342.9

THE UNITED REPUBLIC OF TANZANIA

CHAPTER 343

THE NATIONAL ELECTIONS ACT

PRINCIPAL LEGISLATION

REVISED EDITION OF 2015

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Dar es Salaam,
25 August, 2015

GEORGE M. MASAJU,
Attorney General

4 Copies

CHAPTER 343

THE NATIONAL ELECTIONS ACT [PRINCIPAL LEGISLATION]

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CHAPTER 343
THE NATIONAL ELECTIONS ACT

An Act to provide for the law regulating the election of President and election to the National Assembly.

[10th May, 1985]
[DPG]

Acts Nos.
1 of 1985
13 of 1990
5 of 1991
6 of 1992
21 of 1992
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8 of 1995
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17 of 1996
31 of 1997
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10 of 2000
10 of 2001
25 of 2002
13 of 2004
3 of 2005
7 0f 2010
17 of 2010

CHAPTER I
PRELIMINARY PROVISIONS

Short title and construction
Cap. 343
Cap. 2

1.-(1) This Act may be cited as the National Elections Act.

(2) The provisions of this Act which relate to Presidential and Parliamentary elections shall be read as one with the Constitution.

(3) This Act shall apply to Mainland Tanzania as well as to Tanzania Zanzibar.

Interpretation
Act Nos:
6 of 1992
21 of 1992
4 of 2000
Sch.
13 of 2004
s.4
7 of 2010
s.3

2.-(1) In this Act unless the context requires otherwise-

"campaign period" means the period commencing immediately after the nomination day up to the day immediately preceding the election day;

"candidate" means a person who submits himself for election to the National Assembly;

"Chairman" means the Chairman appointed under section 4 and includes the Vice Chairman or any person for the time being discharging the functions of the Chairman;

"close of poll" means the latest close of poll in a polling station in relation to an election;

"Commission" means the Electoral Commission of the United Republic established by the Constitution;

"constituency" means a constituency for purposes of election to the National Assembly;

Cap.2 "Constitution" means the Constitution of the United Republic of Tanzania, 1977;

"contested election" means an election in a constituency or a Presidential election where there are more candidates than vacancies;

"counting agent" means a person appointed as a counting agent under the provisions of section 70;

"Director of Elections" means the person appointed to be the Director of Elections in accordance with the provisions of section 6 and includes a person for the time being performing any of the functions of that office;

"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;

"election day" in relation to an election in any constituency means the day appointed under subsection (1) of section 46 or any day substituted for that day in accordance with a proviso to that sub-section and in the case of Parliamentary election of unopposed candidate, the day on which a candidate is declared elected under section 44;

"Member of Parliament" means, in relation to the National Assembly, a constituency member and includes a

Member of Parliament for women special seats;

"nomination" means nomination as a candidate for election to the National Assembly and includes nomination for women special seats;

"nomination day" means a day appointed for the nomination of candidates;

"observer" means local or international observer;

Cap. 258 "political party" means a political party registered as such under the Political Parties Act;

"polling agent" means a person appointed under the provisions of section 57;

"polling assistant" means a person appointed to be a polling assistant under the provisions of section 56(b);

"polling district" means an area or division of a constituency made pursuant to the provisions of section 5;

"Presidential candidate" means a person nominated to contest election for the office of the President;

"Presidential election" means the election of the President of the United Republic;

"presiding officer" means a person appointed to be a presiding officer under the provisions of section 56 (c);

"Provisional Voters' Register" means a register established under section 11A;

"qualified" or "qualification" means-

(a) when used in relation to a person claiming to be entitled to be registered as a voter, qualified to be or qualification as a voter; or

(b) when used in relation to a person claiming to be qualified as a candidate for a Parliamentary election, qualified to be or qualification as a candidate for election to the National Assembly, for the constituency in question;

"register" means a register of voters compiled and maintained in accordance with the provisions of section 12;

"Registration Officer" means a Registration Officer

appointed under section 7A and includes an Assistant Registration Officer;

"Returning Officer" means a Returning Officer appointed under section 7 and includes in relation to a constituency the Returning Officer appointed for that constituency;

"voter" means any person who is for the time being qualified to vote at an election in accordance with the provisions of this Act;

"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;

"voters' education" means dissemination of information relating to the electoral processes and procedures.

(2) References in this Act or in any other written law to a registered voter's number shall be construed as references to the number of such voter's card.

(3) References in this Act to an election in a constituency shall be construed as references to a Parliamentary election in that constituency and references to a candidate to a constituency shall be construed as reference to a candidate for Parliamentary election in that constituency.

Regulations, directives and notices

3. 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.

Composition of the Commission

Act Nos. 6 of 1992 s.4 4 of 2000 Sch.

4.-(1) The Commission shall, subject to the Constitution and to this Act, consist of the following members:

(a) a Chairman who shall be a Judge of the High Court or of the Court of Appeal of Tanzania;

(b) a Vice chairman who is a judge of or a person qualified to be appointed a judge of the High Court or the Court of Appeal of Tanzania;

(c) a member appointed from amongst the members of the Tanganyika Law Society; and

(d) four other members who are persons possessing either adequate experience in the conduct or supervision of Parliamentary elections or such other qualifications as the President considers necessary for, or pre-requisite to, the effective discharge of the functions of the Commission.

(2) The Commission shall be responsible for overall supervision of the general conduct of all Parliamentary and Presidential elections in the United Republic.

(3) Subject to the provisions of this Act, the Chairman shall preside at all meetings of the Commission and in his absence, the Vice-Chairman shall preside, or if he too is absent, the members present may elect one of the member to act as the Chairman.

(4) The Director of Elections shall be the Secretary to the Commission and he shall be the Chief Executive of the Commission.

Decision of the Commission Act No. 4 of 2000 Sch.

4A. The Chairman, a Vice Chairman or a temporary chairman presiding at any meeting of the Commission shall have a vote and, in the event of an equality of votes, shall have a casting vote in addition to his deliberative vote.

Quorum Act No. 4 of 2000 Sch.

4B. The quorum at any meeting of the Commission shall be four members including the Chairman, a Vice-Chairman or the temporary Chairman, as the case may be.

Voters ' education Act No. 13 of 2004 s.6

4C. The Commission shall be responsible for providing voters' education throughout the United Republic and shall co-ordinate and supervise persons who conduct such education.

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.

Director of Elections Act No. 6 of 1992 s.7

6.-(1) There shall be a Director of Elections who shall be appointed by the President from amongst civil servants of the United Republic recommended by the Commission.

(2) The Director of Elections shall exercise and perform all such functions and duties as are conferred upon him by this Act or on the directions of the Commission.

(3) Every Registration Officer, Returning Officer or other person concerned with the conduct of elections under this Act, shall carry out fully all the directions and instructions issued by the Director of Elections pursuant to the provisions of this Act.

Appointment of Returning Officers and other staff
Act Nos. 8 of 1995 s.2, 8 of 2000 Sch., 13 of 2004 s.7, 7 of 2010 s.4

7.-(1) For purposes of an election held under this Act, every City Director, Municipal Director, Town Director, and District Executive Director shall be a returning Officer for the purposes of conducting an election in a constituency and such Returning Officer may be for more than one constituency.

(2) Notwithstanding subsection (1), the Commission may appoint by office or name from amongst public officers, such number of Returning Officers or Assistant Returning Officers for the purpose of conducting an election in a constituency.

