THE PARLIAMENTARY ELECTIONS ACT, 2005.

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THE PARLIAMENTARY ELECTIONS ACT, 2005

An Act to make provision for parliamentary elections and related matters in accordance with article 76 of the Constitution; to repeal and replace the Parliamentary Elections Act, 2001; to provide for qualifications and disqualification for election, the manner of establishing equivalent of advanced level, nomination, campaigning, polling, counting of votes, tallying and declaration of election results; to provide for petitions for challenging election results, election offences, parliamentary constituencies and tenure of office of members of Parliament; to make provision for parliamentary elections whether under the movement political system or under the multiparty political system; and to provide for other matters related to the foregoing.

WHEREAS paragraph 11 (Democratic Principles) of the National Objectives and Directive Principles of State Policy of the Constitution, provides *inter alia* as follows—

"(i) The State shall be based on democratic principles which empower and encourage the active participation of all citizens at all levels in their own governance;

(ii) All the people of Uganda shall have access to leadership positions at all levels subject to the Constitution";

AND WHEREAS clauses (3) and (4) of article 1 of the Constitution provide as follows—

"(3) All power and authority of Government and its organs derive from this Constitution, which in turn derives its authority from the people who consent to be governed in accordance with this Constitution.

(4) The people shall express their will and consent on who shall govern them and how they should be governed, through regular, free and fair elections of their representatives or through referenda";

DATE OF ASSENT: 16TH NOVEMBER, 2005.

Date of commencement: 21st November, 2005.

NOW THEREFORE, BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY.

1. Interpretation

(1) In this Act, unless the context otherwise requires—

"agent" by reference to a candidate, includes a representative and polling agent of a candidate;

"authorised mark of choice" means the tick or mark authorised under section 30 to be applied to a ballot paper against or in the picture of a candidate of choice of a voter;

"campaign period" means the period determined by the Commission under section 20 as the period during which campaigning may take place;

"candidate" means a person nominated as a candidate for election as an elected member of parliament;

"Commission" means the Electoral Commission established by article 60 of the Constitution;

"Commission Act" means the Electoral Commission Act;

"constituency" means subject to section 101, one of the constituencies into which Uganda is divided under article 63 of the Constitution for the purpose of elections;

"currency point" means the value specified in relation to a currency point in the First Schedule to this Act;

"district" means an electoral district;

"election" means the election of a member of Parliament;

"election officer" includes a returning officer, assistant returning officer, registration officer, assistant registration officer and any other officer appointed by or under the authority of the commission with responsibility for registration of voters, or for presiding over voting in any election or for counting votes at any election;

"election petition" means a petition filed in accordance with section 60;

"illegal practice" means an act declared to be an illegal practice under Part XI of this Act;

"Minister" means the Minister responsible for presidential and parliamentary elections and referenda;

"money" includes a pecuniary reward;

"nomination day" means a day fixed to be nomination day;

"nomination paper" has the meaning assigned to it in section 11;

"office hours" means the hours on a week-day during which the relevant office is open to members of the public;

"parish" includes a ward;

"payment" includes a pecuniary or other reward;

"pecuniary reward" includes any office, place of employment, and valuable security or other equivalent for money and any valuable consideration;

"polling agent" means a person appointed by a candidate as a polling agent;

"polling day" means a day appointed to be polling day under this Act;

"presiding officer" means a person appointed under the Commission Act to be a presiding officer for a polling station;

"public officer" means a person holding or acting in any public office;

"registered", in relation to a voter, means registered for the purpose of voting at an election;

"registered voter" means a person whose name is entered on the voters' register;

"returning officer" means a returning officer appointed under the Commission Act;

"Speaker" means the Speaker of Parliament;

"voter" means a person qualified to be registered as a voter at an election who is so registered and at the time of an election is not disqualified from voting;

"voter's card" means a voter's card issued under section 26 of the Commission Act to a voter whose name appears in the voters' register;

"voters' register" means the National Voters' Register compiled under section 18 of the Commission Act;

"voters' roll" means the voters' roll for any constituency or parish prepared and maintained under the Commission Act.

(2) The Commission Act shall be construed as one with this Act.

PART II—PARLIAMENTARY ELECTIONS GENERALLY.

2. Election of members of Parliament

(1) A general election of members of Parliament shall be held in accordance with article 61 of the Constitution.

(2) Every person elected to Parliament shall take the oath of allegiance and the oath of a member of Parliament specified in the Fourth Schedule to the Constitution.

(3) Except for the purpose of taking the oaths referred to in subsection (2) of this section, no person shall sit or vote in Parliament before taking and subscribing the oaths.

3. By-elections

(1) Whenever a member of Parliament—

(a) dies; or

(b) where the seat of a member of Parliament becomes vacant under article 83 of the Constitution; or

(c) where the seat of a member becomes vacant under section 4,

the Clerk to Parliament shall notify the Commission in writing within ten days after the vacancy has occurred; and a by-election shall, subject to section 95, be held within sixty days after the vacancy has occurred.

(2) A by-election shall not be held under this section within six months before the holding of a general election of members of Parliament.

PART III—QUALIFICATIONS, DISQUALIFICATIONS, TENURE OF OFFICE AND RIGHT OF RECALL.

4. Qualifications and disqualifications of members of Parliament

(1) A person is qualified to be a member of Parliament if that person—

(a) is a citizen of Uganda;
(b) is a registered voter; and

(c) has completed a minimum formal education of Advanced Level standard or its equivalent.

(2) A person is not qualified for election as a member of Parliament if that person—

(a) is of unsound mind;

(b) is holding or acting in an office the functions of which involve a responsibility for or in connection with the conduct of an election;

(c) is a traditional or cultural leader as defined in clause (6) of article 246 of the Constitution;

(d) has been adjudged or otherwise declared bankrupt under any law in force in Uganda and has not been discharged; or

(e) is under a sentence of death or a sentence of imprisonment exceeding nine months imposed by any competent court without the option of a fine;

(f) has, within the seven years immediately preceding the election, been convicted by a competent court of a crime involving dishonesty or moral turpitude; or

(g) has, within the seven years immediately preceding the election, been convicted by a competent court for contravention of any law relating to elections conducted by the Commission.

(3) Under the movement political system, a person who is elected to Parliament while he or she is a member of a local government council or who holds a public office shall resign the office before assuming the office of a member of Parliament.

(4) Under the multiparty political system, a public officer or a person employed in any government department or agency of the government or an employee of a local government or any body in which the government has controlling interest, who wishes to stand for election as a member of Parliament shall—

(a) in the case of a general election, resign his or her office at least ninety days before nomination day; and

(b) in the case of a by election, resign his or her office at least fourteen days before nomination day.

(5) For the purposes of paragraph (c) of subsection (1), any of the following persons wishing to stand for election as a member of Parliament shall establish his or her qualification with the Commission as a person holding a minimum qualification of Advanced Level or its equivalent at least two months before nomination day in the case of a general election, and two weeks in the case of a by election—

(a) persons, whether their qualification is obtained from Uganda or outside Uganda, who are claiming to have their qualification accepted as equivalent to advanced level education;

(b) persons claiming to have advanced level qualifications from outside Uganda;

(c) persons claiming to have academic degrees which were obtained outside Uganda.

(6) A person required to establish his or her qualification under subsection (5) shall do so by the production of a certificate issued to him or her by the National Council for Higher Education in consultation with the Uganda National Examinations Board.

(7) A person who claims to possess a qualification referred to in sub-section (5)(c) of this section shall before the issue of the certificate prove to the satisfaction of the National Council for Higher Education that admission to that qualification was obtained on the basis of Advanced Level Standard of Education or its equivalent.

(8) The certificate shall be in the form in the Second Schedule to this Act.

(9) A certificate issued by National Council for Higher Education under subsection (6) shall be sufficient in respect of any election for which the same qualification is required.

(10) A certificate issued by the National Council for Higher Education under any other enactment, to the same effect as a certificate required to be obtained under subsection (6) shall be sufficient for the purposes of subsection (1)(c).

(11) A person aggrieved by the grant or refusal to grant a certificate by the National Council for Higher Education under this section is entitled to appeal to the High Court against the decision and the High Court may confirm, modify or reverse the decision.

(12) The Chief Justice may, in consultation with the Attorney General make rules to regulate the procedure for appeals under subsection (10) and may for that purpose apply, with or without modifications, rules of court applicable to civil proceedings in the High Court.

(13) For the avoidance of doubt, if a candidate has an advanced level certificate obtained in Uganda or qualifications higher than the prescribed qualification obtained in Uganda or obtained from the former University of East Africa or any of its constituent colleges, then, there shall be no need for the verification of his or her qualifications by the National Council for Higher Education.

(14) The Commission shall not accept for the purposes of this section a statutory declaration or affidavit as evidence of an academic qualification required by this section.

(15) Under the movement political system, a person holding a public office, or a member of a Local Government Council or a Commission established under the Constitution, wishing to be a candidate shall apply for leave of absence at least sixty

days before the expiry of the term of the President; except that in the case of an election taking place other than by reason of the normal expiry of the term of the President, the person shall apply for leave at least fourteen days before the nomination for the election.

(16) Where a person to whom subsection (15) applies wishes to be a candidate he or she shall, before proceeding on leave, relinquish any vehicle or office equipment in his or her custody belonging to his or her employer.

(17) For the purposes of enforcing this section the Commission shall, by writing require any candidate to state in writing the facilities ordinarily attached to any office held by that person to which subsection (15) applies or by virtue of that office; and the candidate shall comply with the requirement.

(18) Every employer to whom subsection (15) relates shall, upon receiving an application by an employee, grant to the employee leave of absence with pay, or where the employee has not earned leave, leave without pay, to seek nomination as a candidate and to be a candidate for election, and for such period as may be requested by the employee.

(19) In this section, "public service" and "public officer" have the meanings assigned to them by article 257 of the Constitution; and "public officer" shall for the avoidance of doubt, include an employee of any Commission established by the Constitution.

(20) This section applies with the necessary modifications, to an employee of a statutory corporation or of a company in which the Government owns a controlling interest as it applies to a public officer.

(21) Where any person intends to stand for election he or she shall not accept office as an election officer.

5. Forgery of certificate of academic qualification

(1) A person who—

(a) forges a certificate purporting it to be issued by the National Council for Higher Education under section 4 or utters such a forged certificate; or

(b) forges any academic certificate for the purpose of nomination for any election under this Act or utters such a forged certificate,

commits an offence and is liable on conviction to a fine not exceeding two hundred and forty currency points or imprisonment not exceeding ten years or both.

(2) A court which convicts a person under this section shall sentence him or her to a fine not less than seventy two currency points or imprisonment not less than three years or both.

PART IV—INFORMATION TO RETURNING OFFICERS AND SECRECY.

6. Information to be given to returning officers

(1) Whenever it is considered necessary and, in any case, immediately after the date of an election is appointed, the Commission shall transmit to every returning officer—

(a) sufficient copies of this Act, and such instructions prepared by the Commission, as are required for the proper conduct of an election by the returning officer and to enable the returning officer to supply to each election officer a copy of those instructions as each election officer may require;

(b) copies of the voters' roll for each polling station within the electoral district;

(c) sufficient blank report books and other election materials; and

(d) sufficient funds to cover all the expenses to be incurred by the returning officer in carrying out the electoral process.

