

Tanzania

Local Authorities (Elections) Act, 1979 Chapter 292

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Tanzania

Local Authorities (Elections) Act, 1979

Chapter 292

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[Note: This legislation has been thoroughly revised and consolidated under the supervision of the Attorney General's Office, in compliance with the Laws Revision Act No. 7 of 1994, the Revised Laws and Annual Revision Act (Chapter 356 (R.L.)), and the Interpretation of Laws and General Clauses Act No. 30 of 1972. This version is up-to-date as at 31st July 2002.]

[G.N. No. 63 of 1981; Acts Nos. 4 of 1979; 3 of 1983; 7 of 1992; 1 of 1993; 4 of 1993; 11 of 1994; 15 of 1994; 4 of 2000; 10 of 2000]

An Act to provide for the law relating to elections to Local Government Authorities.

Part I – Preliminary provisions (ss. 1-5)

1. Short title

This Act may be cited as the Local Government (Elections) Act.

2. Interpretation

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

"**the Act**" means, in the relation to a district authority, the Local Government (District Authorities) Act ¹, and in relation to an urban authority, the Local Government (Urban Authorities) Act ²;

"**candidate**" means a person who submits himself for election to a local government authority:

Provided that for the purpose of those provisions of this Act which relate to a time after the nomination of candidates, it does not include a candidate whose nomination is declared invalid by the returning officer or who withdraws his candidature;

"**certificate of registration**" means a certificate issued under the provisions of this Act certifying that the person named in that certificate has been registered as a voter;

"**close of polls**" means the latest close of poll in a polling station in relation to any election;

"**contested election**" means an election in a ward at which there are more candidates than vacancies;

1

[Cap. 287](#)

2

[Cap. 288](#)

"**Council**" means—

- (a) in relation to a district, District Council;
- (b) in relation to a city, a City Council;
- (c) in relation to municipality, a Municipal Council;
- (d) in relation to a town, a Town Council;

established or deemed to have been established under the Act;

"**counting agent**" means a person appointed as a counting agent under the provisions of section 71;

"**district authority**" means a District Council, a township authority or, as the case may be, a Village Council;

"**election**" means an election in a ward, of an elected member of a local authority and includes a by-election for that purpose;

"**election day**" in relation to any ward means the day appointed under section 48 or any day substituted for it in accordance with the proviso to that section or, in the case of an election in which the candidate is declared elected under subsection (2) of section 45 means the date on which he was so declared elected;

"**Electoral Authority**" means the Electoral Commission established by Article 74 of the Constitution ³;

"**local authority election**" means the election of a member to a local authority;

"**local government authority**" means a district authority or an urban authority established or deemed to have been established under the Act;

"**member**" means an elected member of a local authority;

"**Minister**" means the Minister responsible for local governments;

"**nomination**" means nomination as a candidate for election to a local authority;

"**nomination day**" means a day appointed as nomination day;

"**political party**" means a party registered under the Political Parties Act ⁴;

"**person**" means a natural person;

"**polling agent**" means a person appointed under the provisions of section 58;

"**polling district**" in relation to an election in a ward means a ward declared as such under the Act;

"**polling assistant**" means a person appointed as a polling assistant under the provisions of paragraph (b) of section 57;

"**polling station**" means a polling station specified under the provisions of section 49;

"**presiding officer**" means a person appointed under the provisions of paragraph (c) of section 57 to be in charge of a polling station;

³

[Cap. 2](#)

⁴

[Cap. 258](#)

"qualified" or "qualification" means—

- (a) when used in relation to a person claiming to be entitled to be registered as a voter, qualified to be or qualification as a voter;
- (b) when used in relation to a person claiming to be qualified as a candidate for a local authority election, qualified to be or qualification as a candidate for election to a local authority for the ward in question;

"register" means a register of voters compiled and maintained in accordance with the provisions of this Act;

"Returning Officer" means a Returning Officer appointed under section 9 and includes an Assistant Returning Officer, and "the Returning Officer", in relation to a polling district, means the Returning Officer appointed for that polling district;

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

"ward" means a division of the jurisdiction of a local government authority demarcated as such in pursuance of the provisions of the Act and declared to be a ward of that local government authority under section 8 for the purposes of this Act.

- (2) Reference in this Act to an election in a ward shall be construed as reference to the local government authority election in a ward demarcated in pursuance of the provisions of the Act and declared as such for the purposes of this Act.

3. Application

This Act shall apply to all local government authorities in respect of which it is provided that some or all of the members shall be elected.

4. Directions and notices of the Electoral Authority

All regulations, directions and notices which an Electoral Authority is empowered to make, issue or give, shall be deemed to have been validly made, issued or given, if they are made, issued or given under the signature of the Chairman of the Electoral Authority or the Executive Officer of the Electoral Authority.

5. ***

[Repealed by Act No. 7 of 1992 s. 3]

Part II – Electoral Authority (ss. 6-11)

6. ***

[Repealed by Act No. 1 of 1993 s. 3]

7. Conduct of elections to be under the supervision of an Electoral Authority

The conduct of every election shall be subject to the direction and supervision of the Electoral Authority having jurisdiction in the area where the election is conducted.

8. Wards

Where the Minister established a Ward in accordance with the provisions of the Act, that ward shall be a ward for the purposes of election under this Act.

9. Returning officers and staff

- (1) For the purposes of any local government authority election held under this Act, every Deputy City Director, Municipal Director, Town Director and District Executive Director shall be a Returning Officer for the local government authority in respect of which he is a Director.
- (2) The Commission shall appoint by office such number of Assistant Returning Officers as he may think fit.
- (3) Subject to such directions as the Returning Officer may issue, an Assistant Returning Officer may exercise and perform all the powers and duties conferred or imposed on a Returning officer other than the power of appointment conferred by subsection (2) and, except with respect to the power of appointment every reference in this Act to the Returning Officer shall be deemed to include a reference to an Assistant Returning Officer.
- (4) Returning Officers may, subject to the directions of the Electoral Authority, employ such staff as they may require to carry out their functions under the provisions of this Act.
- (5) Every Returning Officer and Assistant Returning Officer shall upon his appointment subscribe before a magistrate an oath of secrecy in the prescribed form.
- (6) Notwithstanding subsection (1), the Director of Elections may, in any fit case, by notice published in the *Gazette*, appoint any person by name or office to be a Returning Officer for any local government authority instead of the one referred to in subsection (1) and where such a person is so appointed, the City Director, Municipal Director, Town Director or District Executive Director as the case may be, shall cease to be the Returning Officer of that local authority.

10. Registration Officers and staff

- (1) The Electoral Authority shall appoint by office a Registration Officer for each local authority and every Registration Officer shall be in charge of every polling district within the local authority for which he is appointed.
- (2) A Registration Officer shall appoint by office such number of Assistant Registration Officers as he may think fit.
- (3) Subject to such directions as the Registration Officer may from time to time issue, an Assistant Registration Officer may exercise and perform all the powers and duties conferred or imposed on a Registration Officer other than those conferred or imposed by subsection (2) and, except with respect to the power of appointment, every reference in this Act to the Registration Officer shall be deemed to include a reference to an Assistant Registration Officer.
- (4) Registration Officers may, subject to the directions of the Electoral Authority, employ such staff as they may require to carry out their functions under the provisions of this Act.

11. ***

[Repealed by Act No. 7 of 1992 s. 5]

Part III – Holding of elections and tenure of office of Councillors (ss. 12-14)

12. Ordinary election

- (1) There shall be held an ordinary election of Councillors of a local government authority in every fifth year after the previous ordinary election, and whenever—
 - (a) a new Council is established; or

- (b) an alteration is made in the division of the area of an existing local government authority into wards or in the delineation of the boundaries of any ward.
- (2) An ordinary election of Councillors of a local government authority shall be held in every ward or, as the case may be, in any particular ward of that local government authority on such date as the Electoral Authority after consultation with the Minister shall, by order published in the *Gazette*, prescribe.
- (3) An order made under this section shall specify the day or days on which Returning Officers may receive nomination of candidates for election in any ward to which the order relates.

[ss. (4)]

13. By-elections

- (1) Subject to the provisions of this section, a by-election to fill a casual vacancy in the office of a Councillor shall be held on such date as the Electoral Authority may prescribe, being a date not later than ninety days after the occurrence of the vacancy:

Provided that a poll shall not be taken in any by-election in respect of which only one candidate is validly nominated for election.

- (2) A by-election under this section shall not be held to fill a casual vacancy in the office of a Council in which an ordinary election of councillors is or may be required to be held under section 12, unless the Electoral Authority after consultation with the Minister has by order directed that the by-election be held.
- (3) An order under this section shall specify the day or days on which and the hours within which Returning Officers may receive nominations of candidates for election in any ward to which the order relates.

14. Representation of wards and tenure of office of Councillors

- (1) There shall be one Councillor elected for each ward into which the area of a Council is divided and every Councillor shall, with effect from the date following the date on which the election results are confirmed by the Electoral Authority, be an elected member of the Council for which he has been elected.
- (2) Subject to the provisions of this Act, the term of office of an elected member of a Council shall be five years and all the elected members shall retire on the fifth anniversary of the date on which they assumed their office under subsection (1), and their place shall be filled by newly elected members who shall come into office on that day; but a member elected in a by-election shall hold office only for the remainder of the term of office of his predecessor.

Part IV – Registration of voters (ss. 15-35)

15. Qualifications for registration

Every citizen of Tanzania who has attained the age of eighteen years shall, unless he is disqualified by this or any other Act, be entitled to be registered under and in accordance with the provisions of this Act as a voter.

16. Disqualifications for registration

- (1) No person shall be qualified for registration as a voter or shall be registered under this Act—
 - (a) if he is under a declaration of allegiance to some country other than Tanzania;

- (b) if, under any law in force in Tanzania, he is adjudged or otherwise declared to be of unsound mind or is detained as a criminal lunatic or is detained during the pleasure of the President;
 - (c) if he is under sentence of death imposed on him by any court in Tanzania or sentence of imprisonment (by whatever name called) exceeding six months imposed on him by the court or substituted by competent authority for some other sentence imposed on him by that court;
 - (d) if he is disqualified from registering as a voter under the provisions of this Act or any other law in force relating to offences connected with any election.
- (2) For the purposes of paragraph (c) of subsection (1)—
- (a) two or more sentences that are required to be served consecutively shall be regarded as separate sentences if none of them exceeds six months but if any one of them exceeds six months they shall be regarded as one sentence; and
 - (b) no account shall be taken of a sentence of imprisonment imposed as an alternative to, or in default of the payment of, a fine.
- (3) Where any person registered under this Act ceases to be qualified for registration as a voter his name shall be deleted from the register:
- Provided that no name shall be deleted from a register, save in accordance with the provisions of this Part or on the report of a court that that person has been guilty of a practice which disqualifies him from registering or voting.