Cap.356 (R.L.) s.11

(3) Notwithstanding the provisions of subsections (1) and (2) the Commission may, where circumstances so require and by notice published in the *Gazette,* appoint any person holding a public office by name or by office to be a Returning Officer or an Assistant Returning Officer in any constituency instead of the one referred to in subsections (1) and (2), and where such person is so appointed the City Director, Municipal Director, Town Director, District Executive Director or an official, as the case may be, shall cease to be a Returning Officer or an Assistant Returning Officer of that constituency in such election.

(4) The Returning Officer may, subject to section 56 and to the direction of the Director of Elections, appoint such staff as may be necessary for the purposes of conducting an election in the constituency.

(5) Every Returning Officer and Assistant Returning Officer shall, before embarking on the functions of that office, take and subscribe to an oath of secrecy in the prescribed form before a Magistrate.

Registration Officers
Act Nos. 13 of 2004 s.8

7A.-(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 and such Registration Officer may be for one or more than one constituency.

7 of 2010 s.5

(2) Notwithstanding subsection (1), the Commission may appoint by office or name from amongst public officers, such number of Regional Registration Coordinators or Assistant Registration Officers for the purposes of registering voters as it may consider fit.

(3) Notwithstanding 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 instead of the one referred to in subsection (1) and where such person is so appointed the City Director, Municipal Director, Town Director, District Executive Director shall cease to be a Registration Officer in the respective constituency.

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

(5) Every Registration Officer and Assistant Registration Officer shall, before embarking on the functions of that office take and subscribe to an oath of secrecy in the prescribed form before a Magistrate.

(6) 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 within the Region.

Act No.8 of 1995 s.3

(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.

Repealed Act No.6 of 1992 s.9

9. Repealed.

CHAPTER II
REGISTRATION OF VOTERS

PART I
QUALIFICATIONS AND DISQUALIFICATIONS FOR REGISTERING AS VOTERS AND VOTING

Qualification for registration Act Nos. 8 of 1995 s.4

10.-(1) No person, other than a citizen of Tanzania who 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 and in accordance with the provisions of this Act.

13 of 2004 s.9

(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

11.-(1) No person shall 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 criminal lunatic or is detained during the pleasure of the President;

(c) under sentence of death imposed by any court in Tanzania or is under a sentence of imprisonment exceeding six months imposed by a court or as substituted by competent authority for some other sentence imposed by such a court; 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 no name shall 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 guilty of a practice which disqualified that person from registering, or voting.

(4) No person shall be registered as a voter in more than one constituency or in more than one polling district in a constituency.

Provisional Voters' Register Act No. 13 of 2004 S.10

11A.–(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 the voter in the register; and
(e) effecting any other correction or amendment as may be required under this Act.

Register of Voters Act No. 13 of 2004 ss.11 and 12

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) Every register of voters 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, 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 a custodian of the register established under subsection (1).

(6) The Commission shall make regulations prescribing anything which is to be prescribed or directing any other matter to be done by any person for purposes of giving full effect to the provisions of this section and of

establishing, keeping and maintaining the Permanent National Voters Register.

(7) The Director of Elections may, by regulations give directions 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 Act Nos.8 of 1995 s.4A

12A.-(1) Notwithstanding the provisions of section 12, for purposes of the conduct of Parliamentary and Presidential 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.

13 of 2004 s.13

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

Place of, and Disqualification from voting Act No. 13 of 2004 s.12

13.-(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 every 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 arise 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 authorized in that behalf by the Director of Elections may, by a certificate under his hand, authorize a registered voter who is a candidate at an election in a constituency, to vote at the election in that constituency 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 Registration Officer, presiding officer, police officer 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 authorized in that behalf by the Director of Elections may, by a certificate under his hand, authorize 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 authorizing any such person to vote at any polling station other than the polling station allocated to him.

Change of name

14. 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 13, be entitled to vote under the name in which he is registered.

PART II
REGISTRATION

Time for Registration Act Nos. 13 of 2004 ss.5, 14 7 of 2010 S.6

15.-(1) The Commission shall be responsible for setting time and review of registration of voters in every polling district within the constituency.

(2) Any 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 under the provisions of subsection (1) 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 specified in such direction, 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 a direction under subsection (3) has 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 direction.

(5) For the purpose of this section, the Commission shall review the Permanent National Voters' Register twice between a period commencing immediately after the General Elections and the date preceding the nomination day.

Registration agents Act No. 7 of 2010

s.7

15A.-(1) A political party may appoint one person to be a registration agent for each registration centre within the constituency, for the purpose of -

(a) detecting qualified persons for registration; and

(b) assisting the registration assistant to secure a smooth compliance with relevant laws and procedures pertaining to the conduct of registration of voters.

(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 part 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 political party concerned 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, deal with each complaint at the registration center as soon as it arises and is brought to agent's attention by any person who wishes to be registered.

Voter's card
Act No.
13 of 2004
ss.5, 12

16.-(1) Where a person makes an application for registration as a voter in accordance with the provisions of section 15, that 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 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 by regulations made under section 124 require any person applying for registration as a voter to fill in such forms as may be prescribed.

Change of
residence
Acts Nos.
13 of 2004
ss.5, 15
3 of 2005
s.3
7 of 2010
s.8

17.-(1) Where any voter who is registered in one polling district becomes ordinarily resident in some other polling district, that voter may apply in accordance with the provisions of section 19, 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 he shall immediately cancel the voter's card surrendered by the applicant.

(3) Notwithstanding the provisions of sub-section (1) of section 16, or subsection (1) of this section, where by reason of-

(a) any change of name of a constituency;

(b) any adjustment in the number of constituencies; or

(c) any adjustment in the boundaries or areas of one or more constituencies, a constituency becomes part of another constituency or a polling district of one constituency becomes a polling district or part of a polling district of another constituency 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.

Voter's card lost, Defaced or Destroyed Act Nos.

18.-(1) Where a voter's card issued to any person is lost, defaced or destroyed, the person to whom such voters card was issued may apply in person to the Registration Officer, Registration Assistant or any other staff as directed

13 of 2004
ss.15, 16
3 of 2005
7 of 2010
s.8

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 new voter's card upon the applicant paying the prescribed fee, if any, and where the application is made in respect of a defaced voter's card upon the applicant surrendering such defaced voter's card.

Amendment of Particulars
Acts Nos. 13 of 2004
ss.5, 12, 17
3 of 2005
s.5
7 of 2010
s.8

19. Where any of the particulars on a voter's card or in a Provisional Voter's Register requires 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, and the Registration Officer, Registration Assistant or any other staff as directed by the Commission for the purposes of conducting registration of voters shall upon such application being made and upon being satisfied that the application is properly made and that the applicant remains qualified for registration, register the applicant in the prescribed form and cause to be issued another voter's card:

Provided that no new voter's card shall be issued under this section unless the applicant 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 and pays the prescribed fee, if any.

Declaration relating of

20. Where, under the provisions of this Part, an application is made to a Registration Officer, Registration

lost or destroyed voter's card Act No. 13 of 2004 s.5 7 of 2010 s.8

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 Act No. 13 of 2004 ss. 5,18 7 of 2010 s.8

21. (1) Where a Registration Officer, 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 of for refusal, and where any applicant aggrieved by such refusal may, within fourteen days after receipt of such statement, appeal against such refusal to a District Court.

