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ZANZIBAR

2

Tanzania

THE ELECTION ACT NO. II OF 1984

THIS VOLUME INCORPORATES ALL  
AMENDMENTS MADE BY ACT NO. 8 OF 1992  
AND NO. 14 OF 1992.

WHEREAS the House of Representatives at its session on 11th October, 1984 enacted the Elections Act No. 11 of 1984.

And WHEREAS the House of Representatives at its session on 4th day of July, 1990 amended the said Act by the Election (Amendment Act No. 4 of 1990.

And WHEREAS the House of Representatives at its session on 15th September, 1992 amended the said Act by the Election (Amendment) Act No. 8 of 1992 and on 8th day of December amended the said Act by the Election (Amendment) (No.2) Act No. 14 of 1992.

Now THEREFORE, the Attorney General in exercise of the powers conferred upon him under subsection (2) of section 10 of the Revised laws of Zanzibar do hereby Consolidate the said Acts and the same shall be referred to as the Election Act No. 11 of 1984.

(Iddi Pandu Hassan)

ATTORNEY GENERAL

ZANZIBAR:

THE ELECTION ACT, 1984  
ARRANGEMENTS OF SECTIONS  
CHAPTER I  
PRELIMINARY.

Section.

1. Short title and construction.
2. Interpretation.
3. Regulations, directions and notice.
- ~~4.~~ *Repealed*
5. Polling districts.
6. Director of Elections.
7. Registration Officers and staff.
8. Ex-officio assistant registration officer.
9. Returning Officers and staff.
10. Registration Officers of wards.
- ~~11.~~

CHAPTER II  
PART I  
QUALIFICATIONS AND DISQUALIFICATION  
FOR REGISTERING AS VOTERS AND VOTING.

12. Qualification for registration.
13. Disqualification from registration.
14. Register of voters.
15. Place of and disqualification from voting.
16. Change of name.
17. Times for registration.
18. Certificate of registration.
19. Changes of residence.
20. Certificate of registration lost defaced or destroyed.
21. Amendment of particulars.
22. Declaration relating to lost or destroyed certificate of registration.
23. Refusal of application.

PART III  
OBJECTIONS TO REGISTRATION OR CONTINUED  
REGISTRATION :

Section.

- 24. Inspection of Register.
- 25. Inclusion of name in a Register.
- 26. Objections.
- 27. Procedure for making objections.
- 28. Inquiry and determination by Registration Officer.
- 29. Objector or person objected to may appeal.

PART IV  
APPEAL AND ADDITION TO OR DELETION FROM THE  
REGISTER :

- 30. Appeals to a Resident Magistrate.
- 31. Provisions consequential to additions to or deletions from register under this Part.

CHAPTER III  
PRESIDENTIAL ELECTIONS

PART I  
GENERAL.

- 32. Nomination of Presidential Candidate.
- 33. Number of Nominations.
- 34. Particulars of Nomination.
- 35. Sole Presidential Candidate.
- 36. Deposits.
- 37. Withdrawal of Candidature.
- 38. Death or Lack of Candidature.

PART II  
ELECTION PROCEDURE

- 39. Presidential Election day.
- 39A. Persons entitled to vote at a Presidential Election.
- 39B. Application of Part. V.
- 39C. Application of Chapter IV.
- 39D. Counting of Votes.
- 39E. Second Ballot.

40. Unopposed Candidate.

41. *Repealed*

PART IV  
ELECTION DAY

42. Nominated Candidates and election.

43. Notice of election.

PART V  
THE ELECTION CAMPAIGN

44. Election Campaigns.

45.

46. ~~Symbols~~. *Candidates to be identified by photograph*

47.

PART VI  
WITHDRAWAL DEATH AND ABSENCE OF CANDIDATES.

48. Withdrawal of Candidature.

49. Death of Candidates

50. Absence of candidates

CHAPTER IV  
ELECTION AND VOTING PROCEDURE

PART I  
ELECTION PROCEDURE.

51. polling days and times

52. Arrangements for contested elections.

53. Polling agent.

54. Ballot boxes.

55. Form of ballot paper.

56. Prohibition of disclosure of vote.

PART II  
VOTING AND COUNTING PROCEDURE

57. Methods of voting.

58. Voting by polling agent.

59. Admission to polling.

60. Allegation of irregularities.

61. Tendered ballot papers.

**Section.**

62. Declaration by voters.
63. Adjournment of polling in case of riot.
64. Closing of the poll.
65. Procedure on closing of poll.
66. Counting agents.
67. Counting of votes.
68. Persons who may be present.
69. Method of counting votes.
70. Votes which are not to be counted ballot papers.
71. Endorsements by the Returning Officer.
72. Rejected ballot papers.
73. Equality of votes and recount in contested elections.
74. Candidates or counting agent may require recount.
75. Returning Officer's decision final.
76. Returning Officer's duties of conclusion of counting.
77. Declaration of result.
78. Custody of documents.
79. Power of polling assistants.
80. Candidate has power of his polling agent or counting agent.
81. Non-attendance of agents not to invalidate proceedings.
82. Where two or more elections held simultaneously.
83. Equality of votes in Presidential election.