17. No person shall be registered in more than one ward

No person shall be registered as a voter in more than one ward.

18. Register of voters

- (1) The Registration Officer shall make and maintain a register of voters for every ward.
- (2) The register shall show, relative to every voter named in that register, the number of the certificate of registration issued to the voter, the sex of the voter and the address at which the voter ordinarily resides.
- (3) Such number of copies of every register of voters shall be kept and maintained as the Registration Officer may think fit.

19. Place of and disqualification for voting

- (1) Subject to the provisions of this Act, a person who is registered as a voter in any ward shall be entitled to vote at any election in that ward, and shall be entitled so to vote only at the ward where he is registered and not elsewhere.
- (2) Notwithstanding the provisions of subsection (1) a Presiding Officer or Polling Assistant at any ward shall not permit any person to vote at that ward, unless that person satisfied the Presiding Officer or, as the case may be, the Polling Assistant, that he is the voter he claims to be by producing to him the certificate of registration issued to that person or such other proof of his identity as the Registration Officer may for the time being direct to be a sufficient proof of identity of the person claiming to be entitled to vote.
- (3) Notwithstanding that a person is registered as a voter under this Act he shall not be entitled to vote in any election if any circumstances arise in relation to him which, if he were not so registered, would cause him to be disqualified for registration under this Act.
- (4) Notwithstanding any other provision of this Act the Executive Officer or any person authorised in that behalf by the Executive Officer may, by a certificate under his hand, authorise a registered voter

who is a candidate at an election in that ward or, as the case may be, in the ward specified in that certificate whether or not that candidate is registered as a voter in that ward.

- (5) Notwithstanding any other provisions of this Act, where a voter registered as a voter in any ward is employed as a Returning Officer, Presiding Officer, Police Officer or in any other official capacity to a ward other than the one allocated to him the Executive Officer or any person authorised in that behalf by the Executive Officer, may by a certificate under his hand authorise the voter to vote at any other ward, and that ward shall, for the purposes of this Act be deemed to be a ward allocated to that voter.
- (6) A person who is serving a sentence of imprisonment may, subject to the provisions of this Act, be registered as a voter, or vote at an election, only if permitted to do so by the written law governing his imprisonment:

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

20. Change of name

A person registered as a voter whose name has been changed consequent upon marriage or otherwise since being so registered shall, if not disqualified from voting under section [19](#), be entitled to vote under the name in which she or he is so registered.

21. Times for registration

- (1) Where an election is to take place in any local government authority the Electoral Authority may, at any time within six months before the date of the election, direct the Registration Officer in charge of the local authority to make available at each and every ward facilities for the registration of voters.
- (2) Any person entitled to be registered as a voter at any ward and who has not been so registered may present himself at the relevant ward and shall, upon so presenting himself and upon satisfying the Registration Officer in charge of the ward, that he is entitled to be registered as a voter, be registered as a voter in accordance with the provisions of this Act.
- (3) Notwithstanding any provision of this section to the contrary, the Electoral Authority may direct that the registration of voters in all wards or in any ward specified in that direction shall be suspended for such period as the Electoral Authority may direct if, in the opinion of the Electoral Authority, it is desirable to suspend the registration of voters in view of the fact that an election is likely to take place in that ward in the near future or for any other reason.
- (4) Where a direction under subsection [\(3\)](#) has been issued in respect of any ward, no registration of voters shall take place in that ward during the period specified in that direction.

22. Certificate of registration

- (1) Where a person makes an application for registration as a voter in accordance with the provisions of section [21](#), he shall, if he satisfies the Registration Officer or any other officer for the time being responsible for the registration of voters, that he is qualified to be registered as a voter for that ward, be registered as a voter for that ward, and upon being so registered shall be issued with a certificate of registration in the prescribed form.
- (2) The Electoral Authority may by regulations made under section [125](#) require any person applying for registration as a voter, to fill in such forms as may be prescribed.

23. Change of residence

- (1) Where any voter who is registered in one ward becomes ordinarily resident in some other ward, he may apply in person in accordance with the provisions of section 21 to the Registration Officer-in-charge of the ward in which he is ordinarily resident and the Registration officer shall—
 - (a) if he is satisfied that the applicant—
 - (i) is qualified for registration; and
 - (ii) is ordinarily resident in the ward in respect of which he makes the application;
 - (b) on the surrender by the applicant of his certificate of registration or on the applicant's satisfying the Registration Officer that it is lost or destroyed,
forthwith register the applicant in the register for the ward, and issue him a new certificate of registration for that ward.
- (2) Where a Registration Officer registers an applicant under this section, he shall forthwith—
 - (a) cancel the certificate of registration surrendered by the applicant and forward it to the Executive Officer or;
 - (b) if he is satisfied that the applicant's certificate of registration is lost or destroyed, give notice to the Executive Officer of the issuance by him of a new certificate of registration,
and shall amend the register accordingly.
- (3) Notwithstanding the provisions of subsection (1) of section 19 or subsection (1) of this section, where by reason of—
 - (a) any change of name of a ward;
 - (b) any adjustment in the number of wards; or
 - (c) any adjustment in the boundaries or areas of one or more wards,
a ward becomes part of another ward or, as the case may be, a ward becomes a ward of another local government authority with a new name, it shall not be necessary for a voter whose name is on any register affected by that change of name or adjustment to apply for the transfer of his name to the appropriate register, but the Registration Officer shall, as soon as possible, effect such amendments or transfers as may be necessary to give effect to that adjustment as if an application for transfer had been made by the voters concerned pursuant to the provisions of this section.

24. Certificate of registration lost, defaced or destroyed

- (1) Where a certificate of registration issued to any person is lost, defaced or destroyed, the person to whom that certificate was issued may apply in person to the Registration Officer for the issuance of a new certificate of registration.
- (2) On any application, the Registration Officer shall, if satisfied that the application is properly made and that the applicant remains qualified for registration, issue the applicant with a new certificate of registration upon the applicant paying the prescribed fee, if any, and where the application is made in respect of a defaced certificate of registration, upon the applicant surrendering the defaced certificate of registration.

25. Amendment of particulars

Where any of the particulars on a certificate of registration or in a register requires amendment by reason of a change of name, or of any other alteration in the circumstances affecting the person to whom it was issued, other than a change of residence from one ward to another, the person to whom that certificate of registration was issued may apply in person to the Registration Officer for the issuance of a new certificate

of registration, and the Registration Officer shall, upon an application being made to him and upon being satisfied that the application is properly made and that the applicant remains qualified for registration, issue to the applicant a new certificate of registration, and shall make any necessary amendments to the register:

Provided that no new certificate of registration shall be issued under this section unless the applicant surrenders his certificate of registration or satisfies the Registration Officer that it is lost or destroyed and pays the prescribed fee, if any.

26. Declaration relating to lost or destroyed certificates of registration

Where, under the provisions of this Part, an application is made to a Registration Officer by a person who claims that he has lost his certificate of registration issued to him or that the certificate of registration has been destroyed, the Registration Officer shall require the applicant to make a declaration in the prescribed form relating to that loss or destruction, and without prejudice to his power to refuse the application on other grounds, may refuse the application unless the applicant makes the declaration.

27. Refusal of application

Where a Registration Officer refuses an application under the foregoing provisions of this Part, he shall, if so required by the applicant, give to the applicant a written statement in the prescribed form setting out the grounds of his refusal, and any applicant aggrieved by that refusal may, within twenty one days after receipt by him of the statement, appeal against that refusal to a Resident Magistrate.

28. Inspection of register

Any person may, on application made in that behalf to the Registration Officer or to the Executive Officer, inspect the register of any ward on such day and at such time as the Registration Officer or, as the case may be, the Executive Officer, may appoint.

29. Inclusion of name in register

- (1) Where any person who has been registered as a voter and holds a valid certificate of registration in respect of a ward discovers, pursuant to an inspection made in accordance with the provisions of section 28, that his name does not appear in the register of the ward he may apply to the Executive Officer or the Registration Officer for inclusion of his name in the register, and the Executive Officer or, as the case may be, the Registration Officer shall, if satisfied that the name of such person should have been included in the register of the Polling district, amend or cause to be amended the register by inclusion of the name of that person.
- (2) Where the Executive Officer or the Registration Officer refuses to amend or cause to be amended the register to include the name of any person, the person aggrieved by that refusal may object to that refusal.

30. Objections

- (1) Any person whose name appears in the register for any ward may object to the retention in that register of his own name or the name of any other person on the ground that he or that other person is not qualified or is no longer qualified to be registered in that register or that other person is dead.
- (2) The Executive Officer or the Registration Officer may object to the retention of any name in the register of any polling district on any such ground.
- (3) Any person who makes an objection under this section or under section 29 shall be referred to as the objector.

31. Procedure for making objections

- (1) Except in the case of an objection made by a Registration Officer, every objection shall be made in duplicate in the prescribed form and shall be made to the Registration Officer within such period as may be prescribed.
- (2) Every objection, other than an objection made by the Executive officer or a Registration Officer, shall be accompanied by the sum of five hundred shillings as a deposit.
- (3) Only such objections as are made in accordance with the provisions of this section shall be received by the Registration Officer.
- (4) The Registration Officer shall, as soon as practicable after receiving an objection made in accordance with this Part or, in the case of an objection made by himself, within such period as may be prescribed send a notice of such objection to the person in regard to whom that objection has been made:

Provided that a Registration Officer shall not be required to send a notice when an objection is made on the ground that a person whose name appears in a register is dead.