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

PART III
OBJECTION TO REGISTRATION OR CONTINUED REGISTRATION

Inspection of Provisional Voters' Register

22.-(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.

Act No. 13 of 2004 s.19

(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 the Provisional Voters' Register Act No. 13 of 2004 ss.5, 12, 17

23.-(1) Where any person who has been registered as a voter and holds a valid voter's card in respect of a polling district discovers pursuant to an inspection made in accordance with the provisions of section 22, that his name does not appear in the Provisional Voters' Register of the polling district that person he 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 Act No. 13 of 2004 ss.5, 17

24.-(1) Any 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) The Director of Elections or the Registration Officer may object to the retention of any name in the Provisional Voters' Register of any polling district on any of the grounds referred to in subsection (1).

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

Procedure for making objections Act No. 13 of 2004 s.5

25.-(1) Except in the case of objection being made by the Director of Elections or a Registration Officer, 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, other than an objection made by the Director of Elections or Registration Officer, 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 or in the case of an objection made by himself, within such period as may be prescribed, serve notice of such objection to the person in regard to whom such objection has been made:

Provided that a Registration Officer shall not be required to serve notice 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 Act No. 13 of 2004 ss. 5, 17, 20

26.-(1) The Registration Officer shall as soon as practicable hold a public inquiry into all objections which have been duly made, giving not less than seven clear days written notice of the date on which and the time and place at which such inquiry will 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 authorized 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 authorized 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 inclusion in the Provisional Voters' Register of the name of the person in regard to whom the objection is made.

(5) Where an objection made by any person other than the Registration Officer or the Director of Elections 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 though the order of the Registration Officer were a decree of a District 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, deposit shall be refunded.

(8) The validity of the proceedings under this section shall not be questioned by reason only of the Registration Officer inquiring into and determining an objection made by himself, and in any such case the procedure at an inquiry under this section shall commence at the stage at which the Registration Officer required proof of the present qualification of the person in regard to whom the objection is made.

(9) 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
Act No. 13 of 2004 ss.5, 21

27.-(1) Where any objector or person in regard to whom objection has been made is dissatisfied with the decision of the Registration Officer under section 26, the objector or person may, within seven days from the date of such decision appeal to a District Court.

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

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

Appeals to a District Magistrate
Act Nos. 6 of 1992 s.10
13 of 2004 ss 5, 12, 22

28.-(1) Every appeal under section 21 or 27 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 District Magistrate shall hear every such appeal in public giving notice of the time, date and place of the hearing of the appeal to the parties concerned and it shall be in his discretion whether to hear or not to hear any evidence and, his determination of the appeal shall be final and conclusive and shall not be called in question in any court.

(3) Where the District Magistrate has determined an appeal which has been lodged with respect to any provisional voter's register on the issue of a voter's card, he shall forward to the Registration Officer a statement under his hand containing the names which he 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 result 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 District Magistrate 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 20; and

(b) in any case to which section 18, 19 or 20 applies and no declaration has been made in accordance with section 20, 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 District Magistrate is of the opinion that the appeal was made without reasonable cause, he 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) No party to an appeal shall be entitled to any costs or compensation:

Provided that if an appeal is made and allowed by the District Magistrate and in his opinion the appeal was made without cause, the District Magistrate may, if he thinks 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 though the order were a decree of a District Court for the recovery of money.

(6) Where an appeal has been made under this section, the District Magistrate may, whether he allows or dismisses the appeal, order that any deposit forfeited or to be forfeited or any sum of a money paid or to be paid by way of compensation in accordance with an order of the Registration Officer under section 26; or so much of such deposit or such sum as the District Magistrate 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 though the order were a decree of a District 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 District Court in the exercise of its criminal 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.

(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 District Magistrate shall decide and, without prejudice to the generality of the foregoing, a District Magistrate 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 he shall specify.

Provisions Consequential upon additions to, or deletions from the Provisional Voters' register Act No. 13 of 2004 ss.5, 12, 23

29.-(1) Where the name of any person has been added to a Provisional Voters' Register pursuant to section 26, 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 26, 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 20;

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

30. 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

31. 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.

Particulars of nomination Act No. 13 of 2004 s.12

32.-(1) Every Presidential candidate shall deliver in such manner and at such place as the Commission may direct, not later than four o'clock on the nomination day, in such number of copies as the Commission may direct and which shall contain the following particulars-

(a) the name and address of the candidate for the office of President and of the Vice-President who shall be the running mate;

(b) the names and addresses of the nominators; and

(c) the numbers of the voter's cards of the nominators.

(2) No person shall be a nominator for more than one Presidential candidate.

(3) 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.

Deposits

33.-(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 by the Commission.

(2) The deposit 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 by the Commission.

Sole Presidential candidate

34.-(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 duly elected to the office of the President if he obtains more than fifty percent of the total votes cast.

(3) Where the sole Presidential candidate has failed to secure the required percentage of votes, the Commission shall declare another nomination day for the purpose of Presidential election.

Withdrawal of candidature

35. A Presidential candidate may withdraw his candidature by notice in writing signed and delivered by that candidate to the Commission not later than four o'clock on the nomination day.

Death or lack of candidates Act Nos. 32 of 1994 Sch. 7 of 2010 s.9

35A.-(1) Where-

(a) after four o'clock on the nomination day there is no validly nominated candidate; or

(b) at any time after four o'clock on 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 being, in the case of death, a day not later than fourteen days from the date of death, a day 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

Presidential election day

35B.-(1) Subject to section 35D, 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.

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(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 sub-article (2) of Article 38 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 sub-paragraph (ii) of paragraph (a) or paragraph (b) of subsection (3) 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

35C.-(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 directions 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.

Application of Chapter IV

35D. The provisions of Chapter IV of this Act shall apply *mutatis mutandis* in relation to Presidential candidates.

Application of Chapter V

35E. 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 V of this Act shall apply *mutatis mutandis*.

Addition of Presidential votes
Acts Nos. 18 of 1995 Sch. 4 of 2000 Sch. 3 of 2005 s.6

35F.-(1) 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 ballot papers.

(2) The Returning Officer shall, after compiling the Presidential results in the constituency, display such results at a conspicuous place.

(3) Subject to subsection (2), the Returning Officer shall prepare and submit to the Commission, a report of the partial results of the Presidential election in the constituency.

(4) The Commission may direct that the Returning Officer shall, after preparing the report of the results under subsection (2) of this section, display a copy of the report in such conspicuous public place.

(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, 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 partial results from some or all of the polling stations in the constituency.

(6A) The Commission shall, after receiving the results submitted to it under subsection (3), declare the results of Presidential election for the particular constituency concerned.

(7) Subject to subsection (2), the Commission shall, after adding together all the respective total results submitted

to it by each Returning Officer in accordance with subsection (2), declare the results of the Presidential election in the country.

(8) A Presidential candidate shall be declared to have been elected President if he receives the greatest number of all the valid votes cast.

Second Ballot Act No. 4 of 2000 Sch.

35G.-(1) Where at the initial ballot no Presidential candidate has received the greatest number of 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 for the first highest, 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

35H. 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

36. No person shall 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

Act Nos. 6 of 1992 ss.11 and 12; 10 of 2001 sch.

37.-(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-

7 of 2010 s.10

(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) Subject to the provisions of subsection (1)(b), the Speaker shall in writing notify the Chairman of the Commission the period which has been set by the National Assembly for that purpose.

