and
- (d) the full names of a candidate, recent photographs and acronym or logo of the political party sponsoring candidates, if any.

(2) The day appointed for polling pursuant to the provisions of subsection (1)(a) in any polling district, may differ from the day appointed for any other polling district in the same constituency or ward:

Provided that-

- (a) the election day for a constituency shall be the polling day for at least one polling district in that constituency or ward;
- (b) only one day shall be appointed as the polling day for each polling district; and
- (c) the last day appointed for polling in any polling district in any constituency or ward, shall be not later than such time after election day for the constituency or ward as the Commission may appoint.

(3) For the purpose of subsection (1)(a), the time of commencement of the poll shall be eight o'clock in the morning and the time of closure of the poll shall be six o'clock in the evening unless the Commission otherwise directs.

PART II WITHDRAWAL, DEATH OR ABSENCE OF CANDIDATES

Withdrawal or
cessation of
candidature

70.-(1) A candidate may withdraw his candidature by notice in writing signed and submitted by him in person to the returning officer and a copy to the local branch of the party sponsoring him not later than four o'clock in the afternoon of the nomination day.

(2) Every withdrawal notice under subsection (1) shall be accompanied by a statutory declaration in the prescribed form, made and signed by the candidate before a Magistrate.

(3) Subject to subsection (1), where a candidate withdraws his candidature after four o'clock in the afternoon of nomination day, his party shall not be allowed to substitute another candidate and the deposit of the candidate shall be forfeited.

Death of candidate

71.-(1) Where after four o'clock in the afternoon on the nomination day and before the close of the poll in an election, a candidate in a constituency or ward dies, the returning officer shall, upon being satisfied of the fact of death, countermand the election in the constituency or ward.

(2) In the case where the returning officer countermands an election pursuant to the provisions of subsection (1), the Commission shall, by notice published in the *Gazette*, appoint some other convenient day, not later than thirty days after such countermand, for the nomination of candidates for election in the constituency or ward and the electoral procedure in that constituency or ward shall be commenced afresh:

Provided that, new nomination shall not be required in respect of any other candidate validly nominated at the previous nomination and every such candidate shall be deemed to have been already

nominated unless that candidate gives notice of withdrawal.

Absence of
candidates

72. Where after a nomination day, by reason of death, withdrawal or for any other reason, there are no candidates in a constituency or ward, the Commission shall, by notice published in the *Gazette*, countermand the election and appoint another day not later than thirty days after such countermand, for the nomination of candidates for election in the constituency or ward, and the electoral procedure in that constituency or ward shall be commenced afresh.

PART III ELECTION CAMPAIGNS

Election
campaigns

73.-(1) Where there is a contested election in a constituency or ward the election campaign shall be organised by the candidate, the candidate's political party or by his agent.

(2) The candidate, his agent or the candidate's political party, as the case may be, shall submit to the returning officer a schedule indicating the proposed programme for the public meetings of the candidate's campaign specifying the time and place of such meetings.

(3) A candidate, his agent or a political party acting with the approval or consent of the candidate may convene or address any public meeting in the constituency or ward held pursuant to subsection (2), for the purpose of furthering the candidate's election or undertake any public campaigns or door to door canvassing.

(4) For purpose of ensuring peaceful and orderly meetings during the campaign period, the returning officer shall call a meeting of all candidates or party agents and scrutinise the campaign programmes of all the candidates and if necessary, advise the candidates to make changes in their programmes in order to avoid conflicting meetings.

(5) Every returning officer shall submit a copy of the coordinated programme to the District Commissioner and the police officer commanding

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district within the constituency or ward and such programme shall constitute a notice of the proposed meetings for purposes of the Political Parties Act and the Police Force and Auxiliary Service Act.

(6) Notwithstanding subsection (5), public meetings shall not be held in a constituency or ward for the purpose of furthering the candidate's election campaigns on any election day or where a new election day has been appointed in accordance with section 71(2), on any other day after the first appointed election day.

Access to and
obligation of
public media

74.-(1) Subject to subsection (2), the candidates for the office of the President and Vice-President of the United Republic and political parties participating in an election shall have the right to use the state radio and television broadcasting services during the official period of election campaign.

(2) The Commission shall, after consultation with the candidates, the political parties concerned and the officers responsible for the public media, coordinate the use of the broadcasting rights under this section.

(3) Every media owned by the Government which publishes information relating to the electoral process shall be guided by the principle of impartiality and shall refrain from any discrimination in relation to any candidate journalistically and in the amount of space dedicated to them.

(4) For the purpose of giving effect to this section, the Commission may in writing issue binding directives to any Government owned media.

PART IV ELECTION PROCEDURE

Polling days and
times

75. In a contested election polling shall take place in each polling district in the manner prescribed in this Part on the day appointed for polling in that polling district pursuant to the provisions of section 69.

Arrangements for
contested elections

76. The returning officer shall-

(a) provide a sufficient number of polling stations in each polling district in

- accordance with terms of any notice given under the provisions of section 69;
- (b) appoint in respect of each polling district such persons, to be known as polling assistants, as he may think fit to assist the presiding officer during polling in the election;
 - (c) appoint from among such polling assistants a person to be in charge of the polling station to be known as the presiding officer;
 - (d) furnish each polling station with such number of polling booths as in the opinion of the returning officer may be necessary, in which the voters, can secretly cast their votes;
 - (e) place or cause to be placed outside each polling station in a conspicuous place, a notice showing the names in alphabetical order of surnames, or in such other order as the Commission may direct, the full name of a candidate, a recent passport size photograph taken within three months and acronym or logo of the political party sponsoring the candidate;
 - (f) provide both within and outside each polling station, notices containing instructions relating to the polling procedure to be followed;
 - (g) provide each presiding officer with such number of ballot boxes and ballot papers as deemed necessary in the opinion of the returning officer;
 - (h) provide each polling station with writing materials with which the voters can mark the ballot papers and instruments for making official marks on ballot papers;
 - (i) subject to any directives which the Commission may give in that behalf, provide each polling station with copies of the Register for the polling district or such part of the Register as contains the names of the voters allowed to vote at that polling station; and

- (j) do such other thing or perform any other functions as the Commission may direct.

Polling agents

77.-(1) Each political party may, with the prior consent of candidates, appoint one person to be known as a polling agent for each polling station within the constituency for which it has a candidate or candidates for the purpose of-

- (a) detecting impersonation of voters;
- (b) representing and safeguarding the interests for the candidate or candidates at the polling station; and
- (c) co-operating with the presiding officer and polling assistants to secure smooth compliance with the law and procedures pertaining to polling and elections at the polling station.

(2) A notice in writing of the appointment stating the name and address of the polling station to which the agent has been assigned, shall in so far as it may be possible, be given to the Returning Officer not later than seven days before election day or within such shorter time as the Commission may allow:

Provided that, a political party may in the notice given under this subsection, appoint an alternate polling agent who may be present and perform any of the functions of a polling agent in the absence of the polling agent from the polling station, whether permanently or temporarily.

(3) Where any polling agent dies or becomes incapable of acting as such, the respective political party may appoint another polling agent in his place, and shall immediately give to the returning officer and the respective presiding officer, notice in writing of the name and address of the polling agent so appointed and the polling station to which he is appointed.

(4) The presiding officer shall, with the assistance and co-operation of the polling agent, resolve or otherwise handle each complaint at the polling station as soon as it arises and is brought to his attention by a candidate, a polling agent, a voter or by any other person registered and entitled to vote at the polling station concerned.

Ballot boxes

78.-(1) Every ballot box shall be in a manner which allows voters to put ballot papers in but not to withdraw the ballot papers.

(2) Immediately before the commencement of polling, the presiding officer at each polling station shall show the empty ballot box to persons lawfully present so that they may see that it is empty, and shall then close the ballot box and place a seal upon it in such manner as to prevent it being opened without breaking the seal, and shall place it in view for the receipt of ballot papers and shall keep the ballot box so closed and sealed.

Form of ballot paper

79. Every ballot paper shall-

(a) contain-

(i) the full name of the candidate;

(ii) a recent photograph taken within three months;

(iii) an acronym or logo of the political party sponsoring the candidate, if any;

(b) be capable of being folded up;

(c) be in a format which accommodates usage by persons with special needs; and

(d) be attached to a counterfoil bearing a serial number.

Prohibition of disclosure of vote

80. A person who has voted at an election shall not, in any legal proceedings to question the election results be required to state the candidate for whom he voted:

Provided that, this section shall not apply in any legal proceedings in which the question whether a presiding officer acting under the provisions of section 84(3) (b), (c) and (i) acted *bona fide*, is in issue.

PART V

VOTING AND COUNTING PROCEDURE

Persons entitled to vote

81.-(1) Subject to the provisions of this Act, every person who is a citizen of the United Republic and who at the time when any election is held in any

constituency ward under this Act is duly registered in that constituency or ward, as a voter, shall be entitled to vote at that election in the constituency or ward in which he is registered or was registered.

(2) Every person shall, whenever he wishes to vote at an election under this Act, identify himself to the returning officer in such manner as may be prescribed and a person shall not be entitled to vote more than once at that election.

Disqualification
from voting

82. Notwithstanding the provisions of section 81, a person who is registered as a voter shall not be entitled to vote at any election if circumstances arise in relation to that person that, if he were not so registered, would cause him to be disqualified for registration as a voter.