32. Inquiry and determination by Registration Officer

- (1) The Registration Officer shall as soon as practicable hold a public inquiry into all objections which have been duly made, giving not less than fourteen clear days' written notice of the date on which and the time and place at which the inquiry will commence to each objector and person in regard to whom the objection has been made.
- (2) At any public inquiry any person appearing to the Registration Officer to be interested in or affected by the subject matter of the inquiry may appear and be heard either personally or by any other person duly authorised by him in writing in that behalf.
- (3) Where an objection is made to the retention or non-inclusion of any name in the register, the Registration Officer shall call upon the objector, or any person authorised in writing in that behalf by the objector, to give *prima facie* proof of the ground of the objection.
- (4) If, in the opinion of the Registration Officer, the *prima facie* proof is given, the Registration officer shall require proof of the present qualification for registration of the person in regard to whom the objection has been made, and—
 - (a) if that person's qualification is not proved to the Registration Officer's satisfaction, he shall delete or cause to be deleted such person's name from the register;
 - (b) if that person's qualification is so proved, he shall retain, or as the case may be, include, or cause to be retained or included, that person's name in the register.
- (5) If, on the date fixed for inquiry into any objection, the objector or any person authorised in writing in that behalf by the objector fails to appear, or appears but fails to give *prima facie* proof of the ground of objection to the satisfaction of the Registration Officer, the Registration Officer shall retain or cause to be retained the name of the person in regard to whom the objection is made in the register or, as the case may be, take no steps for the amendment of the register so as to obtain inclusion in the register of the name of the person objecting against the non-inclusion of his name in the register.
- (6) If an objection made by any person other than the Registration Officer or the Executive Officer is disallowed by the Registration Officer and, in his opinion, the objection was made without reasonable cause, the Registration Officer may, if he thinks fit, order in writing the objector to pay the person in regard to whom the objection has been made such sum, not exceeding one thousand shillings, as the Registration Officer considers reasonable compensation for any loss suffered by that person in consequence of the objection.

- (7) Any sum awarded as compensation under this section shall be recoverable as though the order of the Registration Officer were a decree of a district court for the recovery of the money.
- (8) If an objection is disallowed by the Registration Officer and he is of the opinion that the objection was made without reasonable cause, the deposit of five hundred shillings shall be liable to be forfeited to the Government by order of the Registration Officer, but otherwise that deposit shall be refunded.
- (9) The validity of any proceedings under this section shall not be questioned by reason only of the Registration Officer hearing and determining an objection made by himself, and in any such case the procedure at an inquiry under this section shall be commenced at the stage at which the Registration Officer required proof of the present question of the person in regard to whom the objection is made.

33. Objector or person objected to may appeal

If any objector or person in regard to whom objection has been made is dissatisfied with the decision of the Registration Officer under section 32 he may, within twenty days from the date of that decision appeal to a Resident Magistrate.

34. Appeals to Resident Magistrates

- (1) Every appeal under section 27 or 33 shall state shortly the grounds of appeal, and shall be accompanied by the sum of five hundred shillings as a deposit.
- (2) The Resident Magistrate shall hear every appeal in public giving notice of the time, date and place of the hearing of the appeal to the parties concerned; and it shall be in his discretion whether to hear or not to hear any evidence. His determination of the appeal shall be final and conclusive and shall not be called in question in any court.
- (3) When the Resident Magistrate has determined the appeals which have been lodged with respect to any register or the issue of certificate of registration, he shall forward to the Registration Officer a statement under his hand containing the names which he has decided shall be inserted or retained in the register and those which he has decided shall be deleted from the register, and a statement of the names of the persons to whom certificates of registration shall be issued and the Registration Officer shall amend or cause to be amended the register and issue the certificates of registration accordingly:

Provided that—

- (a) the Resident Magistrate shall not require a Registration Officer to issue a certificate of registration to any person who claims he has lost a certificate of registration issued to him and relevant to the proceedings, or that the certificate of registration has been destroyed, unless such person shall have made the declaration provided for in section 26; and
 - (b) in any case to which section 24, 25 or 26 applies and no declaration has been made in accordance with section 26, the Registration Officer may refuse to issue a new certificate of registration until the previous certificate of registration issued to the person concerned has been surrendered.
- (4) If an appeal is dismissed and the Resident Magistrate is of opinion that the appeal was made without reasonable cause, he may order that the deposit of five hundred shillings shall be forfeited to the Government, but in any other case the deposit shall be refunded.
 - (5) No party to an appeal shall be entitled to any costs or compensation:

Provided that if an appeal is made and is not allowed by the Resident Magistrate and in his opinion the appeal was made without reasonable cause, the Resident Magistrate may, if he thinks fit, order the appellant to pay compensation of such amount, not exceeding one thousand shillings, as he

considers reasonable. Any sum so awarded shall be recoverable as though the order was a decree of a district court for the recovery of money.

- (6) Where an appeal has been made under this section, the Resident Magistrate may, whether he allows or dismisses the appeal, order that any deposit forfeited or be forfeited or any sum of money paid or to be paid by way of compensation in accordance with an order of the registration made under section 32 (or so much of such deposit or such sum as the Resident Magistrate may specify) shall not be paid or forfeited, or shall be returned to the objector, as the case may be, and any sum ordered to be returned shall be recoverable as though the order was a decree of a district court for the recovery of money.
- (7) Witnesses may be summoned and sworn at the hearing of an appeal under the provisions of this section in the same manner as nearly as circumstances admit as in a trial by a district court in the exercise of its criminal jurisdiction and shall, without prejudice to the provisions of any other law, be subjected to the same penalties for the giving of false evidence or for non-attendance.
- (8) Any person entitled to appear as a party at an appeal brought under the provisions of this section may appear either in person or by advocate.
- (9) The procedure and practice of hearing of appeals under this section shall be regulated in such manner as the Resident Magistrate shall decide and without prejudice to the generality of the foregoing, a Resident Magistrate may, if satisfied that two or more appeals involve the same question, declare that the decision given in any appeal heard previously shall be binding on the parties to that of the other appeal or appeals as he shall specify.

35. Provisions consequential to additions to or deletions from register under this Part

- (1) Where the name of any person has been added to a register under section 34, or any certificate of registration has been issued to any person in pursuance of that section, the Registration Officer shall take such steps in relation thereto as if he had not refused the application to which the appeal relates.
- (2) Where the name of any person has been deleted from a register under section 32 or 34, the Registration Officer shall require that person either—
 - (a) to surrender any certificate of registration issued to such person under this Act; or
 - (b) to make and deliver to the Registration Officer the declaration provided for in section 26, within such period (not being less than ten days) as the Registration Officer shall specify; and the Registration Officer shall cancel any certificate of registration so surrendered.

Part V – Voting (ss. 36-38)

36. Persons entitled to vote

- (1) Subject to the provisions of this Act every person, who is a citizen of the United Republic and who at the time when any election is held in any ward under this Act is duly registered in that ward, as a voter, shall be entitled to vote at that election in the ward in which he is registered or was registered.
- (2) Every person shall, whenever he wishes to vote at an election under this Act, identify himself to an election officer in such manner as may be prescribed and no person shall be entitled to vote more than once at that election.

37. Disqualification for voting

Notwithstanding the provisions of section 36, a person who is registered as a voter shall not be entitled to vote at any election if circumstances arise in relation to that person that, if he were not so registered, would cause him to be disqualified for registration as a voter.

38. Place of voting

Every person entitled to vote under the provisions of section 36 shall vote at a ward in which he is registered as a voter for the purposes of election to a local authority, but not elsewhere.

Part VI – Qualification of candidates for election (ss. 39-40)

39. Qualification of candidates for Local Government Authorities election

- (1) A person shall be elected as a member of a Local Government Authority or stand as a candidate at an election for Local Government Authorities if he is qualified for election.
- (2) A person shall be qualified for election if he satisfies the following conditions, that is to say—
 - (a) he is a citizen of the United Republic;
 - (b) he has attained the age of twenty one years;
 - (c) he is not disqualified for election under the provisions of section 40;
 - (d) he is ordinarily resident within the area of jurisdiction of local government authority;
 - (e) he can read and write in Kiswahili or English;
 - (f) he is a member of and sponsored by a political party registered as such by or under the Political Parties Act ⁵;
 - (g) he has a lawful means of livelihood;
 - (h) he has not been convicted for an offence of tax evasion within a period of five years before election.

40. Disqualification for election to a local government authority

- (1) A person shall be disqualified for election as a member of a local authority—
 - (a) if he is under a declaration of allegiance to some country other than the United Republic;
 - (b) if under any law in force in Tanzania he is adjudged or otherwise declared to be of unsound mind;
 - (c) if—
 - (i) he is under sentence of death imposed on him by any court in Tanzania or a sentence of imprisonment exceeding six months imposed on him by a court;
 - (ii) he is detained under an order made under the Preventive Detention Act, and has so been detained under the order for a period exceeding six months; or
 - (iii) he has been deported, in accordance with the provisions of the Deportation Act ⁶, under an order made under that Act which has been in force for a period exceeding six months, and is still in force;
 - (d) if he is a party to, or a partner in a firm or manager of a company which is a party to any subsisting contract with the local government authority to which he seeks election and has

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- not, within one month before the date of election, published in the Kiswahili and English language newspapers circulating within the area of authority concerned, a notice setting the nature of the contract and his interest or the interest of the firm or company in the contract;
- (e) if he is disqualified from becoming a member of a local government authority by or under any written law;
 - (f) if he is disqualified from registering as a voter under this Act or disqualified from voting at any election under any written law relating to offences connected with any election;
 - (g) subject to such exceptions and limitations as the President may, by order published in the *Gazette*, prescribe, if he holds or acts in any office or appointment in the service of the United Republic or a local government authority;
- (2) For the purposes of subparagraph (i) of paragraph (c) of subsection (1)—
- (a) two or more sentences that are required to be served consecutively shall be regarded as separate sentences if none of them exceeds six months but if any of them exceeds six months they shall be regarded as one sentence; and
 - (b) no account shall be taken of a sentence of imprisonment imposed as an alternative to, or in default of, the payment of a fine.

Part VII – Nomination of candidates for election (ss. 41-47)

41. Nomination day

- (1) Where a local government authority election is to be held in a ward, or where the election is countermanded and the election procedures are to be commenced afresh, the Electoral Authority shall, by notice published in the *Gazette*, appoint a day (hereinafter in this Part referred to as the nomination day) for the nomination of candidates for the election.
- (2) The Electoral Authority may appoint different nomination days for the different wards and may revoke the appointment of a nomination day and appoint some later day as nomination day.
- (3) The Electoral Authority shall give at least seven days notice of the nomination day.