(2) The Commission shall also transmit to each returning officer as soon as practicable, after nomination days, a sufficient number of ballot papers for each constituency within the electoral district of the returning officer in any case not later than three days before the polling day.

7. Secrecy required of election officers and others

(1) Every candidate, election officer, clerk, candidate's agent or other person in attendance at a polling station during the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and no candidate, officer, clerk, candidate's agent or other person shall—

(a) at the polling station, interfere with, or attempt to interfere with, a voter when marking the ballot paper, or otherwise attempt to obtain information with respect to the candidate for whom any voter is about to vote or has voted;

(b) at the counting of the votes, attempt to ascertain the number on the counterfoil of any ballot paper;

(c) at any time, communicate any information with respect to the manner in which any ballot paper has been marked in his or her presence in the polling station;

(d) at any time or place, directly or indirectly, induce or endeavour to induce any voter to show his or her ballot paper after he or she has marked it, so

as to make known to any person the name of the candidate for or against whom the voter has cast his or her vote;

(e) at a polling station, induce or endeavour to induce any voter to vote for a person other than the person of his or her choice;

(f) at any time, communicate to any person any information obtained at a polling station with respect to the candidate for whom any voter at the polling station is about to vote or has voted; or

(g) at the counting of the votes, attempt to obtain any information or communicate any information obtained at the counting with respect to the candidate for whom any vote is given in any particular ballot paper.

(2) A candidate, election officer, candidate's agent or other person on duty at the polling station shall not, except for a purpose authorised by law, communicate to any person any information as to—

(a) the name of the voter who has or has not applied for a ballot paper or voted at a polling station; or

(b) the number on the voters' register of the voter who has or has not applied for a ballot paper or voted at a polling station.

(3) A person who has undertaken under section 37 to assist a blind, illiterate or other voter with disability to vote, shall not communicate at any time to another person information as to the candidate for whom the assisted voter intends to vote or has voted, or as to the number, if any, on the ballot paper given for the use of that voter.

(4) A person shall, before assuming the duties of election officer take and subscribe the oath in Form EO specified in the Second Schedule to this Act.

(5) A person who contravenes subsection (1), (2) or (3) commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

(6) An election officer who, without lawful authority reveals to any person any matter that has come to his or her knowledge or notice as a result of his or her appointment, commits an offence and is liable to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

PART V—DISTRICT, CITY WOMEN REPRESENTATIVES AND SPECIAL INTEREST GROUPS.

8. District or city women representatives and special interest groups

(1) As required by article 78(1)(b) of the Constitution, there shall be one woman representative in Parliament for every district or city.

(2) There shall be the following representatives of special interest groups in Parliament for the purposes of article 78(1)(c) of the Constitution—

(a) for the Uganda Peoples Defence Forces there shall be ten representatives at least two of whom shall be women;

(b) for workers there shall be five representatives at least one of whom shall be a woman;

(c) for the youth there shall be five representatives at least one of whom shall be a woman; and

(d) for persons with disabilities, there shall be five representatives, at least one of whom shall be a woman.

(3) In accordance with article 78(2) of the Constitution, Parliament shall review the representation under article 78(1)(b) and (c) of the Constitution and may by resolution supported by not less than two thirds of all members of Parliament, retain, increase or abolish any such representation.

(4) The following provisions shall apply to district women representatives and special interest groups referred to in subsection (2)—

(a) in the case of the election of district women representatives—

(i) the election shall be by secret ballot;

(ii) the election shall be by universal adult suffrage;

(iii) subject to the provisions of this Act, the election of district women representatives may be held on a different day from the day on which the general election of members of Parliament elected directly to represent constituencies under article 78(1)(a) of the Constitution is held;

(iv) separate ballot boxes shall be used in respect of the election of district women representatives from those used for the election of members of Parliament directly elected to represent constituencies;

(v) the provisions of this Act shall apply with the necessary modifications to the election of district women representatives as they apply to members directly elected to represent constituencies;

(b) the representatives of the Uganda People's Defence Forces shall be elected in a manner prescribed by regulations made by the Minister under section 100;

(c) the representatives of the youth shall be elected in a manner prescribed by regulations made by the Minister under section 100 by the district youth councils within the region of representation constituted into an electoral college in accordance with such regulations and the woman youth representative shall be elected by a national youth conference in accordance with the regulations;

(d) the representatives of the workers shall be elected in a manner prescribed by regulations made by the Minister under section 100;

(e) the representatives of persons with disabilities shall be elected by an electoral college of representatives of such persons from each district in a manner prescribed by regulations made by the Minister under section 100.

(5) Where a new district is created the following provisions shall apply to the election of district women representatives—

(a) the district woman representative for the original district affected shall continue to represent the district of her choice;

(b) election shall be held to elect a district woman representative for the district not represented under paragraph (a).

(c) the election shall be held within sixty days after creation of the new district.

PART VI—NOMINATION OF CANDIDATES FOR ELECTION AS MEMBERS OF PARLIAMENT

9. Appointment of nomination days

(1) The Commission shall issue a notice in the *Gazette* appointing two days during which the nomination of candidates are to take place indicating—

(a) the place and times fixed for the nomination of candidates; and

(b) the hours on each nomination day, during which nominations are to take place.

(2) Every place fixed under paragraph (a) of subsection (1) for the nomination of candidates shall be a public place such as a court house, city or town hall, community centre or other public or private building in a central place in the electoral district or the place that is most convenient for the majority of voters in the electoral district.

(3) The hours to be indicated in accordance with paragraph (b) of subsection (1) shall be from nine o'clock in the morning to five o'clock in the evening on each nomination day.

10. Sponsorship of candidates by political organisations or political parties

Under the multiparty political system, nomination of candidates may be made by a political organisation or political party sponsoring a candidate or by a candidate standing for election as an independent candidate without being sponsored by a political organisation or political party.

11. Procedure for the nomination of candidates

(1) Nomination of a candidate shall be made on nomination day by two registered voters appearing in person tendering to the returning officer the following—

(a) a nomination paper in duplicate in the prescribed form containing a statement under oath by the person seeking nomination specifying—

(i) the name, age, address and occupation of the person seeking nomination;

(ii) the address designated by the person seeking nomination for service of process and papers under this Act;

(iii) the name and address of a person appointed official agent by the person seeking nomination;

(b) a statement signed by the person named under paragraph (a)(iii), stating that he or she has accepted the appointment as agent for the candidate;

(c) the names and signatures of a minimum of ten persons who are registered voters in the constituency where the person seeks nomination as a candidate supporting the nomination and each of the persons so signing shall state in the nomination paper his or her village, occupation and personal voter registration number; and

(d) a statement under oath stating that—

(i) the person seeking nomination is a citizen of Uganda;

(ii) the person is eighteen years of age or above; and

(iii) the person named in the nomination paper as seeking nomination consents to the nomination and is not disqualified to stand as a candidate by this Act or any other law in force in Uganda.

(2) Where under the multi party political system, a person is sponsored by a political organisation or political party, the nomination paper shall indicate that he or

she is so sponsored stating the name and address of the political organisation or political party.

(3) The nomination paper shall be accompanied by a nomination fee of ten currency points in legal tender or a bank draft for that amount made payable to the Uganda Administration.

(4) The nomination paper of every candidate shall be accompanied by two postcard sized copies of the candidate's own recent straight face, colour photograph.

(5) For the purpose of subsection (1)(a)(i)—

(a) the name of the candidate shall be recorded in the nomination paper with the surname first and shall not include any title, degree or other prefix or suffix; and

(b) the occupation of the candidate shall be stated briefly.

(6) A duplicate copy of the nomination paper certified by the returning officer shall be given to the candidate.

(7) A person who uses a convoy of vehicles for the purpose of his or her nomination shall have not more than two vehicles in the convoy and each vehicle shall bear police stickers and shall not carry more than ten persons.

(8) A person who contravenes subsection (7) commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

12. Factors which do not invalidate nomination paper

(1) A nomination paper shall be signed by persons who are qualified voters in the constituency and if any person, who is not a qualified voter signs the nomination paper, the nomination paper shall be invalid.

(2) A returning officer shall refuse to accept any nomination paper if—

(a) an allegation of ineligibility of the candidate is made and the grounds for the allegation appear on the nomination paper;

(b) there appears a major variation between the name of any person as it appears on the nomination paper and the voters roll;

(c) there is any imperfection in the nomination paper leading to a substantial diversity from the requirements of this Act.

(3) A nomination paper which a returning officer has refused to accept for filing may be replaced by another nomination paper or may be corrected; except that a new or corrected nomination paper shall be filed with the returning officer not later than the time for the closure of nomination specified in section 9.

(4) The returning officer shall, immediately after the expiry of the nomination time, announce the name of every candidate who has been duly nominated.

13. Factors which may invalidate a nomination

A person shall not be regarded as duly nominated for a constituency and the nomination paper of any person shall be regarded as void if—

(a) the person's nomination paper was not signed and countersigned in accordance with subsection (1) of section 11;

(b) the nomination fee referred to in subsection (3) of section 11 was not lodged with his or her nomination paper;

(c) the person seeking nomination was not qualified for election under section 4;

(d) the person seeking nomination has been duly nominated for election for another constituency for which the poll has not taken place; or

(e) the person has not complied with the provisions of section 4.

14. Where no candidate or where one candidate is nominated

(1) Where, at the close of the nomination days—

(a) no person has been duly nominated for election for a constituency, the returning officer shall report the fact to the Commission and the Commission shall fix a new polling day under section 18 and the Chairperson of the Commission shall appoint fresh nomination days in respect of the constituency in question;

(b) only one person has been duly nominated for election for a constituency, the returning officer shall forthwith declare that person duly elected as a member of Parliament with effect from the polling day fixed in accordance with this Act.

(2) Where a returning officer makes a declaration under subsection (1)(b), the returning officer shall notify the Commission which shall cause to be published in the *Gazette* a notice of the name of the candidate declared so elected and the day with effect from which he or she was declared elected.

(3) If, by virtue of an appeal under section 16 or as otherwise permitted under this Act, an additional candidate is later duly nominated, the Commission shall

revoke the *Gazette* notice and the returning officer shall revoke his or her declaration.

15. Inspection of nomination papers and lodging of complaints

Any voter registered on the voters roll of a constituency may—

(a) during office hours on the nomination day at the office of the returning officer, inspect any nomination paper filed with the returning officer in respect of the constituency;

(b) after the closure of the nomination time and during such period as may be prescribed, inspect any nomination paper in respect of the constituency at such time and subject to such conditions as may be prescribed; and

lodge any complaint with the returning officer or the Commission in relation to any nomination in respect of the constituency challenging the qualifications of any person nominated.

16. Right to complain to the Commission upon rejection of nomination paper

Where a nomination paper of a person has been rejected or has been regarded as void by virtue of section 13—

(a) the returning officer shall forthwith notify the person of the decision giving reasons for the decision; and

(b) the person shall have the right to complain against the decision to the Commission within seven days from the date of rejection and the Commission may confirm or reverse the decision of the returning officer within seven days from the receipt of the complaint.

17. Allocation of symbols and colours

(1) Where an election is contested, the Commission shall as soon as practicable after the nomination days—

(a) allocate to each candidate the symbol of his or her political organisation or political party in the case of a candidate sponsored by a registered political organisation or political party;

(b) allocate to a candidate who is not sponsored by a political organisation or political party, a symbol or colour chosen by him or her; or

(c) in any other case allocate such symbol or colour as it considers appropriate.