**CHAPTER V  
LOCAL AUTHORITY ELECTION.**

84. Qualification of candidates for the House of Representative and local authority election.
85. Nominations of candidates.
- 85A. Deposits.
86. Name or address of candidates.
87. Candidate to be nominated for one seat only.
88. Objections to and decision as to validity of nomination paper.

90. Voting and counting procedure.
91. Declaration of the results.

CHAPTER VI  
OFFENCES

PART I  
OFFENCES RELATING TO REGISTRATION AND NOMINATION.

92. Offences in relation to registration.
93. Offence in relation to nomination papers or ballot papers.
94. Official discouragement of persons seeking nomination etc.
95. Offences in relation to register and certificates of registration.

PART II  
OTHER ELECTIONS OFFENCES.

96. Miscellaneous offence.
97. Maintenance of secrecy at elections.
98. Penalty for bribery, treating etc.
99. Penalty for personation.
100. Disqualifications entailed by conviction for corrupt or illegal practice.
101. Persons to be deemed guilty of bribery.
102. Persons to be deemed of guilty of treating.
103. Persons to be deemed guilty of undue influence.
104. Bribery treating and undue influence in relation to members of an organ of party.
105. Persons to be deemed guilty of personation.
106. Penalty for persons guilty of certain corrupt and illegal practice.
107. Interference with lawful public meeting to and illegal practice.
108. Display of emblems in vicinity or place of voting prohibited.
109. Defacement of notices.
110. Documents to bear name and address of printer and publisher.
111. Person convicted of corrupt or illegal practice to be removed from register.
- 111A The Electoral Commission.



CHAPTER VII  
PROCEDURE AND JURISDICTION OF COURT.

112. Petition triable by High Court.
113. Who may present petition.
114. Reliefs in election petition.
114. Reports to the Director at end hearing of election petition.
116. Time for presentation and determination of election petition.
117. Votes to be struck off at a scrutiny.
118. Rules of court.
119. Jurisdiction of resident magistrates.
120. Avoidance of election and petition.
121. When High Court held certain acts or commission to be exempt.

CHAPTER VIII  
FINANCIAL AND MISCELLANEOUS.

122. Inaccurate descriptions.
123. Powers of Director of Elections, Registration and Returning Officer's to demand information.
124. Remuneration of staff.
125. Expenses to be charged on general revenue.
126. Service of notices.
127. Regulations.
128. Exemption from stamp duty.
129. Directions.
130. Replacement of registers, etc.

CHAPTER IX  
REPEAL AND TRANSITIONAL PROVISIONS.

131. Repeal of Act No. 3/1980.
132. Saving.

1 ASSENT.

ALI HASSAN MWINYI,  
THE PRESIDENT OF ZANZIBAR AND  
CHAIRMAN OF THE REVOLUTIONARY  
COUNCIL.

1st DECEMBER, 1984.

AN ACT TO REPEAL AND REPLACE THE ELECTION OF  
CHAIRMAN OF THE REVOLUTIONARY COUNCIL AND THE  
PRESIDENT OF ZANZIBAR ACT AND TO MAKE PROVISIONS  
FOR THE ELECTIONS TO THE HOUSE OF REPRESENTATIVES  
AND THE ELECTIONS TO THE LOCAL AUTHORITIES, AND  
TO PROVIDE FOR MATTERS CONNECTED THEREWITH AND  
INCIDENTAL THERETO.

ENACTED by the House of Representatives of Zanzibar.