Place of voting

83. Every person entitled to vote under the provisions of section 81 shall vote at a constituency or ward in which he is registered as a voter for the purposes of election, but not elsewhere.

Procedure of
voting

84.-(1) Without prejudice to the provisions of section 77(3) and section 109, each polling agent shall be present at the opening of the voting at the polling station in respect of which he is appointed a polling agent.

(2) Before the commencement of voting at a polling station, the polling agent shall be required by the presiding officer to submit to him in the prescribed manner any complaint that the polling agent has or has received, or any expression of his satisfaction with regard to the arrangements for voting in the polling station.

(3) The voting at an election shall be conducted in the following manner:

(a) every voter who wishes to vote shall present himself at the polling station allocated to him in the polling district for which he is registered, and shall satisfy the presiding officer or a polling assistant at such polling station that he is the voter he claims to be and that he has not already voted at such

polling station or elsewhere and such person may satisfy the presiding officer or a polling assistant that he is the voter he claims to be by producing to that officer or a polling assistant a voter's card or any other documentary evidence as the Director of Elections may direct;

- (b) if a voter is incapacitated by blindness or other physical cause or is unable to read, that voter may ask a person of his own choice other than the presiding officer, a polling assistant, direction clerk, station guard or polling agent, to assist such an incapacitated person to record his vote in accordance with paragraphs (c) to (k) of this subsection and a person chosen under this paragraph shall assist not more than one voter:

Provided that, where in a household there is more than one person who requires assistance under this paragraph, it shall be lawful for such members of the household to choose one person to assist them;

- (c) upon being satisfied as to the identity of the voter and that such voter's name appears in the Register for the polling district and the voter has been allocated to vote at such polling station the presiding officer or polling assistant shall deliver to the voter concerned a ballot paper;
- (d) immediately before the presiding officer or polling assistant delivers a ballot paper to any person-
 - (i) the ballot paper shall be stamped with an official mark;
 - (ii) the number and particulars of the voter, as stated in the copy of the Register or part of the Register maintained at the polling station, shall be called out;
 - (iii) the number of the voter in the copy of the Register or part of the

Register shall be marked on the counterfoil; and

- (iv) a mark shall be placed against the number of the voter in the copy of the Register or part of the Register to denote that a ballot paper has been received by such voter;
- (e) subject to the provisions of paragraph (h), a voter on receiving a ballot paper shall immediately go into one of the polling booths in the polling station, secretly cast his vote in the manner provided for in paragraph (f), fold up the ballot paper so as to conceal his vote and shall proceed to the ballot box and show to a polling assistant the back of the ballot paper so as to reveal the official mark and shall then put the folded ballot paper into the ballot box;
- (f) a voter shall cast his vote putting a mark against the name of the candidate for whom he wishes to vote;
- (g) a voter shall not place on the ballot paper any writing or mark by which he may be identified;
- (h) a voter shall vote without undue delay;
- (i) if a voter is illiterate or does not understand how to cast his vote the presiding officer may, in the presence of the polling agent, explain to the voter the procedure;
- (j) subject to the provisions of paragraphs (b) and (i), a voter shall not show the mark which he has placed upon his ballot paper to any person, and if he does so the ballot paper shall be treated as a spoilt ballot paper:

Provided that, the provisions of this paragraph shall not apply if a ballot paper is shown by a voter to the presiding officer for the purpose only of ascertaining if the voter has carried out his duties correctly;

- (k) a voter who has accidentally dealt with a ballot paper in such manner that it can not

conveniently be used as a valid ballot paper, after submitting to the presiding officer and satisfying the presiding officer that the ballot paper has been spoilt by accident, obtain another ballot paper in place of the spoilt ballot paper and its counterfoil shall be immediately marked as "cancelled".

(4) Before any process of voting starts, the presiding officer shall require a polling agent for each of the candidates to fill in a prescribed form and submit to the presiding officer -

- (a) any complaint he has with regards to the preparations of the voting;
- (b) his satisfaction with the preparation for the conduct of voting in the respective area; or
- (c) any complaint brought by any voter concerning the preparation of the conduct of voting in the respective area.

(5) Where any voter has any election complaint concerning the election procedure at the polling station or in the ward in which he is registered to vote, he may record the complaint in a prescribed form and submit that form to the presiding officer of the polling station before the voter leaves the polling station.

(6) Where an election complaint referred to in subsection (5) concerns the presiding officer of the polling station, the voter shall submit the complaint form in the presence of the polling agents of the candidates.

Admittance to
polling station

85.-(1) A person shall not be admitted to vote at any polling station except at the polling station allocated to him in the polling district in which he is registered as a voter.

(2) A person other than the following shall not be admitted into a polling station:

- (a) a presiding officer;
- (b) a polling assistant;
- (c) polling agent;
- (d) a voter;
- (e) a person assisting an incapacitated voter pursuant to section 84(3)(b);
- (f) an observer duly authorised in writing by

- the Commission;
- (g) the candidate;
- (h) a member of the Commission;
- (i) the Director of Elections;
- (j) an officer of the Commission;
- (k) the Regional Election Coordinator;
- (l) an election officer;
- (m) a police officer or any other person responsible for security at the polling station; and
- (n) the returning officer or an assistant returning officer.

(3) The presiding officer may in his discretion admit at least not less than two observers if any to the polling station.

(4) The Commission may extend invitations to local and international observers and prepare directives for the purpose of regulating the conduct of observers.

(5) Where any person misbehaves in the polling station or fails to obey a lawful order of the presiding officer, he may immediately, by order of the presiding officer, be removed from the polling station by any police officer in or near the station or by any other person authorised in writing by the presiding officer or by the returning officer, and the person so removed shall not, unless with the permission of the presiding officer, be allowed to enter the polling station.

(6) Any person removed pursuant to subsection (5), if charged with the commission of any offence in such polling station, may be kept in custody until he can be brought before a Magistrate but the powers conferred by this section shall not be exercised so as to prevent any voter who is otherwise entitled to vote at any polling station, from having an opportunity of voting at such polling station.

Allegation of irregularities

86.-(1) Where the presiding officer at any polling station has reason to believe, or where a candidate or polling agent present at any polling station alleges, that any person wishing to vote at that polling station, is not a voter entitled to vote at that polling station, the presiding officer shall warn such person that he will be committing an offence under this Act by so

voting.

(2) Notwithstanding such warning, where, such person persists in his wish to vote and-

(a) produces any evidence to show that he is entitled to vote at the polling station in question; and

(b) having been required to make and subscribe to a declaration as prescribed by section 87, makes and subscribes to one or both of the declaration to which that section refers,

the presiding officer shall give a ballot paper to such person and permit that person to vote at such polling station.

(3) A presiding officer shall record in writing the name and address which a person warned under subsection (1) gives as his name and address and, if such person has voted the presiding officer shall state that fact in such record.

(4) Before warning a person under subsection (1), a presiding officer shall state to such person the reasons for his belief that such person is not a voter entitled to vote at the polling station in question or, in the case of an allegation referred to in subsection (1) made by a candidate or polling agent present in the polling station in question, he shall require such candidate or polling agent to state in his presence and in the presence of the person wishing to vote, the reasons for the allegation and if a candidate or a polling agent refuses to comply with such requirement, the presiding officer shall disregard the allegation made.

Declaration of
voting

87.-(1) The presiding officer at any polling station may, in his discretion, and shall, on the request of a candidate present at the polling station or the polling agent, require any person wishing to vote, before he is given a ballot paper, to furnish such evidence which identifies that person with the person described in the voter's card which he presents, as the presiding officer may deem necessary and to make and subscribe to one or both of the prescribed declarations.

(2) Where any person fails to furnish such evidence of his identity or refuses to make any declaration, the presiding officer may refuse to give that

person a ballot paper.

Adjournment of
polling in case of
riot

88.-(1) Where the proceedings at any polling station are interrupted or obstructed by riot, violence, hazard or any other reasonable grounds while there are voters who have not completed the polling process, the presiding officer shall adjourn the proceedings until the following day and shall immediately give notice to the returning officer.

(2) Where the poll is adjourned at any polling station-

- (a) polling hours on the day to which it is adjourned shall be the same as for the original polling day; and
- (b) references in this Act to the close of poll shall be construed accordingly.

Closing of poll

89. Where at the hour of the closing of the poll at any polling station there are voters present who have not had an opportunity to vote, the polling station shall be kept open for a sufficient time to enable them to vote.

Procedure on
closing of poll

90.-(1) Before the closing of the polling station after the closing of the poll, the polling agent shall be given the final opportunity to submit in the prescribed form whether or not he is satisfied with or has complaints in relation to the manner the voting was conducted in the polling station, and any complaints reported shall be resolved or dealt with in the best possible manner.

(2) At the conclusion of the polling, the presiding officer shall prepare a report, detailing all complaints raised during and after the close of the poll and the steps taken in respect of each of them and the report shall be read before and be confirmed and signed by the polling agent, the presiding officer and a polling assistant, and shall be submitted to the returning officer in accordance with section 102.

Polling agent to be
counting agent

91.-(1) Every polling agent or the alternate polling agent appointed by the political party pursuant to section 77 of this Act, during the counting of votes

shall be the counting agent.

(2) Every candidate in Presidential, Parliamentary or Councillors' election may appoint a counting agent to represent the candidate at the place and during the addition of election results by the Commission, the returning officer or assistant returning officer, as the case may be.