(3) Where a Member of Parliament resigns, dies or otherwise relinquishes office for reason other than under section 113, 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.

(4) 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).

(5) 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.

(6) 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 sub-article (3) of Article 90 of the Constitution, no such by-election shall take place at any time during the period of twelve months immediately proceeding the date of the dissolution of Parliament.

Cap.2

Nomination of Candidates Acts Nos. 7 of 2010 s.11 17 of 2010 s.37

38.-(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 Commission pursuant to the provisions of the Election Expenses Act.

Cap.278

(3) The nomination shall be in the prescribed form, signed by the candidate and by the nominators and shall contain the following particulars-

(a) the name, address and occupation of the candidate;

(b) the names and addresses of the nominators and the numbers of their voter's cards; and

(c) a certificate by the candidate that he is willing and otherwise qualified to stand for election.

(4) Every nomination form shall be accompanied by-

(a) a statutory declaration in the prescribed form, made and signed by the candidate before a magistrate and declaring the candidate's qualifications and that he is not disqualified for election except that, statutory declaration of the candidate's for the office of the President and Vice-President of the United Republic shall be made before a Judge;

(b) such number of photographs of the candidate as the Commission may deem necessary, taken not earlier than three months preceding the nomination day; and

(c) 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 paper 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 so to do, direct that the nomination form be accepted as valid notwithstanding that such nomination form was not accompanied by any of such documents if the documents in question are submitted to the Returning Officer within such further time as the Commission may allow.

(6) The Returning Officer shall provide nomination forms and shall supply any voter with such number of nomination forms as he may require.

(7) Every candidate or one of the nominators of the candidate, shall deliver the nomination form together with one copy 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.

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

(9) No person shall nominate more than one candidate for any one election and where a Returning Officer has issued a certificate under paragraph (b) of sub-section (4) 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 his having signed a nomination form of a candidate who has died or withdrawn his candidature before delivery 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 paragraph (b) of subsection (4) 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 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 nominator may, subject to the provisions of subsection (9), nominate one candidate each for Presidential, Parliamentary and Local Authority election.

(14) 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.

(15) The fact that, 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, shall not invalidate the nomination of the candidate.

Deposits
Act No.
6 of 1992
s.14
13 of 2004
s.25

38A.-(1) A candidate or one of his nominators shall, at the time of delivering the nomination form pursuant to the provisions of section 38, 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

39. No person shall be nominated as a candidate for election in more than one constituency.

Objections to and decisions as to validity of nomination form

Acts Nos. 6 of 1992 s.15 4 of 2000 Sch. 3 of 2005 s.7 7 of 2010 s.12 17 of 2010 s.28 Cap.278

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

(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 it is apparent from the contents of the nomination form that the candidate is not qualified to stand for election;

(d) that the requirements of subsection (4) of section 38 have not been complied with; and

(e) if the requirements of the Election Expenses Act, have not been complied with.

(2) No objection to a nomination form shall 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) The objection may be made by another candidate in the constituency, or by the Director of Elections or the Registrar of Political Parties or the Returning Officer on his own motion or the Attorney General and shall be made in writing, signed by the objector, and shall specify the grounds of 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.

(4A) Where the Returning Officer decides on any objection under subsection (4), he shall notify in writing the candidate concerned of the decision and if the objection is allowed, of the grounds for the decision.

(5) Where a Returning Officer makes an objection on his own motion, under subsection (3), he shall before making any finding inform the candidate concerned in writing and after making a finding on the objection he shall refer such findings to the Commission.

(6) Any candidate who is dissatisfied with 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 VII on one or other of the grounds specified in that Chapter.

(7) Notwithstanding any provisions of this section, the Registrar of Political Parties shall, upon filing an objection under subsection (3), the objection shall be subjected to the procedure laid down, under this Act.

Repealed Act No.6 of 1992 s.16

41. Repealed.

PART III
FINAL NOMINATION OF CANDIDATE FOR PARLIAMENTARY ELECTIONS

Repealed Act No.6 of 1992 s.17

42. Repealed.

Repealed Act No.6 of 1992 s.18

43. Repealed.

Unopposed candidate Act Nos. 6 of 1992 s. 19 8 of 1995 s.6

44. Where only one candidate is nominated for an election in a constituency, such candidate shall be deemed to be elected and the Commission shall, by notice in the *Gazette*, declare that candidate to have been elected.

Repealed Act No.6 of 1992 s.20

45. Repealed.

PART IV
ELECTION DAY

Nominated candidates and election day Act Nos. 6 of 1992 s.21 17 of 1996 Sch. 4 of 2000 Sch. 13 of 2004 s.26

46.-(1) Where candidates are nominated for election other than a by-election in a constituency, 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 day on which they have been nominated to stand as candidates for election in the constituency:

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

(2) Where candidates are nominated for a by-election in a constituency, the Commission shall, by notice published in a *Gazette* appoint a day not more than thirty days after the day on which they have been nominated to stand as candidates for election in the constituency.

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

(4) The Commission shall, on the election day, upon the occurance of an event that prevents an election to take place, appoint another day of election for a Particular Constituency or Constituencies.

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

Notice of election
Acts Nos. 6 of 1992 s.58
7 of 2010 s.13

47.-(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 in such manner as he may think fit as to the following matters-

(a) the day or days and, subject to the provisions of subsection (4), the time or times of commencement and close of the poll;

(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 candidates, a 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 paragraph (a) of subsection (1) in any polling district, may differ from the day appointed for any other polling parties in the same constituency:

Provided that-

(a) election day for a constituency shall be the polling day for at least one polling district in that constituency;

(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, shall be not later than such time after election day for the constituency as the Commission may appoint.

(3) For the purpose of paragraph (a) of subsection (1), unless the Commission otherwise directs, 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 or such earlier time as may be specified in the notice.

PART V
WITHDRAWAL, DEATH OR ABSENCE OF CANDIDATES

Withdrawal or cessation of candidature Act No. 13 of 2004 s.27

48.-(1) A candidate may withdraw his candidature by notice in writing signed and delivered by him to the Returning Officer and a copy to the local branch of the Party sponsoring him not later than six o'clock in the afternoon of the day following nomination.

(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 six o'clock in the afternoon of the day following nomination the provisions of subsection (2) of section 38A shall apply.

Death of candidate Act No. 6 of 1992 s.23

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

(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 and the electoral procedure in that constituency shall be commenced afresh:

Provided that no new nomination shall 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 Act Nos. 6 of 1992 s.24 7 of 2010 s.14

50. Where after a nomination day by reason of death, withdrawal or for any other reason, there are no candidates in a constituency, the Commission shall, by notice 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, and the electoral procedure in that constituency shall be commenced afresh.

Disqualification of candidates Cap.278 Act Nos. 7 of 2010 s.15 17 of 2010 s.29

50A.-(1) Where the Registrar of Political Parties is satisfied that a candidate has committed a prohibited practice or failed to observe any other requirements of the Election Expenses Act, he may file an objection with the Commission.

(2) The Commission may, upon determination of the objection filed by the Registrar of Political Parties on failure of the candidate to observe the provisions of the Election Expenses Act, disqualify the candidate from continuing to participate in the election process.