42. Nomination of candidates

- (1) In order to be validly nominated at a nomination to stand as a candidate for a ward, a person must be nominated in writing by not less than ten voters registered in the ward for which he is a candidate.
- (2) The writing shall be in the prescribed form, shall be signed by the candidate and by the persons nominating him, and shall contain the following particulars—
 - (a) the name, address and occupation of the candidate;
 - (b) the names and addresses of the nominators of the candidate;
 - (c) a certificate by the candidate that he is willing and qualified to stand for election.
- (3) Every nomination paper shall be accompanied by—
 - (a) a statutory declaration in the prescribed form, made and signed by the candidate before a magistrate and declaring the candidate's qualifications and that he is not disqualified for elections;
 - (b) a certificate in the prescribed form by the Registration Officer in charge of the ward certifying that the nominators are registered as voters in the ward in respect of which the candidate has been nominated; and

- (c) such biographical information relating to the candidate as may be required to be given by regulations in such form as may be prescribed.
- (4) Where, in any case, a nomination paper is not accompanied by the documents specified in subsection (3) the nomination of the candidate shall be deemed to be void:
- Provided that the Electoral Authority may, in any particular case, if it thinks reasonable so to do, direct that the nomination paper shall be accepted as valid notwithstanding that that nomination paper was not accompanied by any of the documents if the document in question is submitted to the Returning Officer within further time as the Electoral Authority may allow.
- (5) The Electoral Authority shall prescribe the number of nomination papers and the manner of issuing them.
- (6) Every candidate or one of the persons nominating him, shall deliver his nomination paper (together with one copy of it) signed as provided in this section at the office of the Returning Officer not later than four o'clock in the afternoon of the nomination day.
- (7) The Returning Officer shall forthwith cause a copy of the nomination paper to be posted in a conspicuous place outside his office.
- (8) No person shall nominate more than one candidate for any one election and where a Registration Officer has issued a certificate under paragraph (b) of subsection (3) in respect of a person's nomination of one candidate he shall refuse to issue a certificate in respect of that person's nomination of another candidate for the same election:
- Provided that a person shall not be prevented from signing a nomination paper by reason only of his having signed that of a candidate who has died or withdrawn his candidature before delivery of the first-mentioned nomination paper.
- (9) Where, notwithstanding the provisions of subsection (8), a nominator nominates more than one candidate for the same election and certificates have been issued under paragraph (b) of subsection (3) in respect of such person's registration both such candidates' nominations shall be valid.
- (10) Any person who nominates more than one candidate commits an offence, and upon conviction shall be liable to a fine not exceeding two hundred thousand shillings.
- (11) The Returning Officer may, where he is satisfied that any person has committed an offence under subsection (10) shall by order under his hand compound such offence by requiring such person to make payment of a sum of money:
- Provided that—
- (a) such sum of money shall not be more than the maximum fine, provided for such offence;
- (b) the power conferred by this subsection shall only be exercised where the person admits in writing that he has committed the offence;
- (c) the Returning Officer shall issue to the person from whom he receives such sum of money a receipt thereof.
- (12) A nominator may subject to the provisions of subsection (8), nominate one candidate each for presidential, parliamentary and local authority election.
- (13) A Registration Officer shall, when requested by or on behalf of a candidate to issue certificate in respect of a nominator who is registered in a ward of which he has charge, issue a certificate accordingly.
- (14) The fact that, subsequent to nomination day, the name of a person who has nominated a candidate is deleted from a register of voters for the relevant ward shall not invalidate the nomination of the candidate.

43. Candidate to be nominated for one seat only

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

44. Objections to any decision as to validity of nomination papers

- (1) Objection may be made to a nomination paper on all or any of the following grounds, but on no other ground, namely—
 - (a) that the particulars given in respect of the candidate are insufficient to identify him;
 - (b) that the nomination paper does not comply with or was not delivered in accordance with the provisions of this Part;
 - (c) that it is apparent from the contents of the nomination paper that the candidate is not qualified to stand for election;
 - (d) that the requirements of subsection (3) of section 42 have not been complied with.
- (2) No objection to a nomination paper shall be allowed unless it is made to the Returning Officer, before four o'clock in the afternoon of the day following nomination day.
- (3) The objection may be made by another candidate in the ward or by the Returning Officer of his own motion and shall be in writing, signed by the objector, and shall specify the grounds of objection.
- (4) The Returning Officer shall, with the least possible delay, decide on the validity of every objection and inform the candidate concerned of his decision, and, if the objection is allowed, of the grounds of his decision.
- (5) Where a candidate is aggrieved by the decision of the Returning Officer on an invalid nomination, the aggrieved candidate may appeal to the Electoral Authority, whose decision may be subject to review by an election petition pursuant to the provisions of Part XIII, on one or other of the grounds specified in that Part; and save that, a decision on such petition shall be final and conclusive, and shall not be called in question in any court of law.

45. Procedure after determination of validity of nominations

- (1) A Returning Officer shall, after he has determined the validity of the nomination papers lodged with him, inform the Electoral Authority of the names of the candidates validly nominated and of the particulars stated in respect of each such candidate under subsection (2) of section 42.
- (2) Where only one candidate is nominated for an election in a ward, the Returning Officer shall declare the candidate to have been elected and shall so inform the Electoral Authority.
- (3) Where a Returning Officer for any ward determines that no candidate has been validly nominated for election in that ward, the Returning Officer shall so inform the Electoral Authority.

46. Procedure if no candidate validly nominated

Where the Electoral Authority has been informed under subsection (3) of section 45, that no candidate has been validly nominated for election in a ward, the Electoral Authority shall exercise its powers under the Act to appoint another day for receiving the nomination of candidates for election in such ward and for taking a poll.

47. Photographs

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

- (2) The display of the photograph of a candidate during the election campaign shall be subject to the control of the Returning Officer.

Part VIII – Election day (ss. 48-49)

48. Candidates nominated and election day

- (1) Where candidates are nominated for election in a ward, the Electoral Authority shall appoint a day not less than sixty days and not more than ninety days after the nomination day to be an election day:

Provided that—

- (a) where there are two or more contested elections during a local government authority general election the Electoral Authority may appoint different election days for wards; and
 - (b) the Electoral Authority may revoke the appointment of an election day and appoint some other day being a day not less than sixty days and not more than ninety days to be an election day.
- (2) The Electoral Authority may delegate any of its functions under this section in relation to a local government authority election to a Returning Officer.

49. Notices of election

- (1) Where there is a contested election, the Returning Officer shall, on or before the eighth day before the election day, give notice in the ward in such manner as he may think fit as to the following matters—

- (a) the day or days and (subject to the provisions of subsection (4)) the time or times of commencement and close of the poll;
- (b) the address of the polling station or stations;
- (c) in any polling district where there are two or more polling stations the voters assigned to each polling station; and
- (d) the full names of a candidate, a recent photograph and acronym or logo of the political party sponsoring the candidate, if any.

- (2) The day appointed for polling pursuant to the provisions of paragraph (a) of subsection (1) in any polling district may differ from that appointed for any other polling district:

Provided that—

- (a) one day but not more than one day shall be appointed as polling day for each ward; and
 - (b) the last day appointed for polling in any ward shall be not later than such time after election day for that ward as the Electoral Authority may appoint.
- (3) Where the Returning Officer has appointed a polling day for a ward pursuant to the provisions of this section, he may, where it appears to him to be in the public interest so to do, give notice in the ward, in such manner as he may think fit altering the polling day appointed for any ward, and thereupon polling shall take place in that ward on the polling day specified in the notice.
 - (4) For the purpose of paragraph (a) of subsection (1), unless the Electoral Authority otherwise directs, the time of commencement of the poll shall be eight o'clock in the morning and the time of the close of the poll shall be six o'clock in the evening or such earlier time as may be specified in the notice.

Part IX – Withdrawal, death and absence of candidates (ss. 50-52)

50. Withdrawal of candidature

- (1) A candidate may withdraw his candidature by notice in writing signed and delivered by him to the Returning Officer not later than the day following the nomination day.
- (2) Where a candidate withdraws his candidature after nomination day, no party shall nominate a substitute candidate.

51. Death of candidates

- (1) Where, after four o'clock in the afternoon on nomination day and before the close of the poll in an election, a candidate in a ward dies, the Returning Officer shall, upon being satisfied of the fact of death, countermand the election in the ward.
- (2) In the case where the Returning Officer countermands an election pursuant to the provisions of subsection (1), the Electoral Authority shall appoint some other convenient day, not later than thirty days after the countermand, for the nomination in the ward and the electoral procedure in that ward shall be commenced afresh:

Provided that no new nomination shall be required in respect of any candidate validly nominated at the nomination and every such candidate shall be deemed to have been nominated unless he gives a notice of his withdrawal.

52. Absence of candidates

If, after the nomination day by reason of death, withdrawal or any other reason, there are no candidates in a ward, the Electoral Authority shall countermand the election and appoint some other day not later than thirty days after such countermand for the nomination of candidates for election in the ward, and the electoral procedure in that ward shall be commenced afresh.

Part X – The election campaign (ss. 53-55)

53. Election campaigns

- (1) Where there is a contested election in a ward—
 - (a) the Electoral Authority shall declare the period not being more than fourteen days before the election day, during which election campaigns shall commence and terminate in a ward;
 - (b) any candidate or person acting with the approval or consent of the candidate or a Political Party sponsoring a candidate may convene or address any public meeting in the ward for the purpose of furthering the candidate's election or undertake any public or door to door canvassing.
- (2) For the avoidance of doubt and notwithstanding the provisions of section 40 of the Police Force and Auxiliary Services Act ⁷ and section 11 of the Political Parties Act ⁸, a declaration of the period of campaign shall, without further assurance, constitute a permit for the candidates and the political parties sponsoring such candidates to convene and address public meetings for the purposes specified in paragraph (b) of subsection (1).

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[Repealed by Act No. 7 of 1992 s. 23]

55. Payments by candidates

- (1) Every candidate shall be responsible for his personal expenses during an election.
- (2) A candidate in a contested election may remunerate, at such rates as the Electoral Authority may prescribe, one counting agent.
- (3) Any payment to a person as a counting agent in excess of the rates prescribed by the Electoral Authority, any payment by or on behalf of a candidate to any other person who assists a candidate at an election on account of the assistance, and any payment by or on behalf of a candidate for and on account of the transportation of voters to or from the poll, shall be deemed to be treating within the meaning of this Act.
- (4) Save as provided in subsection (1) or (2) of this section, no candidate shall expend any sum in furtherance of his campaign for election.