(3) A symbol or colour under subsection (1)(b) and (c) shall be chosen or assigned for the purpose of this section from among symbols and colours approved by the Commission for the purposes of the election.

(4) A person shall not be allocated a symbol or colour which has a tribal or religious affiliation or any other sectarian connotation.

18. Commission to appoint polling day and tallying places

(1) The Commission shall, as soon as practicable after nomination days, by notice in the *Gazette,* appoint—

(a) a day to be known as polling day; and

(b) the time and the place where each returning officer will tally the number of votes given to each candidate at each polling station.

(2) Polling day appointed under subsection (1) shall be not later than forty five days after nomination days.

(3) At least seven days before polling day, each returning officer shall—

(a) fix at his or her office within the district and in each constituency, a list of the names of all the presiding officers and polling assistants appointed under the Commission Act for each polling station in the electoral district, with the names and numbers of their respective polling stations to enable persons to raise any objections they feel necessary; and

(b) permit free access to and afford full opportunity for the inspection of the list by the candidates or their agents and any other interested persons during normal working hours.

(4) The time to be indicated under subsection (1)(b) as the time when the returning officer will tally the votes given to the several candidates shall, at a general election, be not later than forty eight hours immediately following polling day.

19. Withdrawal of candidates

(1) Subject to subsections (2) and (3), a duly nominated candidate for election for a constituency may withdraw his or her nomination at any time before polling day or the first polling day, as the case may be, in the election for which the person is standing as a candidate.

(2) A withdrawal of a candidate under subsection (1) shall be effected by means of a written notification to the returning officer and shall be signed by the candidate personally and the candidate’s signature shall be witnessed by the signatures of two registered voters of the constituency concerned.

(3) Any vote cast on polling day for a candidate who has withdrawn his or her nomination shall be invalid.

(4) Where a candidate withdraws after nomination day and after the ballots are printed, the returning officer shall—

(a) in writing, inform every presiding officer in the constituency where the candidate has withdrawn, of the fact of the withdrawal; and

(b) if time permits, print a notice of the withdrawal and distribute it to each presiding officer.

(5) Where a candidate withdraws under this section, the presiding officer shall, on polling day—

(a) post a notice of the withdrawal in a conspicuous place in the polling station; and

(b) when delivering a ballot paper to each voter, verbally inform the voter of the withdrawal.

PART VII—CAMPAIGNING.

20. Campaign programmes

(1) Subject to the provisions of the Constitution and this Act, the Commission may determine the manner and the period during which campaigns shall take place and shall publish that information in the *Gazette* and forward a copy to each returning officer.

(2) Each candidate shall give his or her campaign programme to the returning officer and the returning officer shall ensure that campaign meetings by different candidates do not coincide in one parish.

(3) At campaign meetings the candidate may use the local language of the area.

(4) Campaign meetings shall not commence until the expiry of nomination days.

(5) A campaign meeting shall not be held within twenty-four hours before polling day.

(6) The Commission shall ensure that adequate security is provided for candidates at campaign meetings.

(7) Subject to the provisions of this section, every candidate for election to Parliament has a right to conduct his or her campaign freely and in accordance with the law.

21. Protection and immunity of candidates

(1) During the campaign period, every public officer and public authority and institution shall, as far as possible, give equal treatment to all candidates.

(2) Subject to any other law, every candidate shall enjoy complete and unhindered freedom of expression and access to information in the exercise of the right to campaign under this Act.

(3) A person shall not, while campaigning, use any language—

(a) which constitutes incitement to public disorder, insurrection or violence or which threatens war; or

(b) which is defamatory or insulting or which constitutes incitement to hatred.

(4) A person who contravenes subsection (3) commits an offence and is liable, upon conviction—

(a) in case of an offence under subsection (3)(a), to a fine not exceeding one hundred and twenty currency points or imprisonment not exceeding five years or both; and

(b) in the case of an offence under subsection (3)(b), to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

(5) The Commission may issue guidelines to be complied with by every candidate while conducting his or her campaign for the election under this Act.

22. Rights of candidates

(1) A candidate in an election shall not be denied reasonable access to and use of, State-owned communication media.

(2) Subject to any other law, during the campaign period any candidate, may, either alone or in common with others, publish campaign materials in the form of books, booklets, pamphlets, leaflets, magazines, newspapers or posters intended to solicit votes from voters but shall, in any such publication specify particulars to identify the candidate or candidates concerned.

(3) A person shall not, during the campaign period print, publish or distribute, a newspaper, circular or pamphlet containing an article, report, letter or other matter commenting on any issue relating to the election unless the author’s name and address, are set out at the end of the article, report, letter or other matter or, where part only of the article, report, letter or matter appears in any issue of a newspaper, circular, pamphlet, at the end of that part.

(4) Except as otherwise provided in this section, a candidate may use private electronic media for his or her campaign.

(5) A candidate shall not use private electronic media to decampaign any other candidate.

(6) In particular, the following acts are prohibited under subsection (5)—

(a) making statements which are false—

(i) knowing them to be false, or

(ii) in respect of which the maker is reckless whether they are true or false;

(b) making malicious statements;

(c) making statements containing sectarian words or innuendoes;

(d) making abusive, insulting or derogatory statements;

(e) making exaggerations or using caricatures of the candidate or using words of ridicule;

(f) using derisive or mudslinging words against a candidate; or

(g) using songs, poems and images with any of the effects described in the foregoing paragraphs;

(7) A person other than a candidate shall not do any of the acts prohibited in subsections (5) and (6).

(8) The proprietor or operator of a private electronic media shall not use the media or allow it to be used to do any of the acts prohibited in subsections (5) and (6).

(9) A person who contravenes any of the provisions of subsections (3), (5), (6), (7) and (8) commits an offence and is liable on conviction—

(a) in the case of an offence under subsection (3), to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both; and

(b) in any other case, to a fine not exceeding one hundred and twenty currency points or imprisonment not exceeding five years or both.

(10) In this section “electronic media” includes television, radio, internet and email.

23. Non - sectarian campaign

(1) A person shall not use a symbol or colour which has a tribal, religious affiliation or any other sectarian connotation as a basis for that persons candidature for election or in support of that person's campaign.

(2) Under the movement political system, a person shall not use as a basis for his or her candidature or campaign, a symbol or colour of a political party or organisation.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on conviction—

(a) in the case of an offence under subsection (1), to a fine not exceeding one hundred and twenty currency points or imprisonment not exceeding five years or both; and

(b) in the case of an offence under subsection (2), to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

24. Interference with electioneering activities of other persons

A person who, before or during an election, for the purpose of effecting or preventing the election of a candidate either directly or indirectly—

(a) by words, whether spoken or written, song, sign or any other representation or in any manner seeks to excite or promote disharmony, enmity or hatred against another person on grounds of sex, race, colour, ethnic origin, tribe, birth, creed or religion;

(b) organises a group of persons with the intention of training the group in the use of force, violence, abusive, insulting, corrupt or vituperative songs or language calculated to malign, disparage, condemn, insult or abuse another person or candidate or with a view to causing disharmony or a breach of the peace or to disturb public tranquillity so as to gain unfair advantage in the election over that other person or candidate;

(c) obstructs or interferes or attempts to obstruct or interfere with the free exercise of the franchise of a voter or compels or attempts to compel a voter to vote or to refrain from voting;

(d) compels, or attempts to compel a candidate to withdraw his or her candidature;

(e) in any manner threatens any candidate or voter with injury or harm of any kind; or

(f) induces or attempts to induce any candidate or voter to fear or believe that he or she will suffer illness or will become an object of divine, spiritual or fetish displeasure or censure;

commits an offence and is liable on conviction to a fine not exceeding seventy two currency points or imprisonment not exceeding three years or both.

25. Use of Government resources

(1) Except as authorised under this Act or otherwise authorised by law, no candidate shall use Government or public resources for the purpose of campaigning for election.

(2) Where a candidate is a Minister or holds any other political office, he or she shall, during the campaign period, restrict the use of the official facilities ordinarily attached to his or her office to the execution of his or her official duties.

(3) For the purposes of enforcing this section the Commission shall, by writing require any candidate to state in writing the facilities ordinarily attached to any office held by that person to which subsection (2) applies and the candidate shall comply with the requirement.

(4) This section applies with the necessary modifications to an employee of a statutory corporation or company in which the government owns a controlling interest and a member of a commission or committee established by the Constitution as it applies to a public officer.

(5) A person who contravenes any provision of this section commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

26. Where one of only two candidates dies

(1) In a constituency, where only two candidates stand validly nominated after the close of nominations, and before the closing of the polls one of them dies or ceases to be a candidate by reason of his or her ceasing to be qualified for election, the Commission shall postpone the polling in the constituency and fix fresh nomination days for the nomination of candidates.

(2) Where fresh nomination days are fixed under subsection (1), any candidate previously validly nominated shall not be required to be re-nominated and only candidates who did not go through the nomination process during the first nomination days shall tender their nomination papers to the returning officer.

(3) An election arising out of a postponement effected under subsection (1) shall, as far as possible, be conducted in accordance with this Act.

PART VIII—VOTING AND VOTING PROCEDURE.

27. Distribution of election materials

Within forty-eight hours before polling day, every returning officer shall furnish each presiding officer in the district with—

(a) a sufficient number of ballot papers to cover the number of voters likely to vote at the polling station for which the presiding officer is responsible;

(b) a statement showing the number of ballot papers supplied under paragraph (a) with the serial numbers indicated in the statement; and

(c) any other necessary materials for the voters to mark the ballot papers and complete the voting process.

28. Publication of list of polling stations and candidates

(1) The Commission shall, by notice in the *Gazette* publish—

(a) a list of the polling stations in each constituency; and

(b) a list of the names of the candidates nominated for each constituency in alphabetical order with surnames first.

(2) The Commission shall also forward each list referred to in subsection (1) to all returning officers; and the returning officers shall ensure that the lists relevant to each constituency are published widely in that constituency.

29. Polling stations and voting time

(1) Every polling station shall, as far as possible, be located in an open ground, or where there is no open ground, in large premises of convenient access, having an outside door for the admittance of voters, and, if possible, another door through which voters may leave after voting and the polling station shall, as far as possible be such as to facilitate access by persons with disabilities and the aged.

(2) At every polling station, polling time shall commence at seven o'clock in the morning and close at five o'clock in the afternoon.

(3) In the process of voting a voter shall not be allowed to carry a bag or anything that can be used for concealment.

(4) Any person registered as a voter and whose name appears in the voters' roll of a polling station and who holds a valid voters' card shall be entitled to vote at the polling station.

(5) If at the official hour of closing the poll in subsection (2) there are any voters in the polling station, or in the line of voters under subsection (3) of section 30 who are qualified to vote and have not been able to do so, the polling station shall be kept open to enable them to vote; but no person who is not actually present at the polling station or in the line of voters at the official hour of closing shall be allowed to vote, even if the polling station is still open when he or she arrives.

30. Polling and polling procedure

(1) Voting at every election shall be by secret ballot using one ballot box at each polling station for all candidates in accordance with this Act.