Place of counting
of votes

92.-(1) Subject to the provisions of subsection (2), all votes for Presidential, Parliamentary and Councillors' election cast at a polling station shall be counted at such polling station.

(2) Notwithstanding the provisions of subsection (1), the Commission, Director of Elections or returning officer may, for reasons of security, inadequacy of counting space or other facilities or for such other reasonable cause, direct that votes of a number of neighbouring polling stations or of all the polling stations in a polling district or a combination of neighbouring polling district, shall be counted in one place.

(3) Where directives are given pursuant to subsection (2), the votes from each polling station shall be counted separately in the same manner as if the votes had been counted at the polling station at which they were cast.

(4) Upon the conclusion of the counting of the votes at the polling station the presiding officer, with the assistance of the polling assistant shall seal up in separate packets the counted and rejected ballot papers.

(5) At the conclusion of the procedure under subsection (4), each candidate or his counting agent shall, in the prescribed form, state whether or not he is satisfied with such procedure or whether he has any complaint in relation to it.

(6) Any complaint submitted under this section which can be resolved shall be dealt with immediately by the presiding officer and such event shall be incorporated in the report to be submitted to the returning officer.

(7) Where a candidate or his counting agent refuses to complete or sign any form under this section, the presiding officer or a polling assistant shall require

such candidate or his agent to give reasons in writing of his refusal and such presiding officer or a polling assistant shall record that refusal in the report which he submits to the returning officer.

(8) A candidate or his agent who refuses to comply with the provisions of subsection (7) shall be prohibited from raising any complaint regarding the voting and the counting procedure in that particular polling station.

Counting of votes

93.-(1) The presiding officer of each polling station assisted by the polling assistant assigned to that polling station, shall as soon as practicable after the closing of the poll, in the presence of the persons referred to in section 94, if present, proceed with the counting of votes in accordance with the procedures provided in this Part until the counting is completed.

(2) At the conclusion of every stage in the process of counting votes the candidates or the polling agents if present, shall be required to state in the prescribed manner whether they are satisfied with or they have any complaints and stating the complaints if any, in relation to each stage concluded in the counting of votes.

(3) Complaints made which can be resolved or settled, shall be resolved or settled at the stage at which they are made and the presiding officer shall prepare a report in the prescribed form, relating to the complaints and how they were resolved.

(4) Every statement recorded by the presiding officer in accordance with this section shall be confirmed by the polling agent, presiding officer and the polling assistant, signed and submitted to the returning officer.

Persons who may be present at counting of votes

94.-(1) A person other than the following shall not be present during counting of votes:

- (a) the presiding officer;
- (b) a polling assistant;
- (c) a polling agent or an alternate polling agent;
- (d) a candidate;
- (e) a police officer or such other person responsible for security at the place where

votes are being counted;

- (f) a returning officer, assistant returning officer or a regional election coordinator;
- (g) a member of the Commission;
- (h) the Director of Elections or an officer of the Commission;
- (i) an election observer duly authorised in writing by the Commission; and
- (j) an election officer.

(2) Any person other than those referred to in subsection (1) shall not be permitted to be within the vicinity of the place where votes are being counted.

Procedure of
counting vote

95.-(1) Before the presiding officer and polling assistants proceed to count the votes they shall, in the presence of the persons referred to in section 94, if present-

- (a) ascertain and record the number of all the persons who voted at the polling station;
- (b) count and record the number of all unused ballot papers, including any spoilt ballot papers and seal them in a special envelope;
- (c) inspect the seal and ascertain whether it has been opened or tampered with;
- (d) unseal the seal; and
- (e) open the ballot box.

(2) For purposes of Part II of Chapter VI of this Act, the word "seal" includes a padlock and any other procedure, machinery or thing which is approved by the Commission for securing authenticity of the contents of a ballot box, and the words seal, open, close or unseal, with their grammatical variations and cognate expressions shall, when used in relation to a seal or a ballot box, have a corresponding meaning.

(3) After the ballot box has been opened, the presiding officer shall take out and count aloud each ballot paper and record the total of the ballot papers found in the ballot box.

(4) After the total of the ballot papers in the ballot box have been ascertained, the votes shall be counted as follows:

- (a) the presiding officer shall unfold each ballot paper, display it for viewing by those

present and announce aloud the candidate for which the vote has been cast or whether the ballot paper is blank, spoilt or otherwise invalid;

- (b) the ballot papers which have been announced shall be arranged and displayed in separate lots facing upwards, according to the candidate for which they are cast or as blank or invalid votes;
- (c) the presiding officer shall count aloud and record the votes in each lot and verify their total with the total of all the ballot papers which were found in the ballot box and the number of voters who cast their votes at the polling station.

Ballot papers
which shall not be
counted as valid

96.-(1) A ballot paper shall not be counted as a valid vote if-

- (a) it does not bear an official mark;
- (b) the vote on it has been cast otherwise than in accordance with section 84 or it is required under that section to be treated as spoilt;
- (c) anything is written or marked by which a voter can be identified otherwise than by the serial number printed on it; or
- (d) it is unmarked or void for uncertainty.

(2) Any vote which shall be cast in respect of any candidate who has withdrawn his candidature under this Act shall be treated as a spoilt vote.

Endorsements by
presiding officer

97.-(1) The presiding officer or a polling assistant shall endorse the word "rejected" on any ballot paper which, under the provisions of section 96 is not counted.

(2) The presiding officer or a polling assistant shall add to the endorsement the words "rejection objected to", if an objection to his decision is made by any counting agent.

Rejected ballot
papers

98. The presiding officer shall prepare a statement showing the number of ballot papers rejected under the following heads:

- (a) want of official mark;

(b) vote cast otherwise than as provided in section 84(3)(c) or to be treated as spoilt under the provisions of section 84(3)(j);
(c) writing or mark by which the voter could be identified;
(d) unmarked or void for uncertainty; and
(e) vote has been cast to more candidates than those who are entitled to be voted by the voter pursuant to section 84(3)(f),
and shall on request allow any counting agent to copy such statement.

Equality of votes
and recount in
contested election

99.-(1) Where pursuant to section 103 or 104, there is an equality of votes between candidates in a contested election so that an addition of a vote would entitle any of them to be declared elected, the returning officer shall make a recount of the votes cast.

(2) Where there is an equality of votes again as ascertained by such a recount, the returning officer pursuant to the provisions of this section, shall report the fact to the Commission which shall, by notice published in the *Gazette*, appoint some other convenient day, not later than thirty days, after the election day, for the vote to be cast for the candidates whose votes were equal during the first ballot.

Candidate or
counting agent
may require
recount

100.-(1) A candidate or his counting agent may, if present when the counting or any recount of votes is completed, require the presiding officer to have the votes recounted once or twice but the presiding officer may refuse to make a third or subsequent recount if the results of the last two recounts are the same.

(2) No step shall be taken upon the completion of the counting or any recount of votes until the candidates and counting agents present at the completion of the counting, have been given a reasonable opportunity to exercise the right conferred by subsection (1).

Decision of
presiding officer

101. The presiding officer shall, after consultation with the polling assistants, polling agents or if present, the candidates, decide on any question arising in respect of any ballot paper and if disputed,

the decision shall be subject to review by the returning officer or assistant returning officer, during the addition of votes from all polling stations in the constituency or ward and the decision of the returning officer or assistant returning officer shall be final and subject only to review by an election petition pursuant to Chapter VIII of this Act.

Duties of
presiding officer
after counting

102.-(1) Upon conclusion of the counting of the votes in accordance with section 93, the presiding officer shall-

- (a) seal up in separate packets valid, disputed and rejected ballot papers;
- (b) prepare a separate report of the results of each of the Presidential Parliamentary and Councillors' elections in the manner and form as the Commission may direct, which shall be signed by the presiding officer and the polling agents, if present;
- (c) require the polling agents or if present, a candidate to state in the prescribed form any complaint or to confirm satisfaction with the counting of votes;
- (d) affix in some conspicuous public place a copy of the preliminary results of the elections at the polling station;
- (e) give each polling agent present at the polling station a copy of the report of results;
- (f) keep and seal in the ballot box, all the packets of ballot papers; and
- (g) accompanied by such number of polling agents present as the Commission shall direct, transmit and hand over to the returning officer, the ballot box together with the report of the results of the elections at the polling station.

(2) Where the candidate or his agent refuses to sign the prescribed form under this section, the presiding officer or polling assistant shall require such candidate or agent to give reasons for refusal in writing.

(3) Where a candidate or his agent refuses to comply with the provisions of subsection (2), he shall be prohibited from raising any complaint regarding the

voting and the counting procedure in that particular polling station.

Addition of votes
in Parliamentary
election

103.-(1) The provisions of section 45 shall apply *mutatis mutandis* in relation to the addition of the votes for Parliamentary election.

(2) The following persons shall be authorised to be present at the station for addition of votes:

- (a) a returning officer;
- (b) an assistant returning officer;
- (c) the regional election co-ordinator;
- (d) a member of the Commission;
- (e) the Director of Elections or an officer of the Commission;
- (f) a candidate;
- (g) a counting agent;
- (h) a police officer or such other person responsible for security at the place of counting;
- (i) observer duly authorised in writing by the Commission; or
- (j) an election officer.