CHAPTER I

PRELIMINARY

1. - (1) This Act may be cited as the Election Act, 1984 Short title  
and constru-  
ction.
- (2) The provisions of this Act shall be read as one  
with the Constitution of Zanzibar, 1984, (hereinafter  
referred to as 'the Constitution').
2. - (1) In this Act unless the context otherwise requires:- Interpretation.
- 'Candidate' means, a person who submits himself for  
election to the House of Representatives or for  
election to a local authority;
- Provided that:-
- (a) for the purpose of those provisions of this Act  
which relate to a time after the primary nomination  
of candidates it does not include a candidate whose  
nomination is declared invalid by the Returning  
Officer or who withdraws his candidature; and
- (b) for the purposes of those provisions of this Act  
which relate to a time after the final nomination of  
candidate it does not include a candidate who has not  
been approved or selected for the relevant election  
by or on behalf of the Party;
- 'certificate of registration' means certificate issued  
under the provisions of this Act certifying that the  
person named in such certificate has been registered as  
a voter;

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

**° the Commission** means the Electoral Commission established by the Constitution;

**° Constituency** means in an election other than that of a President a constituency for the purposes of elections to the House of Representatives or to a local authority and in the case of an election of President means the whole of Kambar.

**° counting agent** means a person appointed as a counting agent under the provisions of section 66;

**° contested election** means an election in a constituency

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

**° election** means:-

(a) in the case of an election of the President the Presidential election;

(b) in the case of an election to the House of Representatives, a Parliamentary election, and includes by-election;

(c) in the case of an election of the local authority means local authority election;

**° election day** in relation to an election in any constituency means the day appointed under section 43 or any day substituted therefor in accordance with the provide to that subsection;

**° nomination** means nomination as a candidate for election to the House of Representatives and local Authority;

**° nomination day** means a day appointed for the nomination of candidates;

**° Political Party** means a political Party registered as such under the political Parties Act, 1992.

**° polling agent** means a person appointed under the provisions of section 53.

**° polling assistant** means a person appointed under the provisions of section 52.

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

'prescribed' means prescribed by regulations made by the Commission under section 127.

'Presidential Candidate' means a person nominated to contest election to the Office of the President;

'Presidential Election' means the election of the President of Senegal and Chairman of the Revolutionary Council;

'Presiding officer' means a person appointed under the provisions of section 65;

'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 qualifications as a voter;

(b) when used in relation to a person claiming to be qualified as a candidate for a parliamentary election, qualified to be or qualification as a candidate for election to the House of Representatives, for the constituency in question;

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

'Registration officer' means a Registration officer appointed under the provisions of section 7 and includes in so far as is provided for in the section, an Assistant Registration officer and the 'Registration Officer' in relation to a constituency means the Registration Officer appointed for that constituency;

'Registration Officer of a polling district' means the Registration officer of the constituency within which such polling district is situated;

'Returning Officer' means a Returning Officer appointed under section 9 and includes in so far as is provided for in that section an Assistant Returning Officer; and the 'Returning Officer' in relation to a constituency means the Returning Officer appointed for that constituency;

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

- (2) Reference in this Act or in any other written law to a registered voter's number shall be construed as references to the number of such voter's certificate of registration.
- (3) References in this Act to an election in a constituency shall be construed as references to a parliamentary election in that constituency and references to a candidate to constituency shall be construed as reference to a candidate for parliamentary election in that constituency.

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

Regulation  
directions

4. Section 4 is repealed by section 3 of act No. 80 of 1982  
5.-(1) The Commission shall divide every constituency into polling districts and shall publish in the Gazette a notice specifying such polling districts.

Repeal of Sec.  
Polling  
districts

(2) Where the boundaries of constituencies are varied, or in any other circumstances in which the Commission thinks it appropriate so to do, the Commission may alter the number and area of polling districts within a constituency; and upon such alteration being made it shall publish in the Gazette notice specifying the alteration.

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

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

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

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

7.- (1) The Commission shall appoint by office a Registration Officers and such Registration Officer for each constituency and every such Registration Officer shall be in charge of every polling district within the constituency for which he is appointed. Staff.

(2) The Registration Officer appointed for a constituency shall appoint by office or name 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.

(4) A Registration Officer may, subject to the direction of the Commission employ such staff as he may require to carry out his functions under the provisions of this Act.

8. Every City, Municipal or Town Director shall, by virtue of such office and without further or other appointment under this Act, be an Assistant Registration Officer. Sr. Officer assistant registration Officer.

9.- (1) The Commission shall appoint by office or name a Returning Officer for each constituency. Returning Officers and Staff

(2) Each Returning Officer 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 from time to time issue, an Assistant Returning Officer may exercise and perform all the powers and duties conferred or imposed on a Returning Officer other than those conferred by the foregoing provisions of this section, and any reference in this Act to the Returning Officer shall, save as aforesaid, be deemed to include a reference to an Assistant Returning Officer.

(4) Returning Officers may, subject to the directions of the Commission, employ such staff as they may require to carry out the functions under the provisions of this Act.

(5) Every Returning Officer and Assistant Returning Officer shall, upon his appointment, take and subscribe an oath of secrecy in the prescribed form.