Part XI – Election procedure (ss. 56-88)**56. Polling days and times**

In a contested election, polling shall take place in each polling district in the manner provided in this Part on the day appointed for polling in that polling district pursuant to the provisions of section 49.

57. Arrangements for contested elections

The Returning Officer shall—

- (a) provide a sufficient number of polling stations in each polling district in accordance with the terms of any notice given under the provisions of subsection (1) of section 49;
- (b) appoint in respect of each polling district such persons, to be known as polling assistants, as he may think fit to assist at the voting in the election;
- (c) appoint from among polling assistants a person to be in charge of each polling station, to be known as the presiding officer;
- (d) furnish each polling station with such number of compartments as in the opinion of the Returning Officer may be necessary, in which the voters can, screened from observation, record their votes;
- (e) place or cause to be placed outside each polling station in a conspicuous place a notice showing the full names in alphabetical order as the Electoral Authority may direct, addresses photographs, the name in acronym of his party and occupations, if any, of the candidates and stating the number of candidates for whom the voter may vote;
- (f) provide both within and without each polling station notices containing instructions relating to the voting procedure to be followed;
- (g) provide each presiding officer with such number of ballot boxes and ballot papers as in the opinion of the Returning Officer may be necessary.

58. Polling agents

- (1) Each political party may, with the prior consent of the candidates appoint one person to be known as a polling agent for each polling station within the constituency for which it has a candidate or candidates for the purpose of—
 - (a) detecting personation;
 - (b) representing and safeguarding the interests of the candidate or candidates at the polling station; and
 - (c) co-operating with the presiding officer and polling assistants to secure the smooth compliance with the law and procedure pertaining to the conduct of the voting and the elections at the polling stations.
- (2) Notice in writing of the appointment, stating the names and addresses of the polling agents, together with the polling stations to which they have been assigned, shall be given to the Returning Officer not later than seven days before election day.
- (3) If any polling agent dies or becomes incapable of acting as an agent, the political party may appoint another polling agent in his place, and shall forthwith give to the Returning Officer and the presiding officer concerned notice in writing of the name and address of the polling agent so appointed and the polling station to which he is appointed.

59. Ballot boxes

- (1) Every ballot box shall be so constructed that the ballot papers can be put in it by the voter but cannot be withdrawn by him.
- (2) Immediately before the commencement of the voting, the presiding officer at each polling station shall show the ballot box empty to such persons as may lawfully be present so that they may see that it is empty, and shall then close it and place a seal upon it in such manner as to prevent it being opened without breaking the seal, and shall place it in view for the receipt of ballot papers and shall keep it so closed and sealed.

60. Form of ballot paper

Every ballot paper shall—

- (a) contain the full names of a candidate, a recent photograph and acronym or logo of the political party sponsoring the candidate, if any;
- (b) be capable of being folded up;
- (c) be attached to a counterfoil bearing a serial number.

61. Prohibition of disclosure of vote

No person who has voted at the election shall, in any legal proceeding to question the election or return, be required to state for whom he voted.

62. Method of voting

The voting at an election shall be conducted in the following manner—

- (a) every voter who wishes to vote shall present himself at the polling station allocated to him in the ward for which he is registered and shall satisfy the presiding officer or a polling assistant at the polling station that he is the voter he claims to be and that he has not voted already at that polling station or elsewhere. A person may satisfy the presiding officer or a polling assistant that he is the

voter he claims to be by producing to that officer or a polling assistant such documentary evidence as to his identity as the officer or assistant may think satisfactory;

- (b) upon being satisfied as to the identity of the voter and that person's name appears in the register for the ward in which the polling station is situated, the presiding officer or polling assistant shall deliver to the voter concerned a ballot paper;
- (c) immediately before the presiding officer or polling assistant delivers a ballot paper to any person—
 - (i) the ballot paper shall be perforated or stamped with an official mark;
 - (ii) the number and particulars of the voter, as stated in the copy of register of the voters or part of it maintained at the polling station, shall be called out;
 - (iii) the number of the voter in the copy of the register of voters or part of it shall be marked on the counterfoil; and
 - (iv) a mark shall be placed against the number of the voter in the copy of the register of voters or part of it to denote that a ballot paper has been received by the voter:

Provided that the number of the ballot paper delivered to the voter shall not be shown in the register:

And provided further that where no copy of the register or part of it is available at the polling station, the presiding officer or the polling assistant shall, *in lieu* of complying with the provisions of subparagraphs (ii), (iii) and (iv), comply with such directions as the Electoral Authority may give in that behalf;

- (d) subject to the provisions of paragraph (h) a voter on receiving a ballot paper shall go immediately into one of the compartments in the polling station, and shall there secretly record his vote in the manner provided in paragraph (e), fold up the ballot paper so as to conceal his vote and shall then show to a polling assistant the back of the paper so as to reveal the official mark and shall then put the folded paper into the ballot box in the presence of the presiding officer and the polling agents;
- (e) a voter shall record his vote by putting a mark against the name of the candidate for whom he wishes to vote thereby recording no more than one vote;
- (f) a voter shall not place on the ballot paper any writing or mark by which he may be identified.
- (g) a voter shall vote without undue delay;
- (h) if a voter is incapacitated by blindness, or other physical cause, or is unable to read, he may ask a person of his own choice other than the presiding officer, a polling assistant or a polling agent to assist the incapacitated person to record his vote in accordance with paragraph (d) and (e) of this section and a person chosen under this paragraph shall assist not more than one voter:

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

- (i) if the voter is illiterate or does not understand how to record his vote, the presiding officer may, in the presence of the polling agent, explain to the voter the procedure;
- (j) subject to the provisions of paragraphs (h) and (i), a voter shall not show the mark which he has placed upon his ballot paper to any person, and if he does so the ballot paper shall be treated as a spoilt ballot paper;
- (k) a voter who has accidentally dealt with a ballot paper in a manner that it cannot conveniently be used as a valid ballot paper may, on delivering that ballot paper to the presiding officer, and after satisfying the presiding officer that the ballot paper has been spoilt by accident, obtain another ballot paper and its counterfoil shall be immediately marked "cancelled";

- (l) before any process of voting starts, the presiding officer shall require a polling agent for each of the candidates to fill in a prescribed form and submit to the presiding officer—
 - (i) any complaint he has with regard to the preparations to the voting;
 - (ii) registering his satisfaction with the preparation for the conduct of voting in the concerned area; or
 - (iii) any complaint brought by any voter concerning the preparation of the conduct of voting in the concerned area;
- (m) where any voter has any election complaint concerning the area in which he is registered to vote, he may record the complaint in a prescribed form and submit that form to the presiding officer of the polling station, before the voter leaves the polling station; and
- (n) where an election complaint referred to in paragraph (m) of this section concerns the presiding officer of the polling station, the voter shall submit the complaint form in the presence of the polling agents of the candidates.

63. Admittance to polling station

- (1) No person shall be admitted to vote at any polling station except at a polling station in the ward in which he is registered as a voter.
- (2) No person other than the following shall be admitted into the polling station—
 - (a) Presiding Officer;
 - (b) Polling Assistant;
 - (c) polling agent;
 - (d) voter;
 - (e) Regional-Coordinator;
 - (f) a person assisting an incapacitated voter pursuant to section 61;
 - (g) an international or local observer duly authorised in writing by the Commission;
 - (h) the candidate;
 - (i) member of the Commission;
 - (j) Director of Elections;
 - (k) Returning Officer or an Assistant Returning Officer;
 - (l) Police Officer or any other person duly authorised in writing by the Commission to be responsible for security at the polling station.
- (3) If any person misconducts himself in the polling station or fails to obey the lawful orders of the presiding officer, he may immediately, by order of the presiding officer, be removed from the polling station by any police officer in or near that station or by any other person authorised in writing by the presiding officer or by the Returning Officer to remove him; and the person so removed shall not, unless with the permission of the presiding officer, again be allowed to enter the polling station.
- (4) Any person removed from polling station if charged with the commission in the station of any offence, may be kept in custody until he can be brought before a magistrate. The powers conferred by this section shall not be exercised so as to prevent any voter who is otherwise entitled to vote at any polling station from having an opportunity of voting at the station.

64. Allegations of irregularities

- (1) Where the presiding officer at any polling station has reason to believe, or where a candidate or a polling agent present at any polling station alleges, that any person wishing to vote at that polling station is not a voter entitled to vote at that polling station, the presiding officer shall warn the person that he may commit an offence under this Act by so voting.
- (2) If, notwithstanding the warning, such person persists in his wish to vote and—
 - (a) produces any evidence to show that he is the person entitled to vote at the polling station in question; and
 - (b) being required to make and subscribe declarations as prescribed by section 66 makes and subscribes one or both of the declarations to which that section refers,the presiding officer shall deliver a ballot paper to the person and permit him to vote at that polling station.
- (3) A presiding officer shall record in writing the full name and address which a person warned under subsection (1) gives as his name and address and, if the person has voted the presiding officer shall state that fact in the record.
- (4) Before warning a person under subsection (1), a presiding officer shall state to that person the reasons for his belief that the person is not a voter entitled to vote at the polling station in question or, in the case of an allegation as mentioned in subsection (1) having been made by a candidate or a polling agent present in the polling station in question, shall require the candidate or polling agent to state in his presence and the presence of the person wishing to vote, and so as to be heard by both of them, the reason for the allegation and if a candidate or a polling agent refuses to comply with the requirement the presiding officer shall disregard the allegation made by him.

65. ***

[Repealed by Act No. 4 of 2000 Sch.]

66. Declaration by voters

- (1) The presiding officer at any polling station may, in his discretion, and shall, on the request of a candidate present at the polling station or of the polling agent, require any person wishing to vote, before he is given a ballot paper, to furnish such evidence of his identity with the person described in the certificate of registration which he presents as the presiding officer may deem necessary and to make and subscribe one or both of the prescribed declarations.
- (2) If any person fails to furnish that evidence of his identity or refuses to make the declaration, the presiding officer may refuse to give him a ballot paper.