(3) After all the reports of the results and ballot boxes containing ballot papers relating to the Parliamentary election have been received from the polling stations in the constituency, the returning officer shall, after determining the validity of any disputed votes and before the addition of the votes, announce aloud the results of each polling station in the constituency *seriatim*.

(4) The candidate or polling agent may request the returning officer to check on any part of the addition to ascertain its accuracy but shall not be entitled to request a recount of all the votes or all the ballot papers from any polling station, unless the accuracy of the report of the results from that polling station, were disputed by the polling agent or candidate present at the polling station.

(5) Where a request is made pursuant to subsection (4), the returning officer shall not unreasonably, refuse to check the addition or to recount the ballot papers of any particular polling station.

Addition of votes
in Councillors'
election

104.-(1) The following persons shall be authorised to be present at the station for addition of votes:

- (a) a returning officer;
- (b) an assistant returning officer;
- (c) the regional election co-ordinator;
- (d) a member of the Commission;
- (e) the Director of Elections or an officer of the Commission;
- (f) a candidate;
- (g) a counting agent;
- (h) a police officer or such other person responsible for security at the place of counting;
- (i) observer duly authorised in writing by the Commission; or
- (j) an election officer.

(2) After all the reports relating to the results and the boxes containing ballot papers relating to a councillor's election have been received from the polling stations in the ward, the returning officer or an assistant returning officer, as the case may be, shall after determining the validity of any disputed votes and before the addition of votes, announce aloud the results of each polling station in the ward *seriatim*.

(3) Upon conclusion of the procedure under subsection (2), the returning officer or an assistant returning officer shall proceed to add together the figures of-

- (a) all votes cast in the ward;
- (b) the votes in favour of each candidate; and
- (c) the rejected ballot papers.

Declaration of
Parliamentary
results

105.-(1) Where the results of a contested election have been ascertained, the returning officer shall-

- (a) immediately declare to be elected, the candidate for whom the majority of valid votes has been cast;
- (b) send a notification of election to the successful candidate;
- (c) cause a full report of the results to be displayed at the headquarters of the

respective Council; and
(d) compile a report and submit it to the Commission, indicating-
(i) complaints raised at each stage of the election and the measures or decisions taken in respect of each;
(ii) the views of the candidates in relation to the election; and
(iii) the results of the election,
and the Commission shall then cause the results, together with the number of votes cast for each candidate in each constituency to be published in the *Gazette*.

(2) Where the elected Member of Parliament has no intention to be a Member of Parliament or dies before taking an oath, the political party sponsoring the candidate, shall notify the Commission in writing and the Commission shall, by notice published in the *Gazette*, appoint another day for the nomination of candidate's subject to section 49.

(3) The Commission may countermand the election process when it is proved that there is a violation of law and election procedures and within thirty days, the Commission shall appoint another election day.

Declaration of
councillors results

106.-(1) Where the results of an election have been ascertained, the returning officer shall-

- (a) immediately declare to be elected, the candidate for whom the majority of valid votes has been cast;
- (b) send a notification of election to the successful candidate;
- (c) cause a full report of the results to be displayed at the office of the Ward Executive Officer and at the headquarters of the Council concerned; and
- (d) prepare a report and submit it to the Commission, indicating-
 - (i) the complaints raised at each stage of the election and the measures or decisions taken in respect of each;
 - (ii) the views of the candidates in

relation to the election; and

(iii) the results of the election,

and the Commission shall then cause the results, together with the number of votes cast for each candidate in each ward to be published in the *Gazette*.

(2) Where the elected councillor has no intention to be a councillor or dies before taking an oath, the political party sponsoring the candidate, shall notify the Commission in writing and the Commission shall, by notice published in the *Gazette*, appoint another day for the nomination of candidates subject to section 61.

(3) The Commission may countermand the election when it is proved that there is a violation of law and election procedures and within thirty days, the Commission shall appoint another election day.

Custody of documents

107.-(1) The returning officer shall ensure the safe custody of all documents relating to the conduct of an election.

(2) The Commission shall ensure the safe custody of all documents relating to the conduct of an election submitted to it under any of the provisions of this Act.

(3) The Commission shall cause all documents to which this section applies, to be destroyed after the expiration of six months from the election day, unless directed by an order of the District Court or High Court arising from any proceedings relating to the Councillors' or Parliamentary election, respectively.

Powers of polling assistants

108. A polling assistant may be authorised by the presiding officer to do any act or thing which the presiding officer is required or authorised to do at a polling station by this Act except that he may not order the arrest of any person, or the exclusion or removal of any person from the polling station.

Powers of candidates

109. A candidate may do any act or thing which the polling agent may be authorised or required to do, and may assist the polling agent or counting agent in the doing of any such act or thing.

Non-attendance of
agents not to
invalidate
proceedings

110. Where in this Act, any act or thing is required or authorised to be done in the presence of a polling agent or a counting agent or a candidate, the non-attendance of any such agents or candidate at the time and place appointed for that purpose shall not, if the act or thing is otherwise properly done, invalidate the act or thing done.

Elections held
simultaneously

111. Where in the polling district the same day is appointed as the contested election day for the Presidential, Parliamentary and Councillors' election-

- (a) polling at the three elections, shall be conducted simultaneously at all polling stations in that district;
- (b) the returning officer shall provide separate and distinctive ballot boxes and every presiding officer shall organise and conduct his polling station and shall place the ballot boxes in such a manner as to avoid any confusion arising by reason of simultaneous polling;

Provided that, subject to any directive of the Commission in that behalf, a single ballot box may be provided at each polling station for the Presidential, Parliamentary and Councillors' election;

- (c) the respective ballot papers for such elections shall be of different colours so as to be easily distinguishable from each other;
- (d) a voter who leaves a polling station after voting in respect of only one of the elections shall not be re-admitted to such polling station for the purpose of voting in respect of the other;
- (e) the requirements of paragraph (c) shall be deemed to have been complied with in respect of all elections if the particulars specified in that paragraph are called out once immediately before the delivery to the voter of the ballot paper for any of those elections which is first delivered to him; and
- (f) the counting of votes for the three elections shall be conducted separately.

PART VI
NOMINATION OF MEMBERS OF PARLIAMENT AND
COUNCILLORS FOR WOMEN SPECIAL SEATS

Nomination of
members of
Parliament for
women special
seats

112.-(1) There shall be women special seats in the National Assembly as provided for in Article 66 of the Constitution.

(2) A political party which contests for Parliamentary election held after the dissolution of the National Assembly may propose and submit to the Commission names of eligible women candidates for nomination to women special seats not later than thirty days before the election day.

(3) The Commission shall specify the number of women candidates to be nominated by each political party.

(4) The names of the women candidates proposed to the Commission shall be in the order of preference.

(5) Every woman candidate proposed to the Commission shall be required to complete the nomination form.

(6) The provisions of Article 67 of the Constitution shall apply to every woman who is sponsored by a political party.

(7) Subject to Articles 66, 67 and 78 of the Constitution and in accordance with the order of preference indicated in the list proposed by each political party, the Commission shall declare such number of women candidates from the respective political parties as Members of Parliament for women special seats.

(8) The Commission shall send a notification of declaration to the Speaker of the National Assembly and to the Secretary General of the respective political parties.

(9) The list of names of women candidates proposed to the Commission in accordance with Article 78(4) of the Constitution by each political party for the General Elections shall, subject to Article 76(3) of the Constitution, be the same list that shall be used by the Commission for purposes of filling any vacancy in the

office of Member of Parliament for women special seats during the whole period of the life of Parliament:

Provided that, where the list of names delivered to the Commission is exhausted, the Commission shall require the respective political party to submit additional list of names of eligible women candidates for nomination.

Nomination of
councillors for
women special
seats
Caps. 287 and 288

113.-(1) There shall be women special seats in the local authorities as provided for under the Local Government (District Authorities) Act and the Local Government (Urban Authorities) Act.

(2) Every political party which contests for councillors' election in a general election under the Local Government (District Authorities) Act and the Local Government (Urban Authorities) Act in the Council may propose to the Commission, names of eligible women candidates for nomination to women special seats.

(3) Subject to provisions of the Local Government (District Authorities) Act or, as the case may be, the provisions of the Local Government (Urban Authorities) Act, the Commission shall specify the number of women candidates to be nominated by each political party.

(4) Each political party sponsoring women candidates for election shall propose to the Commission a list of such candidates, in not less than thirty days before election day.

(5) The list of names of women proposed to the Commission shall be in order of preference.

(6) Every woman candidate proposed to the Commission shall be required to complete the nomination form.

(7) The provisions of section 58 shall apply to every woman who is sponsored by a political party as a candidate.

Caps. 287 and 288

(8) Subject to section 58, the Local Government (District Authorities) Act and Local Government (Urban Authorities) Act, and in accordance with the order of preference indicated in the list proposed by each political party, the Commission shall declare such number of women candidates from the respective

political parties to be elected councillors for women special seats.

(9) The Commission shall send a notification of election to the Council and the Secretaries General of the respective political parties.

(10) The list of names of women candidates proposed to the Commission by each political party for General Elections shall be the same list that shall be used by the Commission for purposes of filling any vacancy in the office of women councillors for women special seats during the whole period of five years after General Elections:

Provided that, where the list of names delivered to the Commission is exhausted, the Commission shall require the political party concerned to submit an additional list of names of eligible women candidates for nomination.