(2) A presiding officer shall not inquire about or attempt to see, for whom a voter intends to vote; and any person who contravenes this subsection commits an offence and is liable to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

(3) On polling day, all voters intending to vote shall form one line commencing backward from a point each at least twenty metres away from the table at which each voter is to place the authorised mark of choice on the ballot paper.

(4) Voters who have cast their votes and all other persons in the vicinity of the polling station other than election officers, candidates, candidates' agents and observers shall stand or sit at least twenty metres away from the table mentioned in subsection (3).

(5) At every polling station there shall be positioned—

(a) a table where every voter shall report for identification in the voters' roll and collection of a ballot paper;

(b) a second table positioned at least fifteen metres from the first with an ink pad, two pens, each pen being attached to the table with a string measuring about one metre in length, where every voter shall—

(i) fix a tick with a pen or mark with a thumb print in the space provided in the box against the picture or in the picture of the candidate of his or her choice; and

(ii) fold the ballot paper, lengthwise to enable it to be deposited in the slot of the ballot box;

(c) a third table located at least ten metres away from the second and on top of which shall rest a ballot box into which every voter shall deposit the folded ballot paper in the full view of all present; and

(d) a fourth table located at least ten metres from the ballot box where every voter, after depositing the ballot paper into the ballot box, shall proceed and have the thumb on the voters' right hand, dipped into indelible ink to indicate that the voter has cast the ballot.

(6) Where voting takes place for two or more elections in the same premises at the same time the application of the indelible ink under subsection (5)(d) shall be done after the voter votes in the last or only election in which he or she chooses to vote.

(7) Where for the purposes of subsection (5) (d)—

(a) the voter has no thumb on the right hand, the process specified in that paragraph shall be applied to the finger nearest to the position of the thumb on the voters' right hand;

(b) the voter has no right hand the process shall be applied to the left hand;

(c) a voter has no fingers on the left or right hand, the voter may dip the tip of any hand into the indelible ink; or

(d) the voter has no hands, the process shall be applied to any other conspicuous part of the voter's body as a polling assistant may determine.

(8) The presiding officer at each polling station shall, at the commencement of the poll and in the full view of all present, demonstrate to the satisfaction of all present, that the first ballot box is devoid of any contents and after that, place the ballot box on the table under paragraph (c) of subsection (5).

(9) Where more than one ballot box is used after the first is filled, the procedure prescribed in subsection (8) shall be followed prior to the placing on the table, of any additional ballot box.

(10) For the purposes of subsection (5), "table" includes a desk, a box, a chair, a stool and any other object with a hard and smooth surface that can be used as a table.

31. A person not to vote more than once

(1) A person shall not vote or attempt to vote more than once at any election irrespective of the number of offices held by the person relevant to the election.

(2) For the purposes of ensuring that no voter casts a vote more than once, a presiding officer or a polling assistant shall, before issuing a ballot paper, inspect the fingers of any voter in order to ascertain whether or not the voter has been marked with indelible ink in accordance with section 30.

(3) The presiding officer or polling assistant, as the case may be, shall refuse to issue a ballot paper to the voter referred to in subsection (2) if the presiding officer or polling assistant has reasonable grounds to believe that the voter has already voted or if the voter refuses to be inspected under that subsection.

(4) A person who refuses to be inspected under subsection (2) and votes or attempt to vote commits an offence and is liable on conviction to a fine not exceeding twelve currency points or imprisonment not exceeding six months or both.

32. Polling agents of candidates

(1) A candidate may be present in person or through his or her representative or polling agent at each polling station for the purposes of safeguarding the interests of the candidate with regard to the polling process.

(2) Not more than two representatives or polling agents shall be appointed by a candidate under subsection (1) and the appointment shall be in writing addressed to the presiding officer of the polling station.

(3) A representative or polling agent appointed under subsection (2) shall report to the presiding officer of the polling station on polling day.

(4) A representative or polling agent appointed under this section shall be paid an allowance determined by the Commission.

33. No delay in voting

(1) Every voter shall vote in accordance with section 30 without undue delay and may leave the polling station as soon as his or her ballot paper has been put into the ballot box under that section.

(2) The presiding officer may allow expectant mothers, old or sickly voters or voters with disabilities and persons required for essential duties to vote without waiting in the line of voters.

34. Procedure for handing ballot paper to voter

(1) A voter wishing to obtain a ballot paper, for the purpose of voting, shall produce his or her voters' card to the presiding officer or polling assistant at the table under paragraph (a) of subsection (5) of section 30.

(2) If the presiding officer or polling assistant is satisfied that the voter's name and number indicated in the voter's card correspond to the voter's name and number in the voter's register for the polling station, he or she shall issue a ballot paper to the voter.

(3) Where a person does not have a voter's card but is able to prove to the presiding officer or polling assistant that his or her name or photograph or both is or are on the voter's register, the presiding officer or polling assistant shall issue him or her with a ballot paper.

(4) The presiding officer or polling assistant shall place a tick against the voter's name in the voters' roll for the polling station.

(5) Subject to section 39, a person shall not be permitted to vote at a polling station unless the person's name appears in the voter's roll for that polling station.

(6) A person who contravenes subsection (5) commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

35. Where a voter spoils ballot paper

A voter who has inadvertently dealt with the ballot paper delivered to him or her under paragraph (a) of subsection (5) of section 30 in such a manner that it has become impracticable to use it, shall return it to the presiding officer who shall—

(a) deface it by making two diagonal lines across it and writing the word "spoilt" on it; and

(b) deliver another ballot paper to the voter.

36. Where two voters appear under same name

(1) Where a person represents himself or herself to be a particular voter and applies for a ballot paper after another person has voted in the name or number of that person, the second person shall only be entitled to receive a ballot paper and to vote after making before the presiding officer the declaration of identity, in Form ID in the Second Schedule to this Act and otherwise establishing his or her identity to the satisfaction of the presiding officer.

(2) In any case referred to in subsection (1), the presiding officer shall enter in the copy of the voters' register or the voters' roll, opposite the name of the voter—

(a) a note of the voter having voted on a second ballot paper issued under the same name;

(b) the fact of the declaration of identity having been made; and

(c) any objections made on behalf of any of the candidates.

(3) A person who makes any statement which is false in a declaration under this section—

(a) knowing the statement to be false or

(b) in respect of which he or she is reckless whether it is true or false,

commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

37. Assistance to illiterate voters and others with disability

(1) Where a voter is by reason of blindness, illiteracy, old age or any other disability unable to fix the authorised mark of choice on the ballot paper, that voter may report at the polling station accompanied by a person of his or her choice to assist the voter to fix the authorised mark of choice on the ballot paper if necessary,

on the voter's behalf or the voter may, subject to subsection (4), request another person present at the polling station to assist that voter for the purpose.

(2) It shall be lawful for any member of a voter's family to assist a voter under subsection (1) notwithstanding the fact that the former is below the age of eighteen years.

(3) A presiding officer shall refuse to allow a person to assist a voter to vote unless that officer is satisfied that it is permitted under subsection (1).

(4) An election officer, a candidate's agent or an observer at any polling station, is not permitted to assist any voter with disability under subsection (1).

(5) A person is not authorised to assist any voter to mark the ballot paper under subsection (1) unless the voter has voluntarily requested that assistance.

(6) A person who—

(a) pretends to have a disability for the purposes of subsection (1) when he or she does not; or
(b) contravenes subsection (5);

commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

38. Special procedure for voting of persons in institutions and restricted areas

(1) The Commission may make special provision for the taking of the votes of patients in hospitals, or persons admitted in sanatoria or homes for the aged and similar institutions and also for persons in restricted areas such as soldiers and other security personnel, but the Commission shall publish in the *Gazette* a list of the restricted areas under this section.

(2) An area provided for voting for members of the Uganda Peoples' Defence Forces shall be outside any barracks.

39. Factors which may not prevent a person from voting

(1) The claim of a person to vote at any election shall not be rejected by reason only—

(a) that one of the person's names has been omitted from the voters' register or from the voters' roll; or

(b) of the entry in the voters' register or in the voters' roll of a wrong village or of a wrongly spelt name, if, in the opinion of the presiding officer, the person is sufficiently identified.

(2) The claim of a female voter to vote at any polling station shall not be rejected by reason only that she has changed her surname by reason of marriage and that the change has not been reflected in the voters' register or the voters' roll for the polling station.

40. Returning officers to have powers of justice of the peace

(1) During an election and throughout the campaign and polling period, every returning officer and presiding officer or any other authorised agent of the Commission is a keeper of the peace and has all the powers of a justice of the peace, and he or she may—

(a) require the assistance of a member of the Uganda Police Force or other persons present to aid him or her in maintaining peace and good order at the polling station; or

(b) warn or arrest or cause, by verbal order, to be arrested, and place or cause to be placed in the custody of any police officer or other person authorised by law, any person disturbing the peace and good order at the polling station; or

(c) cause any arrested person to be imprisoned under an order signed by him or her until not later than an hour after the closure of the poll.

(2) A returning officer or presiding officer shall where he or she causes the arrest of any person under subsection (1) report the arrest giving details and reasons for the arrest in the form specified in the Second Schedule to this Act.

41. Presiding officers to appoint election constable

(1) A presiding officer, except a presiding officer for a polling station located in an urban area, may, in the absence of a police officer appoint another person present as an election constable to maintain order in the polling station throughout polling day where the presiding officer deems the services of an election constable to be absolutely necessary.

(2) A presiding officer may only appoint a person other than a police officer to be an election constable under subsection (1) when there is actual or threatened disorder or, when it is likely that a large number of voters will seek to vote at the same time.

(3) There shall be appointed at every polling centre established under subsection (2) of section 33 of the Commission Act, one person in order to ensure the orderly and prompt entrance of the voters into their proper polling station within the centre.

(4) When an election constable has been appointed by a presiding officer, the constable shall take and subscribe the oath in Form OC in the Second Schedule to this Act before commencing to discharge his or her responsibilities as election constable.

(5) A presiding officer who has appointed an election constable at a polling station shall state publicly his or her reasons for making the appointment in the space provided for that purpose in the polling report book.

(6) A presiding officer of a polling station located in an urban area may, where required for the purposes of subsection (2), appoint a police officer to maintain order in the polling station.

(7) In this section "urban area" means a town, municipality or the City of Kampala.

42. Arms and ammunition prohibited at polling stations

(1) A person shall not arm himself or herself during any part of polling day, with any arms or ammunition or approach within one kilometre of a polling station, with arms and ammunition unless called upon to do so by lawful authority or where he or she is ordinarily entitled by virtue of his or her office to carry arms.

(2) A person who contravenes subsection (1), commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

43. Loud speakers prohibited at polling stations

(1) A person shall not, on any polling day, for the purpose of promoting or opposing any candidate, use any loudspeaker or similar communication device within hearing distance of any polling station.

(2) Any person who contravenes subsection (1), commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

44. Limitation on campaign period and on display of emblems etc. on polling day

(1) The campaign period prescribed by the Commission under subsection (1) of section 20 shall not extend beyond midnight of the day before polling day.

(2) A person shall not—

(a) post or display on or in a polling station or in a hall, window or door of a building used as a polling station, any campaign literature, emblem, ensign, badge, label, ribbon, flag, banner, card, bill, poster or device, that could be taken as an indication of support for or opposition, to a candidate; or

(b) while in a polling station, display on his or her person any emblem, ensign, badge, label, ribbon, flag, banner, card or device as a badge intended or

likely to be taken as intended to distinguish the wearer as a supporter of any candidate.