67. ***

[Repealed by Act No. 10 of 2000 Sch.]

68. Adjournment of poll in case of riot

- (1) Where the proceedings at any polling station are interrupted or obstructed by riot or open violence, the presiding officer shall adjourn the proceedings until the following day and shall forthwith give notice to the Returning Officer.
- (2) Where the poll is adjourned at any polling station—
 - (a) the hours of polling on the day to which it is adjourned shall be the same as for the original day; and

- (b) reference in this Act to the close of the poll shall be construed accordingly.

69. Closing of the poll

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

70. Procedure on closing of poll

- (1) Before the closing of the polling station or immediately after the closing of the poll—
 - (a) the polling agent for each of the candidates shall record any complaint or his satisfaction in the prescribed form; and
 - (b) any election complaint presented under paragraph (a) of this subsection which can be resolved shall be attended to as soon as possible.
- (2) At the conclusion of the polling, the presiding officer shall prepare a report, detailing all complaints raised during and after the close of the poll and the measures taken in respect of each of them and the report shall be read before and be confirmed and signed by the polling agent the presiding officer and a polling assistant, and shall be submitted to the Returning Officer in accordance with section 71.

71. Place of counting

- (1) Subject to the provisions of subsection (2) of this section, the votes for local authority election cast at a polling station shall be counted at that polling station.
- (2) Notwithstanding the provisions of subsection (1) of this section, the presiding officer may for reasons of security, inadequacy of counting space or counting facilities or for such other reasonable cause, after consultation with the polling agents or upon advice from the Returning Officer or the polling agents, direct that votes at that polling station be counted at the nearest neighbouring appropriate place different from the one at which the votes were cast.
- (3) Where a direction is given pursuant to subsection (2) of this section, the votes from each polling station shall be counted separately in the same manner as if the votes had been counted at the polling station at which they were cast.
- (4) Upon the conclusion of the counting of the votes at the polling station the Presiding Officer, with the assistance of the Polling Assistant, shall seal up in separate packets the counted and rejected ballot papers.
- (5) At the conclusion of the procedure under subsection (4) each candidate or his counting agent shall, in the prescribed form, state whether or not he is satisfied with such procedure or whether he has any complaint in relation to it.
- (6) Any complaint submitted under this section which can be resolved shall be settled immediately by the Presiding Officer and such event shall be incorporated in the report to be submitted to the Returning Officer.
- (7) Where a candidate or his counting agent refuses to complete or sign any form under this section, the Presiding Officer or a Polling Assistant shall require such candidate or his agent to give reasons in writing of his refusal and that Presiding Officer or a Polling Assistant shall record that refusal in the report which he submits to the Returning Officer.
- (8) Where the candidate or his agent refuses to comply with the provisions of subsection (7), he shall be estopped from raising any complaint regarding the voting and the counting procedure in that particular station.

[s. 70A]

72. Methods of counting votes

- (1) Before the Presiding Officer and Polling Assistant proceed to count the votes, they shall in the presence of the candidates or their counting agents and such persons as may be authorised in writing by the Electoral Authority if present—
 - (a) ascertain and record the number of all the persons who voted at the polling station;
 - (b) count and record the number of all the unused ballot papers, including any spoilt ballot papers and seal them in a special envelop;
 - (c) inspect the seal to ascertain whether it has been opened or tampered with;
 - (d) unseal the seal; and
 - (e) open the ballot box.
- (2) After the ballot box has been opened under subsection (1) the Presiding Officer shall take out and count aloud each ballot paper and record the total of the ballot papers found in the ballot box.
- (3) After the total of the ballot papers in the ballot box has been ascertained, the votes shall be counted as follows—
 - (a) the Presiding Officer shall unfold each ballot paper, display it for viewing by those present and announce aloud the candidate for which the vote has been cast or whether the ballot paper is blank, spoilt or otherwise invalid;
 - (b) the ballot papers which have been announced shall be arranged and displayed in separate lots facing upwards, according to the candidate for which they are cast or as the blank or invalid votes;
 - (c) the Presiding Officer shall count aloud and record the votes in each lot and verify their total with the total of all the ballot papers which were found in the ballot box and the number of voters who cast their votes at the polling station.
- (4) For the purposes of Part XI of this Act, the word "seal" includes a padlock and any other procedure, machinery or thing which is approved by the Commission for securing the integrity of the contents of a ballot box, and the words seal, open, close or unseal, with their grammatical variations and cognate expressions shall, when used in relation to a seal or a ballot box, have a corresponding meaning

[s. 70B]

73. Counting agents

- (1) Every polling agent or the alternate polling agent appointed by a candidate pursuant to section 58 of this Act, shall at the close of the poll and during the counting of votes, be the counting agent of the appointing candidate.
- (2) Every candidate in the local authority election may appoint a counting agent to represent that candidate at the place and during the addition of election results.

[s. 71]

74. ***

[Repealed by Act No. 4 of 2000 Sch.]

75. Persons who may be present

- (1) No person other than the following may be present at the counting of votes—
- (a) the Presiding Officer;
 - (b) a Polling Assistant;
 - (c) a polling agent or an alternate polling agent;
 - (d) a candidate;
 - (e) a Police Officer or such other person duly authorised by the Commission to be responsible for security at the place where votes are being counted;
 - (f) a Returning Officer, an Assistant Returning Officer or a Regional Co-ordinator;
 - (g) a member of the Commission;
 - (h) the Director of Elections or an Electoral Officer of the Commission; and
 - (i) an international or local observer duly authorised by the Commission.
- (2) No person other than those referred to in subsection (1) shall be permitted to be within the vicinity of the place where votes are being counted.

[s. 73]

76. ***

[Repealed by Act [No. 4 of 2000 Sch.](#)]

77. Ballot papers which are not to be counted as votes

Any ballot paper—

- (a) which does not bear an official mark;
 - (b) on which votes are recorded otherwise than as provided in paragraph (d) of section [62](#) or which is to be treated as spoilt under the provisions of paragraph (j) of that section;
 - (c) on which anything is written or marked by which a voter can be identified otherwise than by the printed number thereon;
 - (d) which is unmarked or void for uncertainty; or
 - (e) on which the voter has voted for a number of candidates exceeding the vacancies in the ward,
- shall not be counted.

[s. 75]

78. Endorsements by Returning Officer

- (1) The Presiding Officer or a Polling Assistant shall endorse the word "rejected" on any ballot paper which, under the provisions of section [75](#), is not to be counted.
- (2) The Presiding Officer or an Assistant Officer shall add to the endorsement the words "rejection objected to" if an objection to his decision is made by any counting agent.

[s. 76]

79. Rejected ballot papers

The Presiding Officer or a Polling Assistant shall prepare a statement showing the number of ballot papers rejected under the following heads—

- (a) want of official mark;
- (b) voting recorded otherwise than as provided in paragraph (d) of section 62 or to be treated as spoilt under the provisions of paragraph (j) of that section;
- (c) writing or mark by which the voter could be identified;
- (d) unmarked or void for uncertainty; and
- (e) voting for more candidates than those for whom a voter is entitled to vote under paragraph (e) of section 62,

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

[s. 77]

80. Equality of votes and recount

- (1) Where an equality of votes is found to exist between any candidates in a contested election so that an addition of a vote would entitle any of them to be declared elected, the Returning Officer or an Assistant Returning Officer shall make a recount of the votes cast.
- (2) If there is again an equality of votes, as ascertained by a recount, the Returning Officer shall report the fact to the Electoral Authority which shall by notice published in the *Gazette*, appoint some other convenient day, not later than thirty days after election day, for the vote to be cast for the candidates whose votes were equal during the first vote.

[s. 78]

81. Candidate or counting agent may require re-recount

- (1) A candidate or his counting agent may, if present when the counting or any recount of the votes is completed, require the Presiding Officer to have the votes counted or again recounted, but the Presiding Officer may refuse to do so if in his opinion the request is unreasonable.
- (2) No step shall be taken on the completion of the counting or any recount of votes until the candidates and counting agents present at the completion of the counting or recounting have been given a reasonable opportunity to exercise the right conferred by subsection (1).

[s. 79]

82. Returning Officer's decision final

The decision of the Returning Officer or an Assistant Returning Officer as to any question arising in respect of any disputed ballot paper before addition shall be final, and shall be subject to review only in an election petition questioning the election pursuant to Part XIII of this Act.

[s. 80]

83. Vote addition in local authority election

- (1) After all the reports relating to the election, the election results and the ballot boxes containing ballot papers relating to a local authority election have been received from the polling stations in the ward, the Returning Officer or an Assistant Returning Officer as the case may be shall after determining the validity of any disputed votes and before the addition of votes, announce aloud the results of each polling station in the ward *seriatim*.

- (2) Upon the conclusion of the procedure under subsection (1), the Returning Officer or an Assistant Returning Officer shall proceed to add together the figures of—
 - (a) all votes cast in the ward;
 - (b) the votes in favour of each candidate;
 - (c) the rejected ballot papers.

84. Declaration of result

When the result of an election has been ascertained the Returning officer shall—

- (a) forthwith declare to be elected the candidate or candidates for whom the majority of votes has been cast;
- (b) cause a full report to be displayed at the office of the Ward Executive Officer and at the Headquarters of the council concerned; and
- (c) report the results of the election to the Electoral Authority which shall cause the results, together with the number of votes recorded for each candidate in each ward to be published in the *Gazette*.

[s. 82]

85. Custody of documents

- (1) The Returning Officer shall ensure the safe custody of all documents relating to the conduct of the election other than the documents which the Returning Officer is required under section 45 and 46 to forward to the Electoral Authority, for the safe custody of which documents the Electoral Authority shall be responsible.
- (2) The Returning Officer shall cause all the documents to be destroyed after the expiration of six months from election day unless otherwise directed by an order of the Resident Magistrates' Court arising from proceedings relating to the election.