CHAPTER VII OFFENCES AND PENALTIES

PART I OFFENCES RELATING TO REGISTRATION AND NOMINATION

Offences in
relation to
registration

114.-(1) Any person who-

- (a) for the purpose of procuring the registration of himself or of any other person or of procuring a voter's card from a registration officer or from any other person having any duty in relation to the applications for registration or for the issue of a voter's card, gives any false material statement to any application on his own behalf or on behalf of such other person for registration or for the issue of a voter's card;
- (b) knowingly or having reason to believe that he is registered in a polling district, applies to be registered otherwise than in accordance with section 25, and without, disclosing to the registration officer his previous registration in another polling district;
- (c) applies to be registered in any polling

district after he has applied to be registered in another polling district and the earlier application has not been determined pending any investigation into the applicant's qualifications or withdrawn;

- (d) having been issued with a voter's card, applies for issuing to himself of a new voter's card, otherwise than in the circumstances set out in section 19, 20 or 21, and not disclosing to the registration officer the circumstances in which the application is made or which he does not believe to be true, in a material particular;
- (e) knowingly makes any declaration provided for in section 22 which is false, or which he does not believe to be true, in a material particular;
- (f) buys or steals any voter's card in order to be regarded as a legally registered voter; or
- (g) buys, sells, steals, defaces or in any way destroys a voter's card in order to prevent any voter from voting for a candidate of a particular political party or for the purpose of procuring more votes to be cast for a candidate of a particular political party,

commits an offence and shall be liable on conviction to a fine of not less than one hundred thousand shillings and not exceeding three hundred thousand shillings or to imprisonment for a term of not less than six months but not exceeding two years, or to both.

(2) Any person whose name has been deleted from the Register and who has been required by a registration officer either to surrender a voter's card issued to him or to make and to deliver to the registration officer the declaration provided for in section 22 within the specified time by such registration officer, who without lawful excuse, neither surrenders such card nor makes and delivers such declaration within the specified time, commits an offence and shall be liable on conviction to a fine of not less than fifty thousand shillings but not exceeding one hundred thousand shillings.

(3) Any person who in any way obstructs or

attempts to obstruct a presiding officer, polling assistant, a returning officer or an assistant returning officer in the performance of duties or in the exercise of power under this Act, commits an offence and shall upon conviction be liable to a fine of not less than one hundred thousand shillings but not exceeding three hundred thousand shillings.

Use of office to discourage person from seeking nomination

115.-(1) Any person holding any official office or acting in any official capacity who, in the exercise of the functions of such office or in such official capacity, makes any statement or does any act with intent to discourage any other person from seeking nomination under this Act or to procure any person who has been nominated to withdraw his candidature, commits an offence and shall, on conviction, be liable to a fine of not less than one hundred thousand shillings but not exceeding three hundred thousand shillings or to imprisonment for a term of not less than three months but not exceeding twelve months or to both.

(2) Proceedings shall not be instituted against any person for any offence contrary to this section without prior consent of the Director of Public Prosecutions.

(3) In this section, "official office" and "official capacity" means and includes an office in the service of the United Republic and any other office or capacity the holder of which occupies a position of influence in relation to the particular or prospective candidate.

Electoral staff's misconduct

116.-(1) Any electoral staff who knowingly or willfully does or omits to do anything in relation to an election process and thereby occasions the nullification of the election results, commits an offence and upon conviction, shall be liable to a fine of not less than five hundred thousand shillings but not exceeding one million shillings or to imprisonment for a term of not less than one year but not exceeding two years, or to both.

(2) Where in an election petition the Court determines that an electoral staff has done or omitted to do anything in relation to election process which amounts to mishandling the election process, it shall

certify such determination to the Attorney General.

(3) Where a prosecution is commenced for an offence under this section, a certificate issued under subsection (2) shall be conclusive proof of what is contained therein.

(4) For avoidance of doubt, a certificate under subsection (2) shall not prevent the prosecution from calling further evidence to substantiate the case.

Cap. 20
Cap. 6

(5) The provisions of the Criminal Procedure Act or the Evidence Act shall apply *mutatis mutandis* in the conduct of cases commenced under this section.

Recovery of loss
Cap. 76

117. Notwithstanding the provisions of section 116, the provisions of the Public Officers (Recovery of Debts) Act, shall apply *mutatis mutandis* to an electoral staff who occasions the Government to incur loss, costs or damages as a result of his acts or omission in relation to the election process.

Definition of
electoral staff

118. For purposes of sections 116 and 117, "electoral staff" includes the regional election co-ordinator, returning officer, assistant returning officer, election officer, presiding officer, polling assistant and other person appointed to discharge the functions of the Commission.

Offences in
relation to
Register and
voter's card

119.-(1) Every person who-

- (a) forges or fraudulently defaces or fraudulently destroys any Register; or
- (b) forges, counterfeits or fraudulently destroys any voter's card or official duplicate voter's card or any official mark on such voter's card,

commits an offence and shall be liable on conviction to a fine of not less than two hundred thousand shillings but not exceeding five hundred thousand shillings or to imprisonment for a term not less than two years but not more than four years or to both.

(2) Any person who has in his possession or under his control any voter's card issued to any other person and who refuses or neglects, without lawful excuse, to deliver the same to the person to whom it was issued, when it is demanded by such person or by a

registration officer, commits an offence and shall be liable on conviction to a fine of not less than one hundred thousand shillings but not exceeding three hundred thousand shillings or to imprisonment for a term of not less than one year but not more than two years or to both.

Registration
officers'
misconduct

120.-(1) Any registration officer who knowingly does or omits to do anything in relation to registration and thereby jeopardises the registration process, commits an offence and upon conviction, is liable-

- (a) in the case of an officer specified under subsection (2)(a), to a fine of not less than five hundred thousand shillings but not exceeding one million shillings or to imprisonment for a term of not less than one year but not exceeding two years, or to both;
- (b) in the case of an officer specified under subsection (2)(b), to a fine of not less than two hundred thousand shillings but not exceeding five hundred thousand shillings or to imprisonment for a term of not less than six months but not exceeding one year or to both.

(2) For purposes of this section, "registration officer" includes -

- (a) a registration officer and assistant registration officer; and
- (b) registration assistant.

Offences in
relation to
nomination forms
or ballot papers

121.-(1) A person who-

- (a) forges or fraudulently defaces or destroys any nomination form or ballot paper or delivers to a returning officer any nomination form knowing the same to be forged;
- (b) forges or counterfeits or fraudulently destroys any ballot paper or the official mark on any ballot paper;
- (c) being a returning officer or presiding officer knowingly or negligently fails to put an official mark on a ballot paper;
- (d) without due authority supplies any ballot

- paper to any person;
- (e) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorised by law to put in;
- (f) without due authority, takes out of any polling station any ballot paper or is found in possession of any ballot paper outside a polling station; or
- (g) without due authority, destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers in use for purposes of the election,

commits an offence and shall be liable on conviction to a fine of not less than fifty thousand shillings but not exceeding three hundred thousand shillings or imprisonment for a term of not less than six months but not exceeding two years or to both.

(2) Any person who, for the purposes of procuring for himself or for any other person, nomination as a candidate, knowingly makes any false statement material to such nomination in a nomination form, biographical information form or statutory declaration delivered to a returning officer, commits an offence and shall be liable on conviction to a fine of not less than fifty thousand shillings but not exceeding three hundred thousand shillings or to imprisonment for a term of not less than six months but not exceeding twelve months or to both.

(3) In any prosecution for an offence in relation to the nomination form, ballot box, counterfoil, marking instruments and other things in use in an election, such papers, boxes, instruments and other things may be stated to be in possession of the returning officer for such election.

False publication
of withdrawal

122. A person who knowingly, by utterance, print or broadcast, publishes any statement of the withdrawal of any candidate for purposes of promoting the election of another candidate, commits an offence of illegal practice and shall be liable on conviction to imprisonment for a term of not less than six months but not exceeding two years.

Corrupt
inducement of
withdrawal

123. Any person who corruptly induces or procures another person to withdraw from being a candidate to an election in consideration of payment or promise of payment and any person who withdraws in pursuance of such inducement or procurement, commits an offence of corrupt practice and shall be liable on conviction to imprisonment for a term of not less than one year but not exceeding five years.

PART II

OTHER ELECTION OFFENCES

Miscellaneous
offences

124. Any person who willfully furnishes false evidence or makes a false statement in a declaration made under section 87, commits an offence and shall be liable on conviction to a fine of not less than fifty thousand shillings but not exceeding one hundred thousand shillings or to imprisonment for a term of not less than six months but not exceeding twelve months or to both.

Maintenance of
secrecy at
elections

125.-(1) Every officer, clerk, interpreter, candidate and agent authorised to attend at a polling station or at the counting of votes shall, unless he has taken an oath of secrecy under any other provisions of this Act, before so attending, take an oath of secrecy in the prescribed form.

(2) The returning officer shall have power to administer any oaths required to be taken under the provisions of subsection (1).

(3) Every officer, clerk, interpreter, candidate and agent in attendance at a polling station shall maintain, and assist in maintaining, the secrecy of the voting in such station and shall not communicate, except for a purpose authorised by law, to any person any information as to the name or number of any voter who has or has not applied for a ballot paper or voted at the station or as to the official mark.