PART VI
ELECTION CAMPAIGNS

Election campaigns Act Nos. 6 of 1992 s.25 21 of 1992 s.2 8 of 1995 s.8 17 of 1996 Sch. 13 of 2004 s.28

51.-(1) Where there is a contested election in a constituency 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 supply the Returning Officer with a schedule indicating the proposed programme for the public meetings of the candidate's campaign specifying the time and places of those meetings.

(3) A candidate or 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 held pursuant to subsection (2), for the purpose of furthering the candidate's election or undertake any public 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 scrutinize the campaign programmes of all the candidates and if necessary advise the candidates to make changes for their programs in order to avoid conflicting meetings.

(5) Every Returning Officer shall cause a copy of the coordinated programme to be submitted to the District Commissioner and the police officer commanding district within the constituency 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.

Cap.258
Cap.322

(6) Notwithstanding sub-section (5) of this section, no public meetings shall be held in a constituency 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 subsection (2) of section 46, on any other day after the first appointed election day.

Repealed Act No.6 of 1992 s.26

52. Repealed.

Access to and obligation of public media Act No. 8 of 1995 s.9

53. -(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 service during the official period of election campaign.

(2) The Commission shall, after consultations 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 print media owned by the government which publishes information relating to the electoral process shall be guided by the principle of total 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.

Repealed Act No.6 of 1992 s.28

54. Repealed.

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

PART I
ELECTION PROCEDURE

Polling days and times

55. In a contested election polling shall take place in each polling districts in the manner prescribed in this Part on the day appointed for polling in that polling district pursuant to the provisions of section 47.

Arrangements for contested elections Act Nos. 6 of 1992 s.58 13 of 2004 s.29

56. 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 47;

(b) appoint in respect of each polling district such persons, to be known as polling assistants, as he may think fit to assist presiding officer during the voting 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, screened from observation, can record 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 voting procedure to be followed;

(g) provide each presiding officer with such number of ballot boxes and ballot papers as in the opinion of the Returning Officer necessary;

(h) provide each polling station with writing materials and instruments with which the voters can mark the ballot papers and for making official marks;

(i) subject to any directions which the Commission may give in that behalf, provide each polling station with copies of the register of voters for the polling district or such part of such register as contains the names of the voters allowed to vote at that polling station; and

(j) perform any other acts and do such other things as the Commission may direct.

Polling agent
Act Nos.
13 of 1990
s.8
6 of 1992
s.29
18 of 1995
Sch

57.-(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;

(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 the conduct of the voting and the 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 political party concern may appoint another polling agent in his place, and shall immediately give to the Returning Officer and the presiding officer concerned, 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, solve or otherwise deal with each complaint at the polling station as soon as it arise 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

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

(2) Immediately before the commencement of voting, 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
Act Nos. 6 of 1992 ss.30 and 58
4 of 2000 Sch.

59. 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 attached to counterfoil bearing a serial number.

Prohibition of disclosure of Vote

60. No person who has voted at an election shall, in any legal proceedings to question the election return be required to state 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 provision of subsection (3) paragraph (b), (c) or (i) of section 61 acted *bona fide*, is in issue.

PART II
VOTING AND COUNTING PROCEDURE

Method of voting
Act Nos. 13 of 1990 s.31 6 of 1992 s.31 32 of 1994 Sch. 8 of 1995 s.10 4 of 2000 Sch. 13 of 2004 s.30

61.-(1) Without prejudice to the provisions of subsection (4) of section 47 and section 85, 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 allotted 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 voted already 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 or a 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 on 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 perforated, or stamped with an official mark;

(ii) the number and particulars of the voter, as stated in the copy of the register of voters 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 of voters 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 of voters 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 go

immediately into one of the polling booths in the polling station, secretly record 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 record his vote putting a mark against the name of the candidate for whom he wishes to vote and by that mark recording no more than one 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 record 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 to the presiding officer and after satisfying the presiding officer that the ballot paper has been spoilt by accident, obtain another ballot paper in the place of the ballot paper so delivered and the spoilt ballot paper and its counterfoil shall be immediately marked as cancelled.

(4) Where any voter has any complaint in relation to the conduct of the voting in the polling station or polling district in which he is registered, he may, before or immediately after voting but before leaving the polling station, submit his complaint in the prescribed form to the presiding officer or to a polling assistant and where the complaint concerns the conduct of the presiding officer it shall be recorded in the presence of the polling agent.

Repealed Act No.18 of 1995 Sch

62. Repealed.

Admission to polling station Acts Nos. 8 of 1995 s.11 4 of 2000 Sch. 7 of 2010 s.17

63.-(1) No person shall 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) No person other than the following shall be admitted into a polling station-

(a) a presiding officer;
(b) a polling assistant;
(c) a polling agent;
(d) a voter;
(e) a person assisting an incapacitated voter pursuant to section 61;
(f) an observer duly authorized 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 Elections Coordinator;

(l) a police officer or any other person responsible for security at the polling station; and

(m) the Returning Officer and 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 give directions regulating the conduct of observers.

(5) Where any person misbehaves in the polling station or fails to obey the lawful orders 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 authorized 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 Act No. 6 of 1992 s.33

64.-(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) Where, notwithstanding such warning, 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 66, makes and subscribes to one or both of the declaration to which that section refers,

the presiding officer shall deliver 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 full 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 a 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, 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.

Repealed by Act No.4 of 2000 Sch.

65. Repealed.

Declaration by Voters

66.-(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 the declaration, the presiding officer may refuse to give that person a ballot paper.

Adjournment of polling in case of riot Act No. 13 of 2004 s.31

67.-(1) Where the proceedings at any polling station are interrupted or obstructed by riot or open violence while there remains 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) the hours of polling 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 Act No.

68. Where at the hour of the closing of the poll at any polling station there are voters present who have not had

6 of 1992 s.34

an opportunity to vote, the poll shall be kept open for a sufficient time to enable them to vote.

Procedure on closing of poll
Act No. 13 of 1990 s.10
18 of 1995 Sch.

69.-(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 complaint in relation to the manner the voting was conducted in the polling station, and any complaint reported shall be solved 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 79A.

Polling agent to be counting agent
Act No. 18 of 1995 Sch.

70.-(1) Every polling agent or the alternate polling agent appointed by the political party pursuant to section 57 of this Act, shall at the close of the poll and during the counting of votes, be the counting agent of the appointing candidate.

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

Place of counting of votes Act No. 18 of 1995 Sch.

70A.-(1) Subject to the provisions of subsection (2), both the votes for Presidential and Parliamentary election cast at a polling station shall be counted at that polling station.

(2) Notwithstanding the provisions of subsection (1), Commission, the Director of Elections or the 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 a direction is given pursuant to subsection (2) of this section, 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.

Counting of Votes Act No. 18 of 1995 Sch.

71.-(1) The presiding officer of each polling station assisted by the polling assistants assigned to the polling station, shall as soon as practicable after the closing of the poll, in the presence of the persons referred to in section 72, if present, proceed continuously with the counting of votes in accordance with the methods and 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 complaint and stating the complaint if any, in relation to each stage concluded in the counting of votes.

(3) Each complaint made which can be resolved or settled, shall be resolved or settled at the stage at which it is made and the presiding officer shall prepare an account in

the prescribed form, relating to that complaint and how it was 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 Act No. 18 of 1995 Sch.

72.-(1) No person other than the following may be present at the 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 electoral officer of the Commission; and

(i) an election observer duly authorized in writing by the Commission.