(3) Nothing in subsection (1) prohibits a meeting of a candidate with his or her agents and facilitators for the election.

(4) Notwithstanding subsection (2), an agent of a candidate, may in a polling station, display on his or her person, in such form as the Commission may authorise, a label identifying his or her function and the name of the candidate he or she represents.

(5) A person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

45. Interruption and postponement of polling

(1) Where polling at a polling station is interrupted by a riot or violence or any other event while there remains, in the voters' register, voters who have not completed the polling process, the presiding officer shall adjourn the polling to the next day or to any other time of the same day and shall immediately inform the returning officer of the fact.

(2) Where the polling is adjourned to the following day under subsection (1), the time, procedure and manner of the subsequent polling shall be as on the original polling day.

46. Complaints at polling

(1) The candidates' agents and any voter present at a polling station may raise and present in writing complaints relating to the voting at the polling station and shall have the right to obtain information from the presiding officer concerning the counting process.

(2) A presiding officer shall not refuse to receive a complaint presented to him or her under subsection (1) and he or she shall initial every such presentation and annex it as part of the official record of the polling station.

(3) Subject to subsection (4), any presentation received by the presiding officer under this section shall be deliberated upon and resolved by the presiding officer and the polling assistants.

(4) Where necessary in the opinion of the presiding officer to enable the voting process to proceed, the deliberation or resolution of a presentation under subsection (3) may be postponed until the completion of the voting process.

PART IX—COUNTING OF VOTES AND ANNOUNCEMENT OF RESULTS.

47. Votes to be counted at each polling station

(1) Votes cast at a polling station shall be counted at the polling station immediately after the presiding officer declares the polling closed and the votes cast in favour of each candidate shall be recorded separately in accordance with this Part of this Act.

(2) Subject to section 57, no votes shall stay uncounted overnight and, where required, the presiding officer shall provide light for the purposes of counting votes.

(3) A candidate may be present in person or through his or her representative or polling agent at each polling station, and at the place where the returning officer tallies the number of votes for each candidate or conducts a recount under section 54 for the purposes of safeguarding the interests of the candidate with regard to all stages of the counting, tallying or recounting processes.

(4) At the commencement of the counting, the presiding officer shall, in the presence and full view of all present, open the ballot box and empty its contents onto the polling table, and with the assistance of polling assistants proceed to count the votes separating the votes polled by each candidate.

(5) The presiding officer and the candidates or their agents, if any, shall sign and retain a copy of a declaration stating—

(a) the polling station;

(b) the number of votes cast in favour of each candidate;

and the presiding officer shall there and then announce the results of the voting at that polling station before communicating them to the returning officer.

(6) Votes cast for each candidate shall be recorded in both figures and words and the countersigned by polling agents before the declaration of the results.

(7) The following shall apply in respect of the signing of the declaration and the announcement of the results of voting under subsection (5)—

(a) the candidates or their agents shall sign the declaration form before the announcement of the results under subsection (5);

(b) where any of the candidates or their agents refuse or fail to sign the declaration form—

(i) the candidates and their agents refusing or failing to sign shall record on the declaration form the reasons for the refusal or failing to sign; and

(ii) where they refuse or fail to record the reasons, the presiding officer shall record the fact of their refusal or failure;

(c) where any candidate or agent is absent, the presiding officer shall record the fact of that absence;

(d) the refusal or failure of a candidate or agent to sign any declaration form under subsection (5) or to record the reasons for that refusal to sign as required under this subsection shall not by itself invalidate the results announced under subsection (5);

(e) the absence of a candidate or an agent from the signing of a declaration form or the announcement of results under subsection (5) shall not by itself invalidate the results announced.

48. Complaints during the counting of votes

(1) A candidate or a candidate's agent or any voter present may raise any objection during the counting of the votes, and each presiding officer shall—

(a) keep a record, in the report book, of every objection made by any candidate or a candidate's agent or any voter present, to any ballot paper found in the ballot box; and

(b) decide every question arising out of the objection.

(2) Every objection recorded under subsection (1) shall be numbered and a corresponding number placed on the back of the ballot paper to which it relates and the ballot paper shall be initialled by the presiding officer and it shall be witnessed by the polling assistants and candidates' agents.

(3) The decision of a presiding officer in respect of an objection raised under subsection (1) is final, subject to reversal only on recount or on a petition questioning the election return.

49. Votes to be treated as invalid

(1) A vote cast is invalid if—

(a) the ballot paper is torn into two or more parts; or

(b) where the voting is by placing a mark of choice on the ballot paper—

(i) the voter marks the ballot paper with a mark other than the authorised mark of choice; or

(ii) places the authorised mark of choice on the ballot paper in such a way that the choice of the voter cannot be reasonably ascertained.

(2) A ballot paper shall not be taken as invalid under this section irrespective of where the authorised mark of choice is placed, so long as the voter's choice can be reasonably ascertained.

(3) A vote which is invalid shall not be counted in determining the results of the election.

50. Declaration of results forms

(1) Each presiding officer shall fill the necessary number of copies of the prescribed form for the declaration of results as follows—

(a) one copy of the completed form shall remain attached to the report book referred to in paragraph (c) of subsection (1) of section 6;

(b) one copy shall be retained by the presiding officer for display at the polling station;

(c) one copy shall be enclosed in an envelope supplied by the Commission for the purpose, sealed by the presiding officer and delivered to the nearest result collection centre prescribed by the returning officer, together with the report book, for transmission to the returning officer;

(d) one copy shall be delivered to each of the candidates' agents or, in the absence of those agents, to any voters present claiming to represent the candidates; and

(e) one copy shall be deposited and sealed in the ballot box.

(2) The presiding officer shall, in the presence of the candidates and the candidates' agents as may wish to be present, seal the ballot box with a seal provided for the purpose by the Commission.

(3) The sealed ballot box referred to in subsection (2) shall contain the following items—

(a) one duly signed declaration of results form;

(b) the ballot papers received by each candidate, tied in separate bundles;

(c) the invalid ballot papers, tied in one bundle;

(d) the spoilt ballot papers, tied in one bundle;

(e) the unused ballot papers; and

(f) the voters roll used at the polling station.

(4) The declaration of results form referred to in subsection (1) shall be signed by the presiding officer and the candidates or their agents as are present and wish to

do so, and the presiding officer shall there and then, announce the results of the voting at that polling station before communicating them to the returning officer.

51. Collection of results

(1) A returning officer may appoint one or more persons for the purpose of collecting the results of the poll from a given number of results collecting centres prescribed by him or her and each person shall, on delivering the results to the returning officer, sign the prescribed declaration of delivery of results form.

(2) Each presiding officer shall, without any delay after closing the poll, transmit or deliver to the returning officer or to the nearest results collecting centre—

(a) the sealed ballot box;

(b) the duly filled and signed declaration of results form;

(c) the report book filled in and signed by the presiding officer and the polling assistants.

52. Safe keeping of election materials and records

(1) The returning officer shall be responsible for the safe custody of all the election documents used in the district in connection with an election until the documents are destroyed in accordance with the directions of the Commission, but the Commission shall not give such directions before the settlement of disputes if any arising from the election.

(2) A returning officer shall, on receipt of each ballot box—

(a) take every precaution for its safe custody;

(b) examine the seal affixed to the ballot box, with a view to ensuring that the box is properly sealed; and

(c) if the box is not in good order, record his or her observations and affix a different seal supplied by the Commission.

53. Tallying of results by the returning officer

(1) After all the envelopes containing the declaration of results forms have been received the returning officer shall, in the presence of the candidates or their agents or such of them as wish to be present, open the envelopes and add up the number of votes cast for each candidate as recorded on each form.

(2) The returning officer may open the envelopes and add up the number of votes cast even though some of the envelopes have not been received, if the candidates or the candidates' agents and a police officer not below the rank of Inspector of Police are present.

(3) Where any envelope under subsection (1) does not contain the results of the poll, the returning officer may, for the purpose of finalising a statement of the poll, use the declaration of results form in the presiding officer's report book.

(4) If the report book does not contain the declaration of results form duly filled by the presiding officer, the returning officer may, in the presence of a police officer, not below the rank of Inspector of Police and any of the candidates or candidates' agents who wish to be present, open the ballot box in order to obtain the declaration of results form for the purpose of adding up the results of the poll.

(5) Where the returning officer opens the ballot box under subsection (2) he or she shall re-seal the ballot box immediately after ascertaining the results with the declaration of results forms re-sealed in the envelopes in the ballot box.

54. Cases of mandatory recount

(1) Where, after the official addition of the votes—

(a) there is an equality of votes between two or more candidates obtaining the highest number of votes; or

(b) the number of votes separating the candidate receiving the highest number of votes and any other candidate is less than fifty,

the returning officer shall, if requested in writing by a candidate, a candidates' agent or a voter registered to vote in the constituency, in the presence of a senior police officer recount the votes after giving a written notice of the intention to recount to all interested parties.

(2) Where a recount under this section results in an equality of votes among two or more candidates obtaining the highest number of votes, a run off election shall be held involving only the candidates with equal votes; and the election shall take place not later than thirty days from the date of the recount.

55. Application to Chief Magistrate for a recount

(1) Within seven days after the date on which a returning officer has, in accordance with section 58, declared as elected the candidate who has obtained the highest number of votes, any candidate may apply to the Chief Magistrate for a recount.

(2) The Chief Magistrate shall appoint the time to recount the votes which time shall be within four days after receipt of the application under subsection (1) and the recount shall be conducted in accordance with the directions of the Chief Magistrate.

(3) A candidate who requests a recount under this section shall deposit with the Chief Magistrate a security for costs of thirty currency points.

56. Recovery of costs of recount

(1) Where a recount under section 55 does not alter the result of the poll as to affect the declaration by the returning officer under section 58, the court may order the costs of the candidate declared to be paid by the person who applied for the recount.

(2) The monies deposited as security for costs shall, so far as necessary, be paid out to the candidate in whose favour costs are awarded and, if the deposit is insufficient to cover the costs, the court shall order the liable party to pay the balance.

57. Interruption or postponement of counting, tallying or recounting

(1) Where counting, tallying or recounting of votes is interrupted by a riot or violence or any other cause, the presiding officer or returning officer shall adjourn the counting, tallying or recounting to the next day or to any other time of the same day and shall immediately inform—

(a) in the case of the presiding officer, the returning officer; or

(b) in the case of the returning officer, the Commission,

of that fact.

(2) Where the counting, tallying or recounting of votes is adjourned to the following day under subsection (1), the time, procedure and manner of the subsequent counting, tallying or recounting shall be as on the original occasion.

(3) Where counting is adjourned under this section, the ballot boxes shall be kept in safe custody and the candidates or their agents shall be entitled to be present to keep watch on the boxes until counting resumes.

58. Declaration of winning candidate

(1) Each returning officer shall, immediately after the addition of the votes under subsection (1) of section 53, or after any recount, declare elected the candidate who has obtained the largest number of votes by completing a return in the prescribed form.

(2) Upon completing the return, every returning officer shall transmit to the Commission the following documents—

(a) the return form;

(b) a report of the elections within the returning officer’s electoral district;

(c) the tally sheets; and

(d) the declaration of results forms from which the official addition of the votes was made.