(4) An officer, clerk, interpreter, candidate, agent or any other person, shall not obtain or attempt to obtain in the polling station information as to the candidate for whom any person in such station is about to vote or has voted, or communicate at any time to any

person any information obtained in a polling station as to the candidate for whom any person in such station is about to vote or has voted.

(5) Every officer, clerk, interpreter, candidate or agent in attendance at the counting of votes shall maintain, and assist in maintaining, the secrecy of the voting and shall not ascertain, or communicate any information obtained at such counting as to the candidate for whom any vote is given by any particular ballot paper.

(6) A person, except a presiding officer acting for a purpose authorised by this Act or person assisting an incapacitated person and acting for such purpose, shall not communicate or attempt to communicate with any person after such person has received a ballot paper and before he has placed the same in a ballot box.

(7) A person who acts in contravention of the provisions of this section commits an offence and shall be liable on conviction to a fine of not less than one hundred thousand shillings but not exceeding three hundred thousand shillings or to imprisonment for a term not less than six months but not exceeding twelve months or to both.

Penalty for
bribery, treating
and undue
influence

Cap. 329

126. A person who commits the offence of bribery, treating or undue influence commits an offence of a corrupt practice and shall be liable on conviction to a penalty in accordance with the Prevention and Combating of Corruption Act.

Penalty for
impersonation

Cap. 16

127. A person who commits an offence of impersonation or of aiding, abetting, counselling or procuring the commission of the offence of impersonation commits an offence and shall be liable on conviction to the penalty in accordance with the Penal Code.

Disqualification
by conviction for
corrupt or illegal
practice

128. Any person who is convicted of a corrupt practice or illegal practice and whose conviction is not set aside by a court of competent jurisdiction, shall, in addition to any other punishment, be disqualified from being registered as a voter for a period of five years from the date of conviction and shall not be registered

as a voter or vote at any election under this Act or under any other written law.

Persons to be
deemed guilty of
undue influence

129. Any person who directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of any force, violence or restraint, or inflicts or threatens to inflict by himself or by any other person, any temporal or spiritual injury, damage, harm, or loss, upon or against any voter, in order to induce or to compel such voter to vote or to refrain from voting, or on account of such voter having voted or refrained from voting, at any election or who, by abduction, duress or any fraudulent contrivance, impedes or prevents the free use of the vote by any voter either to give or to refrain from voting at any election, commits an offence of undue influence within the meaning of this Act.

Bribery,
corruption and
undue influence in
relation to
members and
officers of
Commission

130. Where any person does any act constituting bribery, corruption or undue influence in respect of a member or officer of the Commission referred to under this Act with intent that such a member or officer, as the case may be, shall discriminate in favour of one or other of the candidates at the election, or where any such member or officer does any such act on account of discriminating or having discriminated in favour of one or other candidates, such person shall be deemed, according to the circumstances of the case, to have committed an offence of bribery, corruption or undue influence.

Impersonation

131. Any person who at any election-

- (a) applies for a ballot paper in the name of another person or knowingly tenders a vote in the name of another person, whether that name is the name of a person living or dead or of a fictitious person; or
- (b) for the purpose of procuring the issue to himself of a ballot paper, knowingly tenders a voter's card issued to some other person,

commits an offence of impersonation within the meaning of this Act.

Penalty for corrupt
and illegal
practices

132.-(1) Any person who-

- (a) induces or procures some other person to vote at any election with the knowledge that such other person, has already voted at such election;
- (b) for the purpose of procuring the issue of any ballot paper to any other person or to himself, delivers any voter's card issued to himself or to some third person to such other person, or induces or procures some third person to deliver such third person's voter's card to himself or such other person; or
- (c) persuades another person to vote at any election knowingly that such person is not entitled to vote or is prohibited by this Act or any other written law from voting at such election,

commits an offence of a corrupt practice and shall be liable on conviction to a penalty in accordance with the Prevention and Combating of Corruption Act.

Cap. 329

(2) Any person who-

- (a) votes at any election while knowing that he is not entitled to vote or is prohibited by this Act or any other written law from voting at such election;
- (b) votes at any election while knowing that he has already voted at such election; or
- (c) for the purposes of obtaining a ballot paper, knowingly tenders an invalid voter's card,

commits an offence of an illegal practice and shall be liable on conviction to a fine of not less than fifty thousand shillings but not exceeding two hundred thousand shillings or to imprisonment for a term of not less than three months but not exceeding twelve months or to both.

Interference with
lawful public
meetings to be
illegal practice

133. A person who, at a lawful public meeting held in connection with the election of any person between the day of publication of the notice appointing nomination day and the day on which the results of the election are published, acts or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was

called, commits an offence and shall be liable on conviction to a fine of not less than fifty thousand shillings but not exceeding two hundred thousand shillings or to imprisonment for a term of not less than six months but not exceeding twelve months or to both.

Acts prohibited on
election day

134.-(1) A person shall not hold a meeting on election day or within any building or at any place where voting in an election is in progress or at any such place within the radius of three hundred metres of such building or place or wear or display any card, photograph or other emblem indicating support for a particular candidate in the election.

(2) A person who contravenes this section commits an offence and shall be liable on conviction to a fine of not less than fifty thousand shillings but not exceeding one hundred thousand shillings.

Sexual harassment
and violence
during election

135. A person who, during election process, does an act of sexual harassment or violence to a candidate commits an offence and shall, upon conviction in accordance with the Electoral Code of Conduct, be liable to the penalty in accordance with such Code.

Defacement of
notices

136. Any person who without lawful authority destroys, mutilates, defaces or removes any notice which is exhibited under the authority of this Act or any document which is made available for inspection in accordance with the provisions of this Act, commits an offence and shall be liable on conviction to a fine of not less than thirty thousand shillings but not exceeding one hundred thousand shillings or to imprisonment for a term of not less than one month but not exceeding six months or to both.

CHAPTER VIII
AVOIDANCE OF ELECTIONS RESULTS BY ELECTION
PETITION

PART I
AVOIDANCE OF PARLIAMENTARY ELECTION RESULTS BY
ELECTION PETITION

Avoidance of
election results by
election petition

137.-(1) Pursuant to the limitation imposed by Article 41(7) of the Constitution, the provisions of this section shall apply in relation to the election of a candidate as a Member of Parliament.

(2) The election of a candidate as a Member of Parliament shall be declared void on an election petition if any of the following grounds is proved to the satisfaction of the High Court and on no other ground, namely-

- (a) that, during the election campaign, statements were made by the candidate, or on his behalf and with his knowledge and consent or approval, with intent to exploit tribal, racial or religious issues or differences pertinent to the election or relating to any of the candidates, or, where the candidates are not of the same sex, with intent to exploit such difference;
- (b) non-compliance with the provisions of this Act relating to election, if it appears that the election was not conducted in accordance with the principles laid down in such provisions and that such non-compliance affected the results of the election; or
- (c) that the candidate was at the time of his election, a person not qualified for election as a Member of Parliament.

(3) Notwithstanding the provisions of subsection (2), where upon trial of an election petition in respect of an election under this Act, the High Court finds that corrupt or illegal practice in connection with the election has been committed by or with the knowledge and consent or approval of any of the candidate's agents and the High Court further finds, after giving the Attorney General or his representative

an opportunity of being heard, that the candidate has proved to the High Court that-

- (a) no corrupt or illegal practice was committed by the candidate himself or with the knowledge and consent or approval of such candidate;
- (b) the candidate took all reasonable measures to prevent the commission of any corrupt or illegal practice at such an election; and
- (c) in all other respects the election was free from any corrupt or illegal practice on the part of the candidate and his agent,

then, if the High Court so determines, the election of such candidate shall not by reason of any such practice be void.

Offences by
electoral staff

138. Where in election it is proved that any offence of bribery, treating, corrupt or illegal practice was knowingly committed or furthered by a member or an officer of the Commission or by a person acting under the directive of the Commission, the member or officer or such other person shall be liable on conviction to imprisonment for a term not exceeding five years.

PART II

PROCEDURE AND JURISDICTION OF THE HIGH COURT

Petitions triable by
High Court

139.-(1) Every election petition in respect of a Parliamentary election shall be heard and determined by the High Court which in accordance with the provisions of this Act, shall be referred to as "the Court".

(2) Witnesses shall be summoned and sworn in the same manner as nearly as circumstances admit, as in a trial by the court in the exercise of its original civil jurisdiction and shall, without prejudice to the provisions of any other law, be subject to the same penalties for giving false evidence or for non-attendance.

(3) At the hearing of an election petition under this Act, the Court may by order, compel the attendance

of any person as a witness who appears to the Court to have been concerned in the election to which the petition refers, and any person refusing to obey such order commits an offence of contempt of court and the Court may examine any witness so compelled to attend or any party to the petition and after the examination of such witness by the Court, the witness may be cross-examined by or on behalf of the petitioner, the respondent and the Attorney General or his representative, if present, or any of them.

(4) At the hearing of an election petition, the Court shall have power to compel the attendance of any person as a witness who appears to the Court to have been concerned or involved in the election in question or whose evidence may assist the Court to reach a just and fair decision in the matter before it.

Petition and
procedure for
deposit of security
for costs

140.-(1) An election petition may be presented by one or more of the following persons:

- (a) a person who lawfully voted or had a right to vote at the election to which the petition relates;
- (b) a person claiming to have had a right to be nominated or elected at such election;
- (c) a person alleging to have been a candidate at such election; or
- (d) the Attorney General.