(2) No person other than those referred to in subsection (1) shall be permitted to be within the vicinity of the place where votes are being counted.

Method of counting votes
Act Nos. 18 of 1995 Sch. 10 of 2000

73.-(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 72, if present to-

(a) ascertain and record the number of all the persons who voted at the polling station;

(b) count and record the number of all the unused ballot papers, including any spoilt ballot papers and seal them in a special envelope;

(c) inspect the seal and to 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 V of this Act, the word "seal" includes a padlock and any other procedure, machinery or thing which is approved by the Commission for securing integrity 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
Act Nos. 18 of 1995 Sch. 13 of 2004 s.32

74.-(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 recorded otherwise than in accordance with section 61 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.

Endorse-ments by Returning Officer

75.-(1) The presiding officer or a polling assistant shall endorse the word "*rejected*" on any ballot paper which, under the provisions of section 74 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
Act No. 6 of 1992 s.36

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

(a) want of official mark;

(b) voting recorded otherwise than as provided in paragraph (c) of section 61 or to be treated as spoilt under the provisions of paragraph (j) of section 61;

(c) writing or mark by which the voter could be identified; and

(d) unmarked or void for uncertainty,

and shall on request allow any counting agent to copy the statement.

Equality of votes and recount in contested elections Act No. 4 of 2000 Sch.

77.-(1) Where pursuant to section 80, an equality of votes is found to exist 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 again an equality of votes as ascertained by such a recount, the Returning Officer shall, subject to the provisions of section 78, 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.

Candidates or counting agents may require recount Act No. 18 of 1995 Sch.

78.-(1) A candidate or his counting agent may, if present when the counting or any recount of the 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 Act No. 18 of 1995 Sch.

79. The presiding officer shall, after consultations with the polling assistants, the 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, during the addition of votes from all the polling stations in the constituency and the

decision of the Returning Officer shall be final and subject only to review by an election petition pursuant to Chapter VII of this Act.

Duties of Presiding officer after counting Act Nos. 18 of 1995 Sch. 4 of 2000 Sch.

79A.-(1) Upon conclusion of the counting of the votes in accordance with section 73, the presiding officer shall-

(a) seal up in separate packets valid, the disputed and the rejected ballot papers;

(b) prepare a separate report of the results of each of the Parliamentary and Presidential 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 place a copy of the report of the partial results of the elections at the polling station;

(e) if available in sufficient number, give each polling agent a copy of the report of results;

(f) lock up 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 partial 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 in writing for refusal.

(3) Where a candidate or his agent refuses to comply with the provisions of subsection (2) he shall be estopped from raising any complaint regarding the voting and the counting procedure in that particular station.

Addition of votes in Parliamentary election Act Nos. 18 of 1995 Sch. 4 of 2000 Sch.

80.-(1) The provision of section 35F shall apply *mutatis mutandis* in relation to the addition of the votes for Parliamentary election.

(2) The following person shall be authorized to be present at the addition of votes by the Returning Officer-

(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 electoral 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; or
(i) an observer duly authorized in writing by the Commission.

(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.

(6) In relation to addition of Presidential votes by the Commission under section 35F the following may be present-

(a) a member of the Commission;
(b) the Director of Elections;
(c) an electoral officer of the Commission;
(d) a candidate;
(e) a counting agent;
(f) a police officer or such other person responsible for security at the place where the Presidential votes are being added;
(g) an observer duly authorised in writing by the Commission; or
(h) such other persons as the Commission may authorise.

Declaration of results
Act Nos. 13 of 1990 s.13
13 of 2004 s.33

81. Where the result of a contested election has 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; and
(c) compile 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 result of the election;

and the Commission shall then cause the

results, together with the number of votes recorded for each candidate in each constituency to be published in the *Gazette*.

Repealed Act No.6 of 1992 s.37

81A. Repealed.

Custody of documents

82.-(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 which are forwarded to it under any of the provisions of this Act.

(3) The Returning Officer and the Commission shall cause all documents to which this section applies, to be destroyed after the expiration of six months from election day, unless otherwise directed by an order of the High Court arising from any proceedings relating to the election.

Powers of polling assistants

83. A polling assistant may be authorized by the presiding officer to do any act or thing which the presiding officer is required or authorized 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

84. A candidate may do any act or thing which the polling agent may be authorized 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

85. Where in this Act, any act or thing is required or authorized 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 Act No. 6 of 1992 s.38

86. Where in the polling district the same day is appointed as the election day for the Presidential election and a contested Parliamentary election-

(a) polling at the two 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 organize 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 direction of the Commission in that behalf, a single ballot box may be provided at each polling station for both the Presidential and Parliamentary election;

(c) the respective ballot papers for those 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 both 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;

(f) the counting of votes for the two elections shall be conducted separately.

PART III
NOMINATION OF WOMEN FOR SPECIAL SEAT

Nomination of women for special seats
Cap 2
Act No. 7 of 2010 s.18

86A-(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.

(3) The Commission shall specify a 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.

Cap.2

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

Cap.2

(6) The Commission shall, 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, declare such number of women candidates from the respective political parties as Members of Parliament for women special seats.

(7) 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.

(8) 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.

Cap.2

CHAPTER VI

OFFENCES

PART I
OFFENCES RELATING TO REGISTRATION AND NOMINATION

Offences in relation to registration Act No. 6 of 1992 s.39 3 of 2005 s.8

88.-(1) Every person who-

(a) for the purposes 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 application for registration or for the issue of voter's card, 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) knowing or having reason to believe that he is registered in a polling district, applies to be registered otherwise than in accordance with section 17, and without, disclosing to the Registration Officer his previous registration in another polling district;

(c) applies to be registered in a 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 the issue to himself of a new voter's card, otherwise than in the circumstances set out in sections 17, 18 or 19 and without disclosing to the Registration Officer the circumstance in which the application is made or which he does not believe to be true in a material particular; or

(e) knowingly makes any declaration provided for in section 20 which is false, or which he does not believe to be true in a material particular,

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 not exceeding two years, or to both.

(2) Any person whose name has been deleted from a 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 20 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 not less than fifty thousand shillings and not exceeding or to one hundred thousand shillings imprisonment for a term not exceeding twelve months or to both.

Official discouragement of person from seeking nomination Act No. 6 of 1992 s.40

89.-(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 not less than one hundred thousand shillings and not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding twelve months or to both.

Act No.2 of 2005 s.9

(2) No proceedings shall 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.

Election Officers' misconduct Act Nos. 4 of 2000 Sch. 3 of 2005 s.10

89A.-(1) Any election officer who knowingly or willfully does or omit 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 liable to a fine of not less than five hundred thousand shillings and not exceeding one million shillings or to imprisonment for a term of not less than one year and not exceeding two years, or to both.

(2) Where in an election petition the Court determines that an election officer 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 Tanzania Evidence Act, shall apply *mutatis mutandis* in the conduct of case commenced under this section.

Recovery of loss Cap.76 Act No. 4 of 2000 Sch.

89B. Notwithstanding the provisions of section 89A, the provisions of the Public (Recovery of Debts) Act, shall apply *mutatis mutandis* to an election officer 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 election officers Act No. 4 of 2000 Sch.

89C. For purposes of sections 89A and 89B, election officer includes the Regional Election Co-ordinator, Returning Officer, Assistant Returning Officer, presiding officer and polling assistant.