(3) Where a returning officer receives notice of a recount under section 55, he or she shall delay transmission of the return and report for the constituency in question until he or she has received from the court a certificate of the results of recount.

59. Declaration of results and reports by the Commission

(1) The Commission shall, as soon as practicable after the election, ascertain, declare in writing under its seal and publish in the *Gazette,* the results of the election in each constituency.

(2) The Commission shall, as soon as practicable after each general election, produce a detailed report on the conduct of the election and submit it to the Minister who shall in turn present it before Parliament.

(3) For the purposes of a report under subsection (2), every candidate at an election and every official agent of any candidate has the right to send to the Commission a statement in writing containing any complaint that he or she may wish to make with respect to the conduct of the election or of any election officer and any suggestions with respect to such changes or improvements in the law or in the administration arrangements as he or she may consider desirable.

PART X—ELECTION PETITIONS.

60. Who may present election petition

(1) Election petitions under this Act shall be filed in the High Court.

(2) An election petition may be filed by any of the following persons—

(a) a candidate who loses an election; or

(b) a registered voter in the constituency concerned supported by the signatures of not less than five hundred voters registered in the constituency in a manner prescribed by regulations.

(3) Every election petition shall be filed within thirty days after the day on which the result of the election is published by the Commission in the *Gazette*.

(4) For the purposes of this section, where any rules of court require a petition to be filed in any particular registry of the High Court, the filing of the petition in a registry of the High Court other than in the first-mentioned registry shall not invalidate the petition; and the registrar at the place where it is filed shall take necessary steps to cause the petition to be transferred to the appropriate registry but the court may award costs in respect of such filing.

61. Grounds for setting aside election

(1) The election of a candidate as a member of Parliament shall only be set aside on any of the following grounds if proved to the satisfaction of the court—

(a) non-compliance with the provisions of this Act relating to elections, if the court is satisfied that there has been failure to conduct the election in accordance with the principles laid down in those provisions and that the non-compliance and the failure affected the result of the election in a substantial manner;

(b) that a person other than the one elected won the election; or

(c) that an illegal practice or any other offence under this Act was committed in connection with the election by the candidate personally or with his or her knowledge and consent or approval; or

(d) that the candidate was at the time of his or her election not qualified or was disqualified for election as a member of Parliament.

(2) Where an election is set aside, then, subject to section 63, a fresh election shall be held as if it were a by-election in accordance with section 3.

(3) Any ground specified in subsection (1) shall be proved on the basis of a balance of probabilities.

62. Notice of petition to be served on respondent

Notice in writing of the presentation of petition accompanied by a copy of the petition shall, within seven days after the filing of the petition, be served by the petitioner on the respondent or respondents, as the case may be.

63. Trial of election petitions

(1) Every election petition, filed under this Act, shall be tried in open court.

(2) The High Court shall proceed to hear and determine the matter expeditiously and may, for that purpose suspend any other matter pending before it.

(3) If, on the trial of an election petition it is proved that any person who voted for a candidate—

(a) was bribed or subjected to undue influence by the candidate or anyone acting on behalf of the candidate; or

(b) was guilty of personation or of an illegal practice or was not qualified or was disqualified as a voter at the election; or

(c) voted more than once at the election;

then without prejudice to any other consequences prescribed for the infringement of any provision of this Act, the vote given for the candidate by that person shall be deducted from the total number of votes given for the candidate at the election.

(4) After due inquiry the court hearing an election petition may—

(a) dismiss the petition; or

(b) declare that a candidate other than the candidate declared elected was validly elected; or

(c) set aside the election and order a new election.

(5) The High Court before coming to a decision under subsection (4), may order a recount of the votes cast.

(6) At the conclusion of the trial of an election petition the court shall determine whether the respondent was duly elected or whether any, and if so which person other than the respondent was or is entitled to be declared duly elected, and if the court determines that—

(a) the respondent was duly elected, the election shall be and remain as valid as if no petition had been presented against the respondent's election;

(b) the respondent was not duly elected but that some other person was or is entitled to be declared duly elected—

(i) the respondent shall be ordered to vacate his or her seat; and

(ii) the court shall certify its determination to the Commission and the Speaker, and the Commission shall thereupon, by notice published in the Gazette, declare that other person duly elected with effect from the day of the determination by the court.

(c) the respondent was not duly elected and that no other person was or is entitled to be declared duly elected—

(i) the seat of the respondent shall be declared vacant; and

(ii) the court shall forthwith, certify its determination to the Clerk to Parliament and the Commission.

(7) Nothing in this Part confers on the High Court power to convict a person of a criminal offence when hearing any election petition under this Part.

(8) At the conclusion of the hearing of an election petition, the High Court shall, if it is of the opinion that a person has been proved to have committed a criminal offence in connection with the election to which the petition relates, send a written report to the Director of Public Prosecutions stating the name of the person, the nature of the offence and any other information that the court may consider relevant and appropriate for the Director of Public Prosecutions.

(9) The High Court shall determine an election petition before it within six months after the petition was lodged in that Court.

64. Witnesses in election petitions

(1) At the trial of an election petition—

(a) any witness shall be summoned and sworn in the same manner as a witness may be summoned and sworn in civil proceedings;

(b) the court may summon and examine any person who, in the opinion of the court is likely to assist the court to arrive at an appropriate decision;

(c) any person summoned by the court under paragraph (b) may be cross-examined by the parties to the petition if they so wish.

(2) A witness who, in the course of the trial of an election petition, wilfully makes a statement of fact material to the proceeding which he or she knows to be false or does not know or believe to be true or in respect of which he or she is reckless whether it is true or false, commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

65. Withdrawal of election petitions

(1) An election petition shall not be withdrawn except with leave of the court and after such notice has been given as the court may direct.

(2) On the hearing of the application for withdrawal, any person who might have been a petitioner in respect of the election to which the petition refers may apply to the court to be substituted as a petitioner for the petitioner who desires to withdraw.

(3) The court may substitute as a petitioner an applicant under subsection (2) and may further, if the proposed withdrawal has been, in the opinion of the court, induced by any corrupt bargain or consideration, by order, direct that the security given on behalf of the original petitioner shall remain as security for any costs that may become payable by the substituted petitioner and that the original petitioner shall be liable to pay the costs.

(4) If a petition is withdrawn the petitioner shall be liable to pay the costs of the respondent.

66. Appeals

(1) A person aggrieved by the determination of the High Court on hearing an election petition may appeal to the Court of Appeal against the decision.

(2) The Court of Appeal shall proceed to hear and determine an appeal under this section expeditiously and may, for that purpose, suspend any other matter pending before it.

(3) A person aggrieved by the decision of the Court of Appeal under sub section (2) may appeal against the decision to the Supreme Court.

(4) The Supreme Court shall proceed to hear and determine an appeal under this section expeditiously and may for that purpose suspend any other matter pending before it.

67. Petition to abate on death of petitioner

An election petition shall abate at the death of the sole petitioner or of all the petitioners.

PART XI—ILLEGAL PRACTICES.

68. Bribery

(1) A person who, either before or during an election with intent, either directly or indirectly to influence another person to vote or to refrain from voting for any candidate, gives or provides or causes to be given or provided any money, gift or other consideration to that other person, commits the offence of bribery and is liable on conviction to a fine not exceeding seventy two currency points or imprisonment not exceeding three years or both.

(2) A person who receives any money, gift or other consideration under subsection (1) also commits the offence under that subsection.

(3) Subsection (1) does not apply in respect of the provision of refreshments or food—

(a) offered by a candidate or candidate's agent who provides refreshments or food as an election expense at a candidates' campaign planning and organisation meeting; or

(b) offered by any person other than a candidate or a candidate's agent who, at his or her own expense provides the refreshments or food at a candidates' campaign planning and organisation meeting .

(4) An offence under subsection (1) shall be an illegal practice.

(5) Every candidate or candidate's agent who, by himself or herself or any other person, directly or indirectly, before the close of polls on polling day offers, procures or provides or promises to procure or provide any alcoholic beverage to any person commits an illegal practice.

(6) A person who during the campaign in respect of an election, solicits from a candidate or a candidate's agent any money, gift, alcoholic beverage or other

consideration in return for directly or indirectly influencing another person to vote or refraining from voting for a candidate or in consideration for his or her voting for the candidate or not voting for another candidate, commits an illegal practice.

69. Procuring prohibited persons to vote

A person who votes or induces or procures any person to vote at an election, knowing that he or she or that person is prohibited by law from voting at that election, commits an illegal practice.

70. Publication of false statements as to illness, death or withdrawal of candidate

A person who, before or during an election, publishes a false statement of the illness, death or withdrawal of a candidate at that election for the purpose of promoting or procuring the election of another candidate knowing that statement to be false or not knowing or believing it on reasonable grounds to be true, commits an illegal practice.

71. Obstruction of voters

A person who, at an election, or on nomination days, wilfully obstructs a voter, or an aspiring candidate either at the polling station or nomination centre or on his or her way to or from, the polling station, or nomination centre commits an illegal practice.

72. Penalty for illegal practices, under sections 68(5) or (6), 69, 70 and 71

A person who commits an illegal practice under sections 68(5) or (6) or 69, 70 or 71 commits an offence and is liable to a fine not exceeding forty eight currency points or imprisonment not exceeding two years or both.

PART XII—OTHER ELECTION OFFENCES.

73. False statements concerning character of candidates

(1) A person who, before or during an election for the purpose of effecting or preventing the election of a candidate, makes or publishes or causes to be made or published by words whether written or spoken, or by song in relation to the personal character of a candidate, a statement which is false—

(a) which he or she knows or has reason to believe to be false; or

(b) in respect of which he or she is reckless whether it is true or false,

commits an offence and is liable on conviction to a fine not exceeding twelve currency points or imprisonment not exceeding six months or both.

(2) This section does not take away the right of a person to sue for defamation of character.

74. Misconduct at campaign meetings

(1) A person who, at any campaign meeting relating to an election, acts in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting is held, commits an offence and is liable, on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

(2) The chairperson of a meeting to which this section applies may direct any person who, in the opinion of the chairperson, is preventing the transaction of the business for which the meeting is being held, to leave the place; and if the person fails or refuses to leave, the chairperson may cause that person to be removed from that place using such force as may be reasonably necessary.

(3) A person who has in accordance with subsection (2), left or who has been removed from a place in which a meeting to which this section applies is taking place, shall not, without the permission of the chairperson of the meeting, return to that place while the meeting is still in progress.

(4) A person who contravenes subsection (3) commits an offence and is liable on conviction to a fine not exceeding twelve currency points or imprisonment not exceeding six months or both.

75. Failure by presiding officers to furnish election returns

A presiding officer who fails without lawful excuse to furnish the returns of the election to the returning officer within the time in which that person is required to furnish those returns, commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or to imprisonment not exceeding one year or both.