[s. 83]

86. Powers of polling assistant

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

[s. 84]

87. Candidate has power of his agent

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

[s. 85]

88. Non-attendance of agents not to invalidate proceedings

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

[s. 86]

Part XII – Offences (ss. 89-111)

89. Offences in relation to registration

- (1) Every person who—
- (a) for the purpose of procuring the registration of himself or of any other person or the issue to himself or to any other person of a certificate of registration, knowingly makes to a Registration Officer or to any other person having any duty in relation to applications for registration or for the issue of certificates of registration any false statement material to any application on his own behalf or on behalf of that other person for registration or for the issue of a certificate of registration;
 - (b) knowingly or having reason to believe that he is registered in a ward, applies to be registered (otherwise than in accordance with section 3 and on disclosing to the Registration Officer his existing registration) in another ward;
 - (c) applies to be registered in any ward after he has applied to be registered in another ward and the earlier application has not been determined, pending any investigation into the applicant's qualifications, or withdraws;
 - (d) having been issued with a certificate of registration, applies for the issue to himself of a new certificate of registration (otherwise than in the circumstances set out in section 23, 24 or 25) and on disclosing to the Registration Officer the circumstances in which the application is made;
 - (e) knowingly makes any declaration provided for in section 26 which is false, or which he does not believe to be true, in a material particular;
 - (f) buys, or steals, any registration card in order to be regarded as a legally registered voter;
 - (g) buys, sells, steals, defaces or in any way destroys a registration card in order to prevent any voter from voting for the purposes of procuring more votes to be cast for a candidate of a particular political party;

commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding two years, or to both.

- (2) Any person whose name has been deleted from the register and who has been required by a Registration Officer either to surrender a certificate of registration issued to him or to make and to deliver to the Registration Officer the declaration provided for in section 26 within a time specified by that Registration Officer, who, without lawful excuse, neither surrenders that certificate nor makes and delivers that declaration within the specified time, commits an offence and shall be liable on conviction to a fine not exceeding two thousand shillings.
- (3) Any person who in any way obstructs or attempts to obstruct a Presiding Officer, Polling Assistant, Returning Officer or Assistant Returning Officer, in the performance of his duties or in the exercise of his powers under this Act, commits an offence and shall upon conviction, be liable to a fine of not exceeding three hundred thousand shillings.

[s. 87]

90. Official discouragement

- (1) Any person holding any office or acting in any official capacity who, in the exercise of the functions of that office or in that capacity, makes any statement or does any act with intent to discourage any other person from seeking nomination under this Act or to procure any person who has been nominated to withdraw his candidature, commits an offence and shall be liable on conviction to a

fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding six months or to both.

- (2) No proceeding shall be instituted against any person for an offence contrary to this section without the prior consent of the Director of Public Prosecutions.
- (3) In this section, office and official capacity means an office in the service of the United Republic or a capacity in respect of the United Republic.

[s. 88]

91. Election Officers misconduct

- (1) Any election officer who knowingly or wilfully does or omits to do anything in relation to the election process and thereby occasions nullification of the election results, commits an offence and upon conviction, is liable to imprisonment for a term not exceeding two years or to a fine of not less than fifty thousand shillings and not exceeding one hundred thousand shillings or to both, such fine and imprisonment.
- (2) Where in an election petition the court determines that an election officer has done or omitted to do anything in relation to the election process which amounts to mishandling of the election process, it shall certify such determination to the Attorney-General.
- (3) Where a prosecution is commenced for an offence under this section certificate issued under subsection (2) of this section shall be conclusive proof of what is contained therein.
- (4) For avoidance of doubt, the certificate under subsection (2) shall not prevent the prosecution from calling further evidence to substantiate the case.
- (5) The provisions of the Criminal Procedure Act⁹, shall apply *mutatis mutandis* in the conduct of the case under this section.

[s. 88A]

92. Application of Act [No. 7 of 1970](#)

Notwithstanding the provisions of section 91, the provisions of the Public Officers (Recovery of Debts) Act¹⁰ shall apply *mutatis mutandis* to the election officer who occasions the Government to incur loss, costs or damages as a result of his omission to do or not to do anything in relation to the election process.

[s. 88B]

93. Definition of Election Officer

For purposes of sections 91 and 92, an election officer includes the Regional Election Co-ordinator, Returning Officer, Assistant Returning Officer, Presiding Officer and Polling Assistant.

[s. 88C]

94. Offences in relation to registers and certificates of registration

- (1) Every person who—
 - (a) forges or fraudulently defaces or fraudulently destroys any register of voters; or

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[Cap. 20](#)

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[Cap. 76](#)

- (b) forges, counterfeits or fraudulently destroys any certificate of registration or any official mark on that certificate of registration,

commits an offence and shall be liable on conviction to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding two years or to both.

- (2) Any person who has in his possession or under his control any certificate of registration issued to some other person and who refuses or neglects, without lawful excuse, to deliver that certificate of registration to the person to whom it was issued, when demand is made of that certificate by that person or a Registration Officer in that behalf, commits an offence and shall be liable on conviction to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding twelve months or to both.

[s. 89]

95. Offences in relation to nomination papers or ballot papers

- (1) Every person who—
 - (a) forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to a Returning Officer any nomination paper knowing that it is forged;
 - (b) forges or counterfeits or fraudulently destroys any ballot paper or the official mark on any ballot paper;
 - (c) without due authority, supplies any ballot paper to any person;
 - (d) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorised by law to put in;
 - (e) without due authority, takes out of any polling station any ballot paper or is found in possession of any ballot paper outside a polling station; or
 - (f) without due authority, destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election,

commits an offence and shall be liable on conviction to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding two years or to both.

- (2) Any person who, for the purpose of procuring nomination as a candidate for himself or for any other person, knowingly makes any false statement material to that nomination in a nomination paper or statutory declaration delivered to a Returning Officer commits an offence and shall be liable on conviction to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding one year or to both.
- (3) In any prosecution for an offence in relation to the nomination papers, ballot boxes, ballot papers, counterfoils, marking instruments and other things in use at an election, the property in those papers, boxes, instruments and things may be stated to be in the possession of the Returning Officer for the election.

[s. 90]

96. Miscellaneous offences

Any person who—

- (a) wilfully furnishes false evidence or makes a false statement in a declaration made under section 66; or

(b) contravenes the provisions of paragraph (b) of subsection (1) of section 53,

commits an offence and shall be liable on conviction to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding six months or to both.

[s. 91]

97. Maintenance of secrecy at elections

- (1) Every officer, clerk, interpreter, candidate and agent authorised to attend at a polling station or at the counting of the votes, shall, unless he has taken an oath of secrecy under the provisions of this Act, before so attending, take an oath of secrecy in the prescribed form.
- (2) The Returning Officer shall have power to administer any oath required to be taken under the provisions of subsection (1).
- (3) Every officer, clerk, interpreter, candidate and agent in attendance at a polling station shall maintain, and aid in maintaining, the secrecy of the voting in the station and shall not communicate, except for some purpose authorised by the law, to any person any information as to the name or number of any voter who has or has not applied for a ballot paper or voted at, the station or as to the official mark.
- (4) No officer, clerk, interpreter, candidate or agent, and no other person shall obtain or attempt to obtain in the polling station information as to the candidate for whom any person in the station is about to vote or has voted, or communicate at any time to any person any information obtained in a polling station as to the candidate for whom any person in the station is about to vote or has voted, or as to the number of the ballot paper given to any person at the station.
- (5) Every officer, clerk, interpreter, candidate and agent in attendance at the counting of the votes shall maintain, and aid in maintaining, the secrecy of the voting and shall not ascertain or communicate any information obtained at the counting as to the candidate for whom any vote is given by any particular ballot paper.
- (6) No person, except a presiding officer acting for a purpose authorised by this Act, or a person authorised by the presiding officer and acting for that purpose, shall communicate with any person after that person has received a ballot paper and before he has placed the same in a ballot box.
- (7) Every person who acts in contravention of the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding twelve months or to both.

[s. 92]

98. Penalty for undue influence

Any person who commits an offence of undue influence shall be liable on conviction to a fine not exceeding ten thousand shillings, or to imprisonment for a term not exceeding five years or to both.

[s. 93]

99. Penalty for personation

Any person who commits an offence of personation or of aiding, abetting, counselling, or procuring the commission of the offence of personation shall be liable on conviction to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding two years or to both.

[s. 94]

100. ***

[Repealed by Act [No. 7 of 1992](#) s. 32]

[ss. 95]

101. ***

[Repealed by Act [No. 7 of 1992](#) s. 32]

[ss. 96]

102. ***

[Repealed by Act [No. 7 of 1992](#) s. 32]

[ss. 97]

103. Persons to be deemed guilty of undue influence

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

[s. 98]

104. Undue influence in relation in relation officers

- (1) Where any person does any act as is described in section [103](#) to or in respect of a Returning Officer with the intent that the Returning Officer shall discriminate in favour of one or other of the candidates at the election, or where any Returning Officer does any such act as is so described on account of discriminating or having discriminated in favour of one or other of the candidates, he shall be deemed, according to the circumstances of the case, to be guilty of undue influence within the meaning of this Act.
- (2) For the purposes of this section, section [103](#) shall be read as if references to voters and to voting were references to a Returning Officer and to discrimination respectively and as if the references to the intent specified in those sections were references to the intent specified in subsection (1) of this section.

[s. 99]

105. Persons to be deemed guilty of personation

- (1) Every person who at any stage—
 - (a) applies for a ballot paper in the name of another person, whether that name is the name of a person living or dead or of a fictitious person; or
 - (b) for the purpose of procuring the issue to himself of a ballot paper knowingly tenders a voting card issued to some other person,

shall be guilty of personation within the meaning of this Act.

[s. 100]

106. Penalty for persons guilty of certain illegal practices

- (1) Every person who—
- (a) votes or attempts to vote, or induces or procures some other person to vote at any election if he, or if to his knowledge that other person, has already voted at that election or at another election to a local government authority; or
 - (b) for the purpose of procuring the issue of any ballot paper to any other person or to himself, delivers a Certificate of Registration issued to himself or to some third person to that other person, or induces or procures some third person to deliver the third person's certificate of registration to himself or that other person,

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

- (2) Every person who—
- (a) votes or induces some other person to vote at any election knowing that he or that person is not entitled or is prohibited, under or by this Act or any other written law, from voting at such election;
 - (b) for the purpose of procuring the issue to himself of a ballot paper knowingly tenders an invalid certificate of registration; or
 - (c) before or during an election, knowingly publishes any false statement of the withdrawal of a candidate at such election for the purpose of promoting the election of another candidate,

commits an offence and on conviction is liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding twelve months or to both.