Offences in relation to Voters' registers and Voter's Card Act Nos. 6 of 1992 s.41 3 of 2005 s.11

90.-(1) Every person who-

(a) forges or fraudulently defaces or fraudulently destroys any register of voters; 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 not less than two hundred thousand shillings and not exceeding five hundred thousand shillings or to imprisonment for a term not less than two years and 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 and not exceeding three hundred thousand shillings or to imprisonment for a term of not less than one year and not more than two years or to both.

Registration officers' misconduct Act No. 13 of 2004 s.34

90A.-(1) Any Registration Officer who knowingly does or omits to do anything in relation to registration and thereby jeopardize the registration process, commits an offence and upon conviction, is liable –

(a) in the case of officers specified under paragraph (a) of subsection (2), to a fine of not less than five hundred thousand shillings and not exceeding one million shillings or to imprisonment for a term of not less than one year and not exceeding two years, or to both such fine and imprisonment;

(b) in the case of officers specified under paragraph (b) of subsection (2), to a fine of not less than two hundred thousand shillings and not exceeding five hundred thousand shillings or to

imprisonment for a term not less than six months and not exceeding one year or to both such fine and imprisonment.

(2) For purposes of this section, the Registration Officer includes -

(a) an election officer and Assistant Registration Officer; and

(b) registration assistant.

Offences in relation to nomination forms or ballot papers

91.-(1) Every person who-

(a) forges or fraudulently defaces or fraudulently destroys any nomination form, or ballot paper or delivers to a Returning Officer any nomination form knowing the same to be forged;

Act No. 6 of 1992 s.42

(b) knowingly nominates more than one Presidential candidate;

21 of 1992 s.2

(c) forges or counterfeits or fraudulently destroys any ballot paper or the official mark on any ballot form;

(d) being a Returning Officer or presiding officer knowingly or negligently fails to put an official mark on a ballot paper;

Act No. 3 of 2005 s.12

(e) without due authority supplies any ballot paper to any person;

(f) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorised by law to put in;

(g) 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

(h) without due authority, destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers in use for the purpose of an election,

commits an offence and shall be liable on conviction to a fine of not less than fifty thousand shillings and not exceeding three hundred thousand shillings.

(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 and not exceeding three hundred thousand shillings or to imprisonment for a term of not less than six months and not more than twelve months or to both.

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

False publication of withdrawal Act No. 8 1995 s.14

91A. Any 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 not exceeding two years.

Corrupt inducement of withdrawal Act No. 8 1995 s.14

91B. 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 not exceeding five years.

PART II
OTHER ELECTION OFFENCES

Miscellaneous Offences Act No. 3 of 2005 s.13

92. Any person who willfully furnishes false evidence or makes a false statement in a declaration made under section 66, commits an offence and shall be liable on conviction to a fine of not less than fifty thousand shillings and not exceeding one hundred thousand shillings or to imprisonment for a term of not less than six months and not more than twelve months or to both.

Maintenance of secrecy at elections Act Nos. 6 of 1992 s.43 2 of 2005 s.14

93.-(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 some 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) No such officer, clerk, interpreter, candidate, agent or any other person, shall 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 the voting 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) No person except a presiding officer acting for a purpose authorized by this Act, or person assisting an incapacitated person and acting for such purpose, shall 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) Any 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 and not exceeding three hundred thousand shillings or to imprisonment for a term not less than six months and not more than twelve months or to both.

Penalty for bribery, treating, etc., Act Nos. 8 of 1995 s.15

94. Any 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 fine of not less than five hundred thousand shillings or to imprisonment for a term of not less than one year and not more than three years or to both.

3 of 2005 s.15

Penalty for Impersonation Act Nos. 6 of 1992 s.44 3 of 2005 s.16

95. Any 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 a fine of not less than fifty thousand shillings and not exceeding two hundred thousand shillings or to imprisonment for a term of not less than six months and not more than twelve months or to both.

Disqualifications by conviction for corrupt or illegal practice Act No. 8 of 1995

96.-(1) Any person who is convicted of a corrupt practice and whose conviction is not set aside by a court of competent jurisdiction, shall, in addition to any other punishment, be disqualified during a period of five years from the date of conviction from being registered as a voter or from voting at any election under this Act or under any other written law.

(2) Any person who is convicted of an illegal practice and whose conviction is not set aside by a court of competent jurisdiction shall, in addition to any other punishment, be disqualified during a period of five years from the date of his conviction from being registered as a voter or from voting at any election under this Act or under any other written law.

Repealed Act No.7 of 2010 s.19

97. Repealed.

Repealed Act No.7 of 2010 s.19

98. Repealed.

Persons to be deemed guilty of undue influence

99. 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 giving his vote at any election, commits an offence of undue influence within the meaning of this Act.

Bribery, corruption and

100. Where any person does any act constituting bribery, corruption or undue influence in respect of a member

undue influence in relation to members and officers of the Commission Act No. 7 of 2010 s.20

or officer of the Commission referred to in section 6 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.

Persons deemed to be guilty of impersonation Act No. 6 of 1992 s.45

101. 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 Persons guilty of certain corrupt and illegal practices Act No. 8 of 1995 s.18

102.-(1) Any person who-

(a) votes or attempts to vote, or induces or procures some other person to vote at any election if he, or if to his knowledge such other person, has already voted at that election or in the case of a general election, at any other election held during that general election; or

(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,

commits an offence of a corrupt practice and shall be liable on conviction to a fine not exceeding five

hundred thousand shillings or to imprisonment for a term not exceeding five years or to both.

(2) Any person who-

(a) votes or induces some other person to vote at any election knowing that he or such other person is not entitled to vote or is prohibited by this Act or by any other law from voting at such election; or

(b) for the purpose of procuring the issue to himself of a ballot paper, knowingly tenders an invalid voter's card; or

(c) before or during an election, knowingly publishes any false statement of the withdrawal of a candidate at such election for the purpose of promoting the election of another candidate,

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

Interference with lawful public meeting to be illegal practice Act No. 6 of 1992 s.46 3 of 2005 s.17

103. Any 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 result of the election is 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 and not exceeding two hundred thousand shillings or to imprisonment for a term of not less than six months and not more than twelve months or to both.

Public meetings on election day and display of emblems in vicinity of polling station prohibited
Act Nos. 17 of 1996 Sch.

104.-(1) No person shall hold a meeting on election day or within any building where voting in an election is in progress, or at any place within the radius of two hundred metres of such building wear or display any card photograph, favour, or other emblem indicating support for a particular candidate in the election.

(2) Any person acting in contravention of this section commits an offence and shall be liable on conviction to a fine of not less than fifty thousand shillings and not exceeding one hundred thousand shillings.

13 of 2004 s.35
3 of 2005 s.18

Defacement of notices
Acts Nos. 3 of 2005 s.19
7 of 2010 s.21

105. 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 and not exceeding one hundred thousand shillings or to imprisonment for a term of not less than one month and not exceeding six months or to both.