76. Offences relating to voting

A person who—

(a) forges or fraudulently defaces or destroys any document relating to the holding of an election, or alters any such document or delivers to the returning officer any document, knowing it to be forged;

(b) forges, counterfeits or destroys any ballot paper or the official mark on any ballot paper;

(c) without authority supplies any ballot paper to any person;

(d) without authority sells or offers to sell any document relating to the holding of an election to any person or purchases or offers to purchase any such document from any person;

(e) not being a person entitled under this Act to be in possession of any document relating to the holding of an election, has any such document in his or her possession;

(f) knowingly and intentionally puts into a ballot box anything other than the ballot paper which he or she is authorised to put in;

(g) without authority, takes out of a polling station any ballot paper or other official document relating to an election or is found in possession of any ballot paper or such document outside a polling station;

(h) without due authority, destroys, takes, opens, or otherwise interferes with a ballot box, ballot documents or other property in use or intended to be used for the purpose of an election;

(i) without due authority, prints any ballot paper or what purports to be or is capable of being used as a ballot paper at an election; or

(j) not being authorised so to do under this Act makes any mark on a ballot paper issued to a person, other than the person making the mark, with intent that the ballot paper shall be used to record the vote of that other person,

commits an offence and is liable on conviction to a fine not exceeding one hundred and twenty currency points or imprisonment not exceeding five years or both.

77. Unauthorised voting or voting more than once

A person who knowingly—

(a) votes at an election at which that person is not entitled to vote; or

(b) votes more than once at an election,

commits an offence and is liable on conviction to a fine not exceeding one hundred and twenty currency points or imprisonment not exceeding five years or both.

78. Making wrong returns of an election

An election officer, or other person having any duty to perform in relation to an election who—

(a) makes in any record, return or other document which he or she is required to keep or make under this Act, any entry which he or she knows or has reasonable cause to believe to be false;

(b) permits any person whom he or she knows or has reasonable cause to believe not to be a person with disability under subsection (1) of section 37 to vote in the manner provided for such persons under that subsection;

(c) refuses to permit any person whom he or she knows or has reasonable cause to believe to be a person with disability under subsection (1) of section

37 to vote in the manner provided for such a person under that subsection;

(d) wilfully prevents any person from voting at the polling station at which he or she knows or has reasonable cause to believe that person is entitled to vote;

(e) wilfully rejects or refuses to count any paper which he or she knows or has reasonable cause to believe is validly cast in favour of a candidate;

(f) wilfully counts any ballot paper as being validly cast in favour of a candidate which he or she knows or has reasonable cause to believe was not validly cast for that candidate; or

(g) without reasonable cause acts or omits to act in breach of his or her official duty,

commits an offence and is liable on conviction to a fine not exceeding one hundred and twenty currency points or imprisonment not exceeding five years or both.

79. Personation

(1) A person who votes as some other person, commits the offence of personation whether that other person is living or dead or is a fictitious person.

(2) A person who commits an offence of personation is liable, on conviction, to imprisonment not exceeding five years.

80. Offence of undue influence

(1) Where a person—

(a) directly or indirectly in person or through any other person—

(i) makes use of, or threatens to make use of, any force or violence;

(ii) inflicts or threatens to inflict in person or through any other person any temporal or spiritual injury, damage, harm or loss upon or against any person,

in order to induce or compel that person to vote or refrain from voting, or on account of that person having voted or refrained from voting; or

(b) by abduction, duress or any fraudulent device or contrivance, impedes or prevails upon a voter either to vote or to refrain from voting,

that person commits the offence of undue influence.

(2) A person who commits an offence under subsection (1) is liable on conviction—

(a) in case of an offence under subsection (1)(a) or in case of an offence under subsection (1)(b) where the offence involves abduction, to a fine not exceeding one hundred and twenty currency points or imprisonment not exceeding five years or both; or

(b) in the case of an offence under subsection (1)(b) which does not involve abduction, to a fine not exceeding forty eight currency points or imprisonment not exceeding two years or both.

81. Prohibition of certain activities on polling day

(1) Without derogation from any other provision of this Act or any other enactment, a person shall not, within one hundred metres of any polling station on any polling day—

(a) canvass for votes;

(b) utter any slogan;

(c) distribute leaflets or pamphlets for or on behalf of any candidate;

(d) organise or engage in public singing or dancing; or

(e) use any band or any musical instrument.

(2) During the hours when a polling station is open on a polling day, a person shall not, within two hundred metres of any polling station—

(a) seek to influence, in whatever manner, any person to vote for any candidate or to ascertain for which candidate any voter intends to vote or has voted; or

(b) sell any intoxicating liquor.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable, on conviction, to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

82. Defacement of notice and posters

(1) A person who without lawful excuse, 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 under any provision of this Act, commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

(2) A person who maliciously defaces or removes or tears, any election poster of any nominated candidate, commits an offence and is liable, on conviction to a

fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

(3) A court which convicts a person of an offence under subsection (1) shall, within fourteen days after the conviction, report the conviction in writing to the Commission.

83. Obstruction of election officers

A person who wilfully obstructs or interferes with an election officer in the execution of the officer's duty, commits an offence and is liable on conviction to a fine not exceeding seventy two currency points or imprisonment not exceeding three years or both.

PART XIII—GENERAL.

84. Tenure of office of members of Parliament

(1) A member of Parliament shall vacate his or her seat in Parliament—

(a) if he or she resigns his or her office in writing signed by him or her and addressed to the speaker;

(b) if such circumstances arise that if that person were not a member of Parliament would cause that person to be disqualified for election as a member of Parliament under article 80 of the Constitution;

(c) subject to clause (4) of article 77 of the Constitution, upon dissolution of Parliament;

(d) if that person is absent from fifteen sittings of Parliament without permission in writing of the Speaker during any period when Parliament is continuously meeting and is unable to offer satisfactory explanation to the relevant Parliamentary Committee for his or her absence;

(e) if that person is found guilty by the appropriate tribunal of violation of the Leadership Code of Conduct and the punishment imposed is or includes the vacation of the office of a member of Parliament;

(f) if recalled by the electorate in his or her constituency in accordance with the Constitution;

(g) if that person leaves the political organisation or political party for which he or she stood as a candidate for election to Parliament to join another organisation or party or to remain in Parliament as an independent member;

(h) if, having been elected to Parliament as an independent candidate, that person joins a political organisation or political party; or

(i) if that person is appointed a public officer and has accepted the appointment.

(2) Notwithstanding paragraphs (g) and (h) of subsection (1) of this section, membership of a coalition government of which his or her original political organisation or political party forms part, shall not affect the status of any member of Parliament.

(3) The provisions of paragraphs (g) and (h) of subsection (1) and of subsection (2) of this section shall only apply during any period when the multiparty political system is in operation.

85. Right and procedure of recall

(1) Subject to article 84 of the Constitution, the electorate of any constituency and of any special interest group referred to in article 78 of the Constitution have the right to recall their member of Parliament before the expiry of the term of Parliament.

(2) The right to recall a member of Parliament only applies when the movement political system is in force.

(3) A member of Parliament may be recalled from that office on any of the following grounds—

(a) physical or mental incapacity rendering that member incapable of performing the functions of the office; or

(b) misconduct or misbehaviour likely to bring hatred, ridicule, contempt or disrepute to the office; or

(c) persistent deserting of the electorate without reasonable cause.

(4) The recall of a member of Parliament shall be initiated by a petition in writing setting out the grounds relied on and signed by at least two thirds of the registered voters of the constituency or of the special interest group referred to in subsection (1), and shall be delivered to the Speaker.

(5) On receipt of the petition referred to in subsection (4), the Speaker shall, within seven days require the Commission to verify whether the petition is initiated within the requirements of subsection (4) and to conduct a public inquiry into the matters alleged in the petition and the Commission shall expeditiously conduct the necessary inquiry and report its findings to the Speaker.

(6) The Speaker shall—

(a) declare the seat vacant, if the Commission reports that it is satisfied from the inquiry, with the genuineness of the petition; or

(b) declare immediately that the petition was unjustified, if the Commission reports that it is not satisfied with the genuineness of the petition.

(7) For the purposes of any inquiry under subsection (5), the Commission shall be assisted by counsel appointed by the Attorney-General.

(8) The member of Parliament to whom the inquiry relates is entitled to appear in his or her own defence and to be represented by counsel of his or her choice.

(9) Where it is alleged in a petition submitted under subsection (4) that a member of Parliament be recalled on grounds of permanent physical or mental incapacity rendering that member incapable of performing the functions of the office of member of Parliament, the Speaker shall request the head of the medical services of Uganda to appoint a medical board to examine the member of Parliament with a view to establishing the state of health of that member of Parliament and shall immediately notify the Commission of the appointment.

(10) The member of Parliament shall be informed by the Commission of the appointment of the medical board within seven days after being notified of the appointment.

(11) If the medical board determines that the member of Parliament in question is unfit for the work of Parliament on the ground specified in subsection (9), that member shall cease to be member of Parliament and the Clerk to Parliament shall notify the Commission of the vacancy under article 81(2) of the Constitution.

(12) The medical board shall report its findings to the Commission with a copy to the Speaker.

(13) Where the Commission reports to the Speaker that the member of Parliament has refused or failed to submit himself or herself to be examined by the medical board, the member of Parliament shall be suspended from proceedings of Parliament for three months from the date the Commission's report is communicated to the Speaker.

(14) If the Commission further reports to the Speaker that the member in question has refused or failed to submit himself or herself for examination by the medical board within the period of three months referred to in subsection (13), the member of Parliament shall cease to be a member of Parliament upon the date of the report of the Commission and the Clerk to Parliament shall notify the Commission of the vacancy under article 81(2) of the Constitution.

(15) A member of Parliament who ceases to hold office under subsection (14) shall be deemed to have been recalled under subsection (3)(a) of this section.

(16) In the case of an allegation under paragraph (b) of subsection (3), the Commission shall request the Chief Justice to nominate a judicial officer to hear and

determine the allegation and report his or her findings to the Commission as soon as possible and the Chief Justice shall nominate a judicial officer accordingly.

(17) The Commission shall, upon receipt of the findings of the judicial officer, embody them in its report to the Speaker.

(18) In the case of an allegation under paragraph (c) of subsection (3) the Commission shall, subject to this section, conduct such investigation and inquiry as may be just and practicable, in accordance with this section and shall report its findings to the Speaker.

(19) Subject to the provisions of this section, the Minister shall, with the approval of Parliament, by regulations, prescribe any additional procedure necessary to be followed for the recall of a member of Parliament.

86. Determination of questions of membership

(1) The High Court shall have jurisdiction to hear and determine any question whether—

(a) a person has been validly elected a member of Parliament or the seat of a member of Parliament has become vacant; or

(b) a person has been validly elected as Speaker or Deputy Speaker or having been so elected, has vacated that office.

(2) A person aggrieved by the determination of the High Court under this section may appeal to the Court of Appeal.

(3) Subject to the provisions of this Act in relation to election petitions, and to the provisions of article 137 of the Constitution, the Attorney-General may petition the High Court under article 86 of the Constitution for the determination of the question referred to in that article.

(4) If upon application to the Attorney-General in writing signed by not less than fifty registered voters stating that a question referred to in subsection (1) has arisen stating the ground for coming to that conclusion the Attorney-General fails to petition to the High Court within thirty days after receipt of the application, any one or more of the persons who made the application may petition the High Court for determination of the question.

(5) Any party aggrieved by the decision of the High Court may appeal to the Court of Appeal against the decision and subsequently appeal to the Supreme Court.

(6) The High Court, the Court of Appeal or the Supreme Court shall proceed expeditiously to hear and determine any question or as the case may be, any appeal before it under this section and may for that purpose suspend any other matter pending before it.