[s. 101]

107. Interference with lawful public meeting to be an illegal practice

Any person who, at a lawful public meeting held in connection with the election of any person between the day of publication of the notice appointing nomination day and the day on which the result of the election is published, acts or incites others to act in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together commits an offence and shall be liable on conviction to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding six months or to both.

[s. 102]

108. Display of emblems in vicinity of place of voting prohibited

- (1) No person shall, within any building where voting in an election is in progress, or on any public way within a distance of three hundred metres of any entrance to the building, wear or display any card, favour or other emblem indicating support for a particular candidate in the election.
- (2) Any person acting in contravention of this section commits an offence and shall be liable on conviction to a fine not exceeding two hundred shillings.
- (3) For the purposes of this section "public way" has the same meaning as in section 5 of the Penal Code ¹¹.

[s. 103]

109. Defacement of notices

Every person who, without lawful authority, destroys, mutilates, defaces or moves any notice which is exhibited under the authority of this Act or any document and publisher which is made available for inspection in accordance with the provisions of this Act commits an offence and shall be liable on conviction to a fine not exceeding one thousand shillings.

[s. 104]

110. Documents to bear name and address of printer and publisher

- (1) A person shall not—
 - (a) print or publish or cause to be printed or published any bill, placard or poster having reference to an election or any printed document distributed for the purpose of promoting or procuring the election of a candidate; or
 - (b) post or cause to be posted any bill, placard or poster; or
 - (c) distribute or cause to be distributed any printed document for the purpose of promoting or procuring the election of a candidate,unless the bill, placard, poster or document is authorised by the Returning Officer or Assistant Returning Officer and bears upon the face of it the name and address of the printer and publisher.
- (2) For the purposes of this section, any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be a printing, and the expression "printer" shall be construed accordingly.
- (3) Any person who contravenes the provisions of subsection (1) commits an offence and on conviction is liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding two months or both.
- (4) Nothing in this section applies to any bill, placard, poster or document published by or on behalf of the Registration Officer or the Returning Officer.

[s. 105]

111. Persons convicted of corrupt or illegal practices to be removed from register

- (1) Where a court convicts a person of corrupt or illegal practice under this Act, it shall report the conviction to the Registration officer for any ward in which it has reason to believe that person is registered.
- (2) Where a Registration Officer receives a report under this section in respect of a person registered in a polling district of which he has charge, he shall forthwith delete that person's name from the register and take such further steps as a Registration Officer is required to take under the provisions of Part IV of this Act.

[s. 106]

Part XIII – Avoidance of elections and election petitions (ss. 112-121)**112. Avoidance of election on election petition**

- (1) The election of a candidate as a member shall not be questioned save on an election petition.

- (2) The election of a candidate as an elected member shall be declared void on any of the following grounds which are proved to the satisfaction of the court, namely—
- (a) that by reason of illegal practices committed in connection with the election, or other circumstances, whether similar to those enumerated or not, the majority of voters were or may have been prevented from electing the candidate whom they preferred;
 - (b) that during the election campaign, statements have been made by the candidate, or on his behalf and with his knowledge and consent or approval, with intent to exploit tribal, racial or religious issues or differences pertinent to the election or relating to any of the candidates or, where the candidates are not of the same sex, with intent to exploit such difference;
 - (c) non-compliance with the provisions of this Act relating to elections if it appears that the election was not conducted in accordance with principles laid down in those provisions and that the non-compliance affected the result of the election;
 - (d) that an illegal practice was committed in connection with the election by or with the knowledge and consent or approval of the candidate or by or with the knowledge and consent or approval of any of his agents; or
 - (e) that the candidate was at the time of his election a person not qualified for election as a member.
- (3) Notwithstanding the provisions of subsection (3) where, upon the trial of an election petition respecting an election under this Act, the court finds that an illegal practice in connection with the election has been committed by or with the knowledge and consent or approval of any of a candidate's agents, and the court further finds, after giving the Attorney-General an opportunity of being heard, that the candidate has proved to the court—
- (a) that no illegal practice was committed by the candidate himself or with the knowledge and consent or approval of that candidate or his agent;
 - (b) that the candidate took all reasonable means for preventing the commission of illegal practices at the election; and
 - (c) that in all other respects the election was free from any illegal practice on the part of the candidate and of his agents,
- then if the court so recommends, the election of that candidate shall not by reason of that practice be void.

[s. 107]

113. When Court may hold certain acts or omissions to be exempt

When it appears to the Court either on application or upon an election petition—

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

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

[s. 108]

114. Petitions triable by Resident Magistrate's Court

- (1) Every election petition and application under this Act shall be tried by the Resident Magistrate's Court.
- (2) All appeals under this section shall lie to the High Court.

[s. 109]

115. Petitions and deposit of security for costs

- (1) An election petition may be presented by any one or more of the following persons—
 - (a) a person who lawfully voted or had a right to vote at the election to which the petition relates;
 - (b) a person claiming to have had a right to be nominated or elected at election;
 - (c) a person alleging himself to have been candidate at the election;
 - (d) the Attorney-General.
- (2) The Court shall not fix a date for the hearing of any election petition unless the petitioner has paid into the court, as security for costs, a sum of five hundred thousand shillings in respect of the proposed election petition.
- (3) The provisions of subsection (2) requiring a petitioner to give security for costs shall not apply to the Attorney-General in any case in which the Attorney-General is the petitioner or one of the petitioners.
- (4) The money deposited as security for costs under subsection (2), shall where the petitioner succeeds in the petition or on appeal, and where no order as to costs lies against him, as the case may be shall immediately be refunded to the petitioner.

[s. 110]

116. Relief which may be claimed

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

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

[s. 111]

117. Certificate of court as to validity of election

At the conclusion of the trial of an election petition, the court shall determine whether the member whose nomination or election is complained of, or any other and which person, was duly nominated elected, or whether the election was void, and shall certify such determination to the Electoral Authority. Upon a certificate being given, the determination shall be final; and the election shall be confirmed or a new election shall be held, as the case may require, in accordance with the certificate.

[s. 112]

118. ***

[Repealed by Act No. 7 of 1992 s. 38]

[s. 113]

119. Time of presentation of election petition

- (1) Every election petition shall be presented within one month of the date of declaration of the result by the Returning Officer:

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

- (2) Without prejudice to the provisions of any rules of court made under section 116, an election petition presented in due time may, for the purpose of questioning the election upon an allegation of a corrupt or illegal practice, be amended with the leave of the court within the time within which an election petition questioning the return or the election upon that ground may be presented.

[s. 114]

120. Votes to be struck off at a scrutiny

- (1) On a scrutiny at the trial of an election petition, the following votes only shall be struck off—
- (a) the vote of any person whose name was not on the register of voters of the ward in which he voted;
 - (b) the vote of any person whose vote was procured by bribery, treating or undue influence;
 - (c) the vote of any person who committed or procured the commission of personation at the election;
 - (d) the vote of any person proved to have voted more than once at the election;
 - (e) the vote of any person who, by reason of a conviction for a corrupt or illegal practice or by reason of the report of the court, or by reason of any conviction for an offence against this Act or any other written law, was disqualified from voting at the election.
- (2) The vote of a registered voter shall not, except in the cases specified in paragraph (e) of subsection (1) of this section, be struck off at a scrutiny by reason only of the voter not having been or not being qualified to have his name entered on the register of voters.

[s. 115]

121. Rules of court

The Chief Justice may make rules of court regulating the procedure and practice to be followed and prescribing the fees to be paid on and in relation to petitions and applications under this Part.

[s. 116]

Part XIV – Financial and miscellaneous provisions (ss. 122-131)

122. Inaccurate descriptions

No misnomer or inaccurate description of any person or place named or described in any notice or other document of any kind prepared or issued under or for the purposes of this Act shall in any way affect the operation of this Act as respects that person or place if that person or place is so designated in the register, notice or document as to be identifiable.

[s. 117]

123. Powers of Registration and Returning Officers to demand information

- (1) In the exercise of their respective duties under this Act, Registration Officers and Returning Officers shall at all times have power to demand from any person any information necessary to ascertain what persons are qualified to vote at elections and what persons are qualified to stand as candidates, and to identify any person or the place of abode of any person, and to ascertain whether any person has become disqualified from voting or standing as a candidate.
- (2) Any person who, after any lawful demand made under the provisions of subsection (1), fails to give such information as he possesses, or unreasonably delays in giving the information, commits an offence and shall be liable on conviction to a fine not exceeding five hundred shillings.

[s. 118]

124. Remuneration of staff

Returning Officers and any staff employed under the provisions of subsection (4) of section 9 and supervisory delegates shall receive such reasonable remuneration for their services as the Electoral Authority may see fit to authorise.

[s. 119]

125. Expenses to be charged on Consolidated Fund

- (1) All expenses incurred—
 - (a) by the Returning Officers and Assistant Returning Officers in the conduct of an election;
 - (b) in the remuneration of the officers specified in section 119; and
 - (c) by any public officer in connection with any official matter connected with or arising out of an election,shall be a charge on the Consolidated Fund.
- (2) Notwithstanding the provisions of subsection (1), the Minister may after consultation with the Minister for Finance and the Electoral Authority, prescribe the amount of contribution to be made by each local authority in respect of which the election is to be held.

[s. 120]

126. Service of notices

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

- (a) if served on him personally;
- (b) if left for him at his last known address; or

- (c) if sent by registered post addressed to him at his last known address.

[s. 121]

127. Exemption from stamp duty

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

[s. 122]

128. Disposal of forms and records

The Electoral Authority may, subject to the provisions of this Act, issue directions with regard to the disposal (including destruction) of any forms, records or other papers or things relating to any matter for which provision is made in this Act.

[s. 123]

129. ***

[Repealed by Act [No. 7 of 1992](#) s. 39]

130. Regulations and Rules

- (1) The Minister may make regulations for the better carrying into effect of the purposes and the provisions of this Act.
- (2) The Electoral Authority may make rules prescribing forms and declarations to be used for the purpose of this Act.
- (3) Where any forms have been prescribed under subsection (2) those forms shall be used for the purpose to which they relate or to which they are capable of being adapted and may be translated into and used in such language as the Authority may direct.

[s. 125]

131. Repeal of Act [No. 24 of 1975](#)

[Repeals the District Development Councils (Elections) Act.]

[s. 126]