Documents to bear name and address of printer and publisher
Act Nos. 6 of 1992

106.-(1) No person shall-

(a) print or publish or cause to be printed or published any bill, placard or poster having reference to an election or any printed document distributed for the purpose of promoting procuring the election of a candidate;

(b) post or cause to be posted any such bill, placard or posters; or

s.48
3 of 2005 s.20

(c) distribute or cause to be distributed any printed document for the purpose referred to in subsection (1),

unless the bill, placard, poster or document bears upon its face, the name and address of the printer and publisher and-

(i) in the case of Presidential election such bill, placard, poster or document has been approved by the Commission;

(ii) in the case of Parliamentary election such bill, placard, poster or document has been approved by the Returning Officer.

(2) For the purpose of this section, any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be a printing and the expression "printer" shall be construed accordingly.

(3) Any person who contravenes the provisions of subsection (1) commits an offence and shall be liable on conviction to a fine of not less than thirty thousand shillings and not exceeding one hundred thousand shillings or to imprisonment for a term not less than three months and not more than six months or to both.

(4) Nothing in this section shall apply to any bill, placard, poster or document published by or on behalf of the Commission or a Returning Officer.

Persons convicted of corrupt or illegal practice to be removed from register
Act Nos. 8 of 1995 s.19
13 of 2004 s.36

107. Where a court convicts a person of a corrupt or illegal practice under this Act, it shall report the conviction to the Director of Elections who, if the person concerned is registered as a voter-

(a) shall delete the name of such person from the register of voters in which he is registered; and

(b) shall inform in writing the Registration Officer for the polling district concerned of such deletion.

CHAPTER VII
AVOIDANCE OF ELECTIONS BY ELECTION PETITION

Avoidance of election by election petition
Act Nos. 6 of 1992 s.49
8 of 1995 s.20
4 of 2000 Sch.

108.-(1) Pursuant to the limitation imposed by sub-article (7) of Article 41 of the Constitution, the provisions of this section shall apply only 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 only 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 result 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 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-

(a) that no corrupt or illegal practice was committed by the candidate himself or with the knowledge and consent or approval of such candidate;

(b) that the candidate took all reasonable means for preventing the commission of any corrupt or illegal practice at such an election; and

(c) that in all other respects the election was free from any corrupt or illegal practice on the part of the candidate,

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

Repealed Act No.7 of 2010 s.22

109. Repealed.

Offences by election officers Act Nos. 8 of 1995 s.22 4 of 2000 Sch.

109A. Where in election it is proved that any offence of bribery, treating, corrupt or illegal practices was knowingly committed or furthered by a member or an officer of the Commission or by a person acting under the direction of the Commission, the member or officer or that other person shall be liable on conviction to imprisonment for a term not exceeding five years.

CHAPTER VIII
PROCEDURE AND JURISDICTION OF THE HIGH COURT

Petitions triable by High Court
Act Nos. 13 of 1990 s.18
8 of 1992 s.50

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

(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) On the trial 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
Act Nos. 13 of 1990 s.19 6 of 1992 s.51 4 of 2000 Sch. 25 of 2002 Sch.

111.-(1) An election petition may be presented by one or more of the following persons, namely-

(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 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) No order shall 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 determination by the court of the amount payable as security for costs, no further proceedings shall be heard on the petition.

(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
Act Nos. 13 of 1990 s.20
6 of 1992 s.51

112. In 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;

(c) a declaration that any other candidate was elected; or

(d) 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
Acts No. 7 of 2010 s.23

113.-(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, or any other person or which person, 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.

port of Court on corrupt or illegal practices Act Nos. 13 of 1990 s.20 6 of 1992 s.51 4 of 2000 Sch. 13 of 2004 s.37 7 of 2010 s.24

114.-(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 of voters 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 Election-

(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 document for cancellation.

Time for presentation and determination of election petition and appeal
Act Nos. 6 of 1992 s.52 31 of 1997 Sch. 7 of 2010 s.25

115.-(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 a petition within twelve months from the date of filing a petition.

(3) The court shall hear and determine an appeal within twelve months from the date of lodging the appeal.

(4) An appeal lodged pursuant to this section shall lie to the Court of Appeal.

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

Votes to be struck off at scrutiny
Act Nos. 13 of 1990 s.22 6 of 1992 s.51

116.-(1) Upon a scrutiny at the hearing of an election petition only the following votes shall be struck off; namely-

(a) the vote of any person, other than a candidate or an official voting under subsections (4) or (5) of section 13 whose name was not in the register of voters of the polling district in which he voted;

(b) the vote of any person who committed or procured the commission of the offence of impersonation at the election;

13 of 2004 s.38

(c) the votes of any person proved to have voted more than once at such election except the first vote recorded by such person, where such first vote can be identified to the satisfaction of the court;

(d) 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, except in the case specified in paragraph (d) of subsection (1) of this section, be struck off at a scrutiny by reason only of the voter not having been, or not being qualified to have his name entered into the register of voters.

Rules of court Act No. 6 of 1992 s.53

117.-(1) The Chief Justice may make rules of court regulating the procedure and practice to be followed and prescribing the fees to be paid and in relation to election petitions and applications under this Chapter.

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

Repealed Act No.13 of 1990, section 24

118. Repealed.

CHAPTER IX
FINANCIAL AND MISCELLANEOUS PROVISIONS

Inaccurate description s

119. No 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 purposes of this Act, shall in any way affect the operation of this Act as respects 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

120.-(1) In the exercise of respective duties under this Act, the 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

demand information

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 from standing as a candidate.

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

Remuneration of staff Act No. 6 of 1992 s.54

121. The Director of Elections, Returning Officer, and any other persons employed under and for the purposes of this Act shall, if not holding an office of employment in the service of the United Republic, receive such reasonable remuneration for the services as the Commission sees fit to authorize.

Expenses to be charged on Consolidated Fund

122. 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 121; 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 Act No. 6 of 1992 s.55

123. 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 Act No. 6 of 1992 s.56

124.-(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, may make regulations prescribing-

(a) anything, which under the provisions of this Act, may be prescribed;

(b) forms of documents and declarations for the purposes of this Act; and

(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 and may be translated into and used in such language as the Commission may direct.

Electoral Code of Conduct Act No. 7 of 2010 s.26

124A.(1) The Commission shall, for the purpose of promoting fair, free and orderly elections, and upon consultation with all political parties and the Government, make and publish in the *Gazette* the Electoral Code of Conduct prescribing –

(a) ethical conducts for political parties, the Government and the Commission during election campaigns and elections; and

(b) mechanisms for enforcement of the Electoral Code of Conduct.

(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 to the Electoral Code of Conduct.

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

Exemption from stamp duty

125. 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

126. The Commission may, subject to the provisions of this Act, issue directives of a general or of a specific character in relation to the functions of Returning Officers, presiding officers and other persons employed or for any of purposes of the Act:

Provided that no such directive shall be inconsistent with any provision of this Act or of regulations made pursuant to section 124.

Replacement of Registers etc.

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

CHAPTER X
REPEAL AND TRANSITIONAL PROVISIONS

Repeal of Act No. 25 of 1970

128. The Elections Act, 1970 is hereby repealed.

Savings Act No. 6 of 1992 s.57

129. Notwithstanding the repeal of the Elections Act, 1970-

(a) all forms approved by the Commission for the purposes of this Act, shall be deemed to be forms prescribed by regulations made under section 124 of this Act; and

(b) all subsidiary legislation made under the Act repealed by section 128 and all directions issued by the Commission and still in force, shall be deemed to have been made under this Act until repealed or revoked under this Act.

Transitional provisions Act No. 6 of 1992 s.59

130. [Omitted for being spent].