(7) In any case the High Court shall determine a question under this section within twelve months after the petition in relation to the question was lodged in that Court.

87. Prior consent of the D.P.P to prosecute

(1) A person shall not be prosecuted for an offence under this Act without the consent in writing of the Director of Public Prosecutions.

(2) Subsection (1) shall not prevent a person from being—

(a) charged with an offence under this Act; or

(b) arrested with or without warrant in respect of any such offence; or

(c) remanded on bail or in custody in respect of any such offence,

without the consent of the Director of Public Prosecutions.

(3) If no consent is obtained under subsection (1) within three months from the date of arrest or charge, the person charged shall be discharged.

(4) In a prosecution for an offence under this Act in relation to a ballot paper or other document, the property in the ballot paper or other document, as well as the property in the counterfoil of any ballot paper, shall be stated to be vested in the Commission.

88. Time within which criminal proceedings must be commenced

Proceedings against a person in respect of any offence under this Act shall be commenced within three months after the offence which is alleged to have been committed or within one month after a court finds, on trial of a petition, that an offence may have been committed.

89. A person not to be required to divulge how he or she voted

A person who has voted at an election shall not, in any legal proceedings, whether taken to question the election or return or otherwise, be required to state for whom he or she has voted.

90. Penalty for interruption

A person who wilfully interrupts, obstructs or disturbs any proceeding taken under this Act in connection with an election, or disturbs the peace and good order of any such proceedings, commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

91. Service of notices and documents

(1) A public notice required to be given by any person who under this Act shall, except where it is expressly directed to be published in the *Gazette* or in any other

particular manner, be sufficiently given if it is published in a newspaper circulating in the constituency or area intended to be affected by the notice or if it is posted outside the principal outer door of every magistrates' court office in that constituency or area or in such other place or places, if any, as the Commission may determine.

(2) Except as otherwise specially provided in this Act and without derogation from the provisions of the Interpretation Act when any notice or other document is required to be served on any person under this Act, it may be served—

(a) by delivering it to the person to whom it is addressed or his or her authorised agent; or

(b) by leaving it at his or her last known place of residence or any place of residence stated on a voters' roll as his or her place of residence; or

(c) by sending it to any place of residence referred to in paragraph (b) through the post by registered letter marked upon the outside "electoral notice letter" and, unless the contrary is proved, the notice or other document shall be taken to have been served at the time at which the registered letter would have been delivered in the ordinary course of post.

92. When appointed dates fall on weekend or public holiday

Whenever under this Act anything is required to be commenced, concluded or done on a particular day, and that day happens to fall upon a Saturday or Sunday or public holiday, that thing shall be commenced, concluded or done on the day next succeeding the Sunday or public holiday or, if the last mentioned day is also a Saturday or Sunday or a public holiday, then on the day next succeeding the Sunday or public holiday.

93. Rules of court

(1) The Chief Justice, in consultation with the Attorney-General, may make rules as to the practice and procedure to be observed in respect of any jurisdiction which under this Act is exercisable by the High Court and also in respect of any appeals from the exercise of that jurisdiction.

(2) Without prejudice to subsection (1) any rules made under that subsection may make provision for—

(a) regulating the practice and procedure of the High Court, the Court of Appeal and the Supreme Court for the purposes of hearing and determining petitions under section 85 or as the case may be, for hearing and determining appeals from decisions of the High Court under that section;

(b) the practice and procedure to be observed in the hearing and determining of election petitions;

(c) service of an election petition on the respondent;

(d) priority to be given to the hearing of election petitions and other matters coming before the courts under this Act.

(3) Rules made under this section may, in the case of the High Court, the Court of Appeal and the Supreme Court, apply to the proceedings the rules of practice and procedure applicable to civil proceedings in the High Court, the Court of Appeal or the Supreme Court as the case may be, subject to such modifications as may be specified in the rules.

94. Saving in respect of vacation of office

Where as a result of the final determination of an election petition or a petition under section 86, the seat of any member of Parliament becomes vacant, the determination of the petition shall not invalidate anything done by that person, during the period preceding the determination, in the purported exercise of the functions of the office of that person.

95. Postponement of vacation of office

(1) When a member of Parliament—

(a) is adjudged or declared to be of unsound mind; or

(b) is adjudged or declared bankrupt in terms of article 80(2)(d) of the Constitution;

(c) is sentenced to a term of imprisonment in terms of article 80(2)(e) of the Constitution; or

(d) is convicted of an offence referred to in article 80(2) (f) or (g),

the seat of that member shall not become vacant until the expiry of the time within which an appeal may be lodged and where an appeal is lodged, until the appeal is fully disposed of or withdrawn.

(2) Where the High Court declares the seat of a member of Parliament vacant as a result of a petition lodged under section 8, the decision shall not have the effect of causing that person to vacate his or her seat—

(a) where no appeal is lodged, until the expiry of the time within which an appeal may be lodged; or

(b) where an appeal is lodged, the appeal has been fully disposed of or withdrawn.

(3) Where as a result of an election petition the election of a person who has been elected is set aside the decision shall not have the effect of causing that person to vacate his or her seat until—

(a) where no appeal is lodged, the expiry of the time within which an appeal may be lodged; or

(b) where an appeal is lodged, the appeal has been fully disposed of or withdrawn.

96. Commission to supervise other elections

The Commission shall have power to oversee and supervise and if requested by the Minister, conduct any election under any enactment preliminary to or directly or indirectly related to any election held or to be held under this Act for the purposes of article 78(1)(c) of the Constitution.

97. Publication in media

Whenever any matter is required to be published in the Gazette, it shall also as soon as practicable, be published in a newspaper circulating in the relevant area.

98. Minister's power to amend First Schedule

The Minister may, by statutory instrument, with the approval of the Cabinet, amend the First Schedule to this Act.

99. Modification of Act pursuant to change in political system under article 74

(1) Where a new political system is adopted in accordance with article 74 of the Constitution, the provisions of this Act, and any statutory instruments made under it, shall have effect subject to such modifications as are practical and necessary to give effect to the adoption of the new political system.

(2) Where a new political system is adopted as referred to in subsection (1), the Minister may, with the prior approval of Parliament, make such regulations as may be necessary for giving effect to the change in the political system for the purposes of this Act and may in particular subject to subsection (1), where necessary, by such regulations, make different provision for campaigning than what is prescribed under this Act.

100. Regulations

(1) The Minister may, on the recommendation of the Commission and with the approval of Parliament, by statutory instrument, make regulations prescribing any matter which is required or authorised by this Act to be prescribed or which in his or her opinion is necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act other than matters to be prescribed by rules of court.

(2) Without prejudice to the general effect of subsection (1), regulations may be made under that subsection for any or all of the following matters—

(a) the form of any document to be used in the carrying out any of the purposes of this Act other than forms in proceedings before a court under this Act;

(b) the duties of election officers, including the manner of identifying voters for issuing to them of ballot papers and the questions to be put to them;

(c) the issue of voter's cards and duplicate voters' registration cards;

(d) such measures to be taken in connection with an election as may be desirable or expedient to ensure that—

(i) employers provide their employees with an opportunity to vote in any election;

(ii) candidates are afforded reasonable access to the use of state-owned communication media, for the purposes of complying with clause (2) of article 67 of the Constitution and subsection (1) of section 22;

(e) providing for the procedure for obtaining two thirds for recalling the Member of Parliament under article 84 of the Constitution where applicable.

(3) Regulations made under this section may provide in respect of the contravention of the regulations, penalties not exceeding a fine of forty eight currency points or imprisonment not exceeding two years or both.

101. Repeal and savings

(1) The Parliamentary Elections Act, 2001 is repealed.

(2) Notwithstanding the repeal effected by this section, until constituencies are prescribed by Parliament and demarcated by the Commission under article 63 of the Constitution, Uganda shall, in accordance with section 11 of the Electoral Commission Act, be divided into the constituencies set out in the First Schedule to the Parliamentary Elections (Interim Provisions) Statute, 1996.

(3) Without prejudice to the provisions of the Interpretation Act, any statutory instrument, form or other document made or existing under the Parliamentary Elections Act, 2001 and in force immediately before the commencement of this Act, shall, with the necessary modifications, continue in force until revoked or replaced under this Act.

———————

SCHEDULES.

FIRST SCHEDULE

CURRENCY POINT

Section 1.

A currency point is equivalent to twenty thousand shillings.

SECOND SCHEDULE

FORMS

Section 4(8)

CERTIFICATE OF COMPLETION OF FORMAL EDUCATION OF ADVANCED LEVEL STANDARD OR OF ITS EQUIVALENT

THE PARLIAMENTARY ELECTIONS ACT

I certify that.....(name), who was born on the ..... (date of birth), has satisfied the National Council for Higher Education in consultation with the Uganda National Examinations Board that he/she has completed formal education of advanced level standard or its equivalent, in that he/she holds the following qualification/s –

.....
.....
.....
.....
.....

.....
Secretary of National Council for Higher Education

Date.....

[ ] Seal of National Council for Higher Education

Serial Number .....

FORM EO

FORMS

OATH OF ELECTION OFFICER

Section 7(4)

PARLIAMENTARY ELECTIONS ACT, 2005

I ……..……..……
being appointed to exercise the functions of election officer swear in the name of the Almighty God/solemnly affirm that I will discharge my duties as election officer to the best of my abilities without fear or favour.

Dated this……day of ……20....

Signed:

…….……
Election Officer.

Signed:

……
Presiding Officer.

FORM ID

THE PARLIAMENTARY ELECTIONS ACT, 2005

Section 36(1)

DECLARATION OF IDENTITY BY A PERSON WHOSE NAME AND VOTER NUMBER HAVE ALREADY BEEN USED BY ANOTHER PERSON

I ……..……..……..……of

……polling station

……..……village

……Constituency

……District, do solemnly and sincerely declare that:

1. I am a citizen of Uganda;

2. I am not below the age of eighteen years;

3. I am entitled to vote in this polling station because I……

……
(originate from, reside in) this electoral area;

4. I am the holder of Voter Card No.……

5. I have not yet voted in this particular polling station or elsewhere during the election;

6. I have not colluded with any person to vote in my name and under my voter number under the above-mentioned voter number.

I make this solemn declaration conscientiously believing the contents to be true to the best of my knowledge and belief.

……
Name and Signature of Voter.

Subscribed and declared before me at……....this …..... day of …....… 20....

……
Presiding Officer.

Section 40(2)

REPORT OF ARREST

Date .....

Polling station .....

I, ..., being returning officer/presiding officer have arrested/caused the arrest of (particulars of for the following reasons.

.....
.....
.....
.....
.....
.....
.....
.....
.....

.....

.....
Returning Officer/Presiding Officer

FORM OC

PARLIAMENTARY ELECTIONS ACT, 2005

OATH OF CONSTABLE

Section 41(4)

I……..……..……
being appointed to exercise the functions of election constable of the Electoral Commission swear in the name of the Almighty God/solemnly affirm that I will discharge my duties in maintaining order at the polling station to the best of my abilities without fear or favour.

DATED this……day of ……20....

Signed:

……
Election Officer.

Before the:

……
Presiding Officer

Cross references.
1. The Electoral Commission Act, Cap 140
2. The Interpretation Act, Cap 3