(2) The Registrar of the Court shall not fix a date for the hearing of any election petition unless the petitioner has paid into the Court as security for costs, an amount not exceeding five million shillings in respect of each respondent.

(3) The petitioner shall within fourteen days after filing a petition, make an application for determination of the amount payable as security for costs, and the Court shall determine such application within the next fourteen days following the date of filing an application for determination of the amount payable as security for costs.

(4) Where any person is made a respondent pursuant to an order of the Court, the petitioner shall within fourteen days of the date on which the order directing a person to be joined as a respondent was

made, pay into the Court a further amount not exceeding three million shillings, as shall be directed by the Court in respect of such person.

(5) Where on application made by the petitioner, the Court is satisfied that compliance with the provisions of subsection (2) or (4) will cause considerable hardship to the petitioner, it may direct that-

- (a) the petitioner gives such other form of security the value of which does not exceed five million shillings, as the Court may consider fit; or
- (b) the petitioner be exempted from payment of any form of security for costs.

(6) An order shall not be made under subsections (3), (4) and (5) unless an opportunity has been given to the respondent, or, where there are two or more respondents, to each of the respondents to make representations in that behalf.

(7) In the event of security for costs not being paid into the Court within fourteen days from the date of determination by the Court of the amount payable as security for costs, no further proceedings shall be heard on the petition and such petition shall be dismissed.

(8) The provisions of subsections (2) and (3) shall not apply in any case in which the Attorney General is the petitioner or one of the petitioners.

(9) The amount of money deposited as security for costs or the balance of it shall, where the petitioner succeeds in the petition or on appeal and where no order as to costs lies against the petitioner, be immediately refunded to the petitioner.

Reliefs which may
be claimed

141. When instituting an election petition, a petitioner may claim all or any of the following reliefs to which he may be entitled, namely:

- (a) a declaration that the election is void;
- (b) a declaration that the nomination of the person elected was invalid; or
- (c) where the seat is claimed for an unsuccessful candidate on the ground that he had a majority of lawful votes, a scrutiny.

Certification as to
validity of election

142.-(1) The Court shall, at the conclusion of the trial or appeal of an election petition, determine whether a Member of Parliament whose nomination or election is complained of was duly nominated or elected, or whether the election was void, and shall certify such determination to the Director of Elections.

(2) After the certification made under subsection (1), the election shall be confirmed or a by-election shall be held, as the case may require, in accordance with the certification.

Court's report on
corrupt or illegal
practices

143.-(1) Where the Court determines that a person is guilty of any corrupt or illegal practice, it shall certify the same to the Director of Elections and if the person concerned is registered as a voter-

- (a) the Director of Elections shall delete his name from the Register in which he is registered; and
- (b) the Director of Elections shall inform in writing the returning officer for the polling district concerned, of such deletion.

(2) At the conclusion of the trial of an election petition or appeal, the Court shall certify to the Director of Elections-

- (a) whether any corrupt or illegal practice has been proved to have been committed by or with the knowledge and consent or approval of any candidate at the election, and the nature of such practice, if any; and
- (b) the names and other particulars of all persons, if any, who have been proved to the satisfaction of the Court to have been guilty of any corrupt or illegal practice.

(3) Before any person, who is neither a party to an election petition nor a candidate on behalf of whom the seat is claimed by an election petition, is certified by the Court under this section, the Court shall give such person an opportunity of being heard and of giving and calling evidence to show cause why he should not be so certified.

(4) Where the Court certifies that an offence of corrupt or illegal practice has been committed by any person, that person shall be subject to the same

disqualifications as if at the date of that certificate, he had been convicted of the offence of illegal practice.

(5) Where the Court certifies that corrupt or illegal practice has been committed by any person with the knowledge and consent or approval of a candidate, then in addition to any other consequences, the candidate shall be subject to the same disqualifications as if at the date of that certificate, he had been convicted of the offence of corrupt or illegal practice.

(6) The Director of Elections shall immediately-

(a) cause a copy of the certificate issued under this section to be published in the *Gazette*;

(b) delete from the register the name of any person registered in it, who appears from the record to be disqualified from voting at an election; and

(c) inform in writing the returning officer for the relevant polling district, of every such deletion of the name of the person who is registered as a voter in that polling district.

(7) immediately upon being so informed, the returning officer shall take all steps as may be necessary for ensuring that the person concerned returns the voter's card and any other relevant documents for cancellation.

Time for
presentation and
determination of
election petition
and appeal

144.-(1) Every election petition shall be presented within thirty days from the date of the declaration for the results of the election by the returning officer.

(2) The Court shall hear and determine an election petition within six months from the date of filing an election petition.

(3) A party to the election petition aggrieved by the decision of the Court under subsection (2), may appeal within forty five days from the date of the decision.

(4) An appeal lodged pursuant to subsection (3) shall lie to the Court of Appeal.

(5) The Court shall hear and determine an appeal within six months from the date of presentation of an appeal.

(6) Where the election petition is unlikely to be

determined within six months, the Chief Justice and by notice published in the *Gazette*, may extend time for further period not exceeding six months as he shall determine.

Votes to be struck
off at scrutiny

145.-(1) Upon a scrutiny at the hearing of an election petition the following votes shall be struck off:

- (a) the vote of any person, other than a candidate or an official voting under section 14(4), whose name was not in the register of voters of the polling district in which he voted;
- (b) the vote of any person whose vote was procured by bribery, treating or undue influence;
- (c) the vote of any person who committed or procured the commission of the offence of impersonation at the election;
- (d) the vote of any person proved to have voted more than once at such election except the first vote cast by such person, where such first vote can be identified to the satisfaction of the Court;
- (e) the vote of any person who, by reason of a conviction for the offence of illegal practice or by reason of the certificate of the Court, or by reason of any conviction for an offence against this Act or any other law, was disqualified from voting at an election.

(2) The vote of a registered voter shall not be struck off at a scrutiny by reason of the voter not being qualified to have his name entered into the Register except in the case specified in subsection (1)(d).

Rules of Court

146.-(1) The Chief Justice may, in consultation with the Commission, make rules of Court regulating the procedure and practice to be followed and prescribing the fees to be paid in relation to election petitions and applications under this Chapter.

(2) Rules made under this Chapter shall be published in the *Gazette*.

PART III
AVOIDANCE OF COUNCILLORS' ELECTION RESULTS BY
ELECTION PETITION

Avoidance of
election results by
election petition

147.-(1) The election of a candidate as a councillor shall not be questioned except by way of an election petition.

(2) The election of a candidate as a councillor shall be declared void on any of the following grounds if it is proved to the satisfaction of the court:

- (a) that by reason of corrupt or illegal practices committed in connection with the election, or other circumstances, whether similar to those enumerated or not, the majority of voters were or, may have been prevented from electing the candidate whom they preferred;
- (b) that during the election campaign, statements have been made by the candidate, or on his behalf and with his knowledge and consent or approval, with intent to exploit tribal, racial or religious issues or differences pertinent to the election or relating to any of the candidates or where the candidates are not of the same sex, with intent to exploit such difference;
- (c) non-compliance with the provisions of this Act relating to election if it appears that the election was not conducted in accordance with principles laid down in such provisions and that the non-compliance affected the results of the election;
- (d) that corrupt or illegal practice was committed in connection with the election by, or with the knowledge and consent or approval of the candidate or with the knowledge and consent or approval of any of his agents; or
- (e) that the candidate was at the time of his election a person not qualified for election as a councillor.

(3) Notwithstanding the provisions of subsection (2), where upon the trial of an election

petition in relation to an election under this Act, the court finds that corrupt or illegal practice in connection with the election has been committed by, or with the knowledge and consent or approval of any of a candidate's agents, and the court further finds after giving the Attorney General an opportunity of being heard, that the candidate has proved to the court that-

- (a) no corrupt or illegal practice was committed by the candidate himself or with the knowledge and consent or approval of that candidate or his agent;
- (b) the candidate took all reasonable measures to prevent the commission of corrupt or illegal practices at the election; and
- (c) in all other respects the election was free from any illegal practice on the part of the candidate and of his agent,

then if the court so determines, the election of that candidate shall not be void by reason of any such practice.

Certain acts or omission to be exempted

148. Where it appears to the court either on application or upon an election petition -

- (a) that any act or omission of a candidate at any election or of his agent or any other person, which but for this section would be corrupt or illegal practice, has been done or made in good faith through inadvertence or accidental miscalculation or some other reasonable cause of a like nature; and
- (b) that by reason of the circumstances it would be just that the candidate or his agent or any other person, or any of them, should not be subjected to any of the consequences under this Act of the act or omission,

the court may make an order allowing the act or omission to be an exception from those provisions of this Act which would otherwise make the act or omission corrupt or illegal practice, and thereupon the candidate, agent or any other person shall not be subject to any of the consequences under this Act of that act or omission.

Petitions triable by
Resident
Magistrates' Court

149.-(1) Every councillors' election petition and application under this Act shall be tried by the Resident Magistrates' Court hereinafter referred to as "the court".

(2) A party to the election petition aggrieved by the decision of the Resident Magistrates' Court under subsection (2) may appeal within forty five days from the date of the decision.

(3) All appeals under this section shall lie to the High Court.

Petitions and
deposit of security
for costs

150.-(1) An election petition may be presented by any one or more of the following persons:

- (a) a person who lawfully voted or had a right to vote at the election to which the petition relates;
- (b) a person claiming to have had a right to be nominated or elected at an election;
- (c) a person alleging himself to have been a candidate at such election; or
- (d) the Attorney General.

(2) The Registrar of the court shall not fix a date of the hearing of a petition unless the petitioner has paid into the court as a security for costs, an amount not exceeding five hundred thousand shillings in respect of each respondent.

(3) The petitioner shall, within fourteen days after filing a petition, make an application for determination of the amount payable as security for costs, and the court shall determine such application within the next fourteen days following the date of filing an application for determination of the amount payable as security for costs.

(4) Where any person is made a respondent pursuant to an order of the court, the petitioner shall within fourteen days of the date on which the order directing a person to be joined as a respondent was made, pay into the court a further amount not exceeding two hundred thousand shillings, as shall be directed by the court in respect of such person.

(5) Where, on application made by the petitioner, the court is satisfied that compliance with the

provisions of subsection (2) or (4) will cause considerable hardship to the petitioner, it may direct that-

- (a) the petitioner gives such other form of security the value of which does not exceed five hundred shillings, as the court may consider fit; or
- (b) the petitioner be exempted from payment of any form of security for costs.

(6) An order shall not be made under subsection (3), (4) and (5) unless an opportunity has been given to the respondent or, where there are two or more respondents, to each of the respondents to make representations in that behalf.

(7) In the event of security for costs not being paid into the court within fourteen days from the date of the determination by the court of the amount payable as security for costs, no further proceedings shall be held on the petition and such petition shall be dismissed.

(8) The provisions of subsections (2) and (3) shall not apply in any case in which the Attorney General is the petitioner or one of the petitioners.

(9) The amount of money deposited as security for costs or the balance of it, shall be immediately refunded to the petitioner where the petitioner succeeds in the petition or on appeal and where no order as to costs lies against the petitioner.

Reliefs which may
be claimed

151. All or any of the following reliefs to which the petitioner may be entitled may be claimed in an election petition:

- (a) a declaration that the election is void;
- (b) a declaration that the nomination of the person elected was invalid;
- (c) where the seat is claimed for an unsuccessful candidate on the ground that he had a majority of lawful votes, a scrutiny.

Certificate of
court as to validity
of election

152. At the conclusion of the trial of an election petition, the court shall determine whether the member whose nomination or election is complained of, or any other person was duly nominated or elected, or whether the election was void, and shall certify such

determination to the Commission, and upon a certificate being given, the determination shall be final and the election shall be confirmed or a new election shall be held as the case may require in accordance with the certificate.

Time for
presentation and
determination of
election petition

153.-(1) Every election petition shall be presented within thirty days of the date of declaration of the election results by the returning officer:

Provided that, an election petition questioning the election upon the ground of a corrupt practice and specifically alleging a payment of money or other act to have been made or done since the date of declaration of the results by the returning officer by or with the knowledge and consent or approval of the member whose election is questioned or by or with the knowledge and consent or approval of an agent of the member, in the pursuance or in furtherance of that corrupt practice, may be presented at any time within twenty eight days after the date of that payment or act.

(2) Without prejudice to the provisions of any rules of court made under section 155, an election petition presented in due time may, for the purpose of questioning the election upon an allegation of a corrupt practice or illegal practice, be amended with the leave of the court within the time within which an election questioning the election results upon that ground may be presented.

(3) The court shall hear and determine each election petition within twelve months from the date of presentation of an election petition.

(4) Where the election petition case is unlikely to be determined within twelve months, the Chief Justice and by notice published in the *Gazette*, may extend the prescribed time for further period not exceeding six months as he shall determine.

Votes to be struck
off at scrutiny

154.-(1) On scrutiny at the trial of an election petition, the following votes shall be struck off:

(a) the vote of any person whose name was not on the register of voters of the ward in which he voted;

(b) the vote of any person whose vote was

procured by bribery, treating or undue influence;

- (c) the vote of any person who committed or procured the commission of impersonation at the election;
- (d) the vote of any person proved to have voted more than once at the election;
- (e) the vote of any person who, by reason of a conviction for a corrupt or illegal practice or by reason of the report of the court, or by reason of any conviction for an offence against this Act or any other written law, was disqualified from voting at the election.

(2) The vote of a registered voter shall not be struck off at a scrutiny by reason of the voter having been or not being qualified to have his name entered into the Register except in the case specified in of subsection (1)(e).

Rules of Court

155. The Chief Justice may, in consultation with the Commission, make rules of court regulating the procedure and practice to be followed and prescribing the fees to be paid in relation to election petitions and applications under this Part.

CHAPTER IX GENERAL PROVISIONS

Inaccurate
descriptions

156. A misnomer or inaccurate description of any person or place named or described in any Register, notice or other document, prepared or issued under or for the purpose of this Act, shall not in any way affect the operation of this Act in respect of that person or place, if that person or place is so described in such Register, notice or document as to be identifiable.

Powers of
Director of
Elections and
returning officers
to demand
information

157.-(1) In the exercise of their respective functions under this Act, Director of Elections and returning officers or any other person concerned with the conduct of voting or with the registration of voters, shall at all times have power to demand information from any person necessary to ascertain if a person is qualified to stand as candidate, and to identify any

person or the place of abode of any person, and to ascertain whether any person has become disqualified from voting or standing as a candidate.

(2) A person who, after any lawful demand made under the provisions of subsection (1), fails to give such information which is within his knowledge or possession, or unreasonably delays in giving such information, commits an offence and shall be liable on conviction to a fine not exceeding two hundred shillings.

Remuneration of staff

158. Any person employed for the purposes of this Act shall, if not employed in the public service, receive such reasonable remuneration for the services as the Commission considers fit to authorise.

Expenses to be charged on Consolidated Fund

159. All expenses incurred-

- (a) in the preparation of the registers, the issue of voter's card and in doing such other matters or things as may be required to be done for the purpose of carrying out the provisions of this Act;
- (b) by the Commission, the Director of Elections, returning officers and any other person employed in the conduct of an election;
- (c) in the remuneration of the officers specified in section 158; and
- (d) by any public officer in connection with any official matter connected with or arising out of an election,

shall be a charge on, and paid out of the Consolidated Fund.

Service of notices

160. A notice under this Act shall be deemed to have been served on or given to any person-

- (a) if served on him personally;
- (b) if left for him at his last known address; or
- (c) if sent by registered post addressed to him at his last known address.

Regulations

161.-(1) The Commission may make regulations for the better carrying out of the provisions of this Act

and without prejudice to the generality of the foregoing, it may make regulations prescribing-

- (a) anything which under the provisions of this Act may be prescribed; and
- (b) the form of documents and declarations for the purposes of this Act.

(2) Where any forms have been prescribed under this section such forms shall be used for the purposes to which they relate or to which they are capable of being adopted or modified and may be translated into and used in such language as the Commission may direct.

Electoral Code of Conduct

162.-(1) For the purpose of promoting fair, free and orderly elections, and upon consultation with all political parties and the Government, the Commission shall make and publish in the *Gazette* the Electoral Code of Conduct prescribing ethical conducts for political parties, the Government and the Commission during election campaigns and elections and mechanisms for enforcement.

(2) The Electoral Code of Conduct shall be subscribed to by-

- (a) every political party;
- (b) every candidate before he submits the nomination form;
- (c) the Government; and
- (d) the Commission,

and shall bind the parties signatory.

(3) Any person who contravenes the provisions of the Electoral Code of Conduct shall be liable to a penalty as may be prescribed by such Code.

Exemption from stamp duty

163. Any instrument made on oath or affirmation pursuant to the provisions of this Act in the form prescribed shall be exempted from stamp duty under any written law for the time being in force relating to stamp duties.

Directives

164. The Commission may, subject to the provisions of this Act, issue directives of a general or specific character in relation to the functions of returning officers, presiding officers and other persons

employed for any other purposes of this Act:

Provided that, such directives shall not be inconsistent with any provision of this Act or of regulations made pursuant to this Act.

Replacement of
Register

165. Where, in the opinion of the Director of Elections, it is necessary to replace the Register for any reason, it shall be lawful for the Director of Elections to direct that such Register be replaced by a new Register.

Use of technology

166. The Commission may use technology in performing its functions under this Act.

CHAPTER X

REPEAL AND SAVING PROVISIONS

Repeal of Acts
No.1 of 1985 and
No.4 of 1979

167. The National Elections Act, 1985 and the Local Authorities (Elections) Act, 1979 are hereby repealed.

Saving provisions

168. Notwithstanding the repeal of the National Elections Act, 1985 and the Local Authorities (Elections) Act, 1979-

- (a) all actions and activities performed by the Commission under such laws shall continue to be valid until revoked under this Act;
- (b) all forms approved by the Commission for the purposes of such Acts shall be deemed to be forms approved under this Act until revoked by this Act or subsidiary legislation made under this Act; and
- (c) all subsidiary legislation made under the National Elections Act, 1985 and the Local Authorities (Elections) Act, 1979 and still in force, shall be deemed to have been made under this Act until revoked by this Act or subsidiary legislation made under this Act.

Passed by the National Assembly on 2nd February, 2024.

NENELWA JOYCE MWIHAMBI

Clerk of the National Assembly