10.- (1) A Registration Officer for a constituency shall be an Officer of all the words within Registration Officers of

**CHAPTER II**  
**REGISTRATION OF VOTERS**

**PART I**

**QUALIFICATIONS AND DISQUALIFICATION  
FOR REGISTRATION AS VOTERS AND VOTING**

12. Every Zanibari 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 the Act as a voter. Qualification for registration.
- 13.-(1) No person shall be qualified for registration as a voter or shall be registered under this Act:- Disqualifi-  
cation from  
registration.
- (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 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 such a court or substituted by competent authority for some other sentence imposed on him by such a court.
  - (d) if he is disqualified from registering as a voter under the provisions of this or any other law in force relating to offences connected with any election.
- (2) For purpose 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

Chapter or one the report of a court that such person has been guilty of a practice which disqualifies him from registering or voting.

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

14.-(1) The Director of Elections shall make and maintain a Register of voters for each and every polling district of voters.

- (2) Every Register of voters shall consist of names of all persons who are registered as voters in the polling district in question grouped alphabetically, with the names included in each group arranged in alphabetical order.

- (3) The register shall show relative to every voter named therein, the number of the certificate of registration issued to such voter, the sex of the voter and the address at which the voter ordinarily resides.

- (4) Such number of copies of every register of voters shall be kept and maintained as the Director of Elections may direct.

15.-(1) Subject to the provisions of this Act, a person who is registered as a voter in any polling district shall be entitled to vote in any election in that polling district and every such person shall be entitled to vote only at the polling station allocated to him in such a polling district, and not elsewhere. Place of and dis-qualification from voting.

- (2) Notwithstanding the provisions of subsection (1) a presiding officer or polling assistant at any polling station shall not permit any person to vote at the polling station unless such person satisfies the presiding officer or, as the case may be, that polling assistant, that he is the voter he claims to be by producing to him the certificate of registration issued to such person or other proof of his identity as the Director of Election 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 provisions of this Act, the Director of Elections or any person authorised in that behalf by the Director may, by a certificate under his hand, authorise a registered voter who is a candidate at an election in a constituency to vote at the polling station specified in such certificate whether or not such candidate is registered as a voter in that polling district.
- (5) Notwithstanding any other provisions of this Act, where a voter registered as such in any polling district is employed as a Returning Officer, presiding Officer, police Officer or in any other official capacity at a polling station in such polling district other than at the polling station allocated to him the Director of Elections or any person authorised in that behalf by the Director, may by certificate under his hand, authorise the voter to vote at any other polling station in such polling district, and that polling station shall for the purposes of this Act, be deemed to be the polling station allocated to such voter.
- (6) A person who is serving a sentence of imprisonment may, subject to the provisions of this Act, be registered as a voter, or vote at an election only if permitted to do so by the written law governing his imprisonment.

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

16.

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

Change  
of  
name.

PART II  
REGISTRATION

- 17.-(1) Where an election is to take place in any constituency or ward, the Commission may, at any time within six months before the date of such election, direct the Registration Officer in charge of such constituency within which such ward is situated to make available at each and every polling district within the constituency, facilities for the registration of voters. Times for registration.
- (2) Subject to the provisions of subsection (1) every Registration Officer shall, during office hours or not less than seven days in each month, make available at the headquarters in his charge is situated, facilities for the registration of voters.
- (3) Any person entitled to be registered as a voter at any polling district and who has not been so registered may present himself:-
- (a) in cases where under the provisions of subsection (1) facilities for registration are made available at polling district, at the relevant polling district;
  - (b) in any other case, at the headquarters, and shall, upon so presenting himself and upon satisfying the officer in charge of the polling district or, as the case may be the headquarters, that he is entitled to be registered as a voter in accordance with the provisions of this Act.
- (4) Notwithstanding any provisions of this section to the contrary, it shall be lawful for the Commission to direct that the registration of voters in all or any polling district in the constituency or ward specified in such direction shall be suspended for such period as the Commission may direct if, in the opinion of the Commission, it is desirable to suspend the registration of voters in view of the fact that an election is likely to take place in such constituency in the near future or any other reason whatsoever.
- (5) Where a direction under subsection (4) has been issued in respect of any polling district, no registration of voters shall take place in such polling district during the period specified in such direction.

18. (1) Where a person makes an application for registration as a voter in accordance with section 17, he shall, if he satisfies the Registration Officer or any other office for the time being responsible for the registration of voters, that he is qualified to be registered as a voter at a polling district within the jurisdiction of such Registration Officer or such other Officer be registered as a voter for such polling district and upon being so registered shall be issued with a certificate of registration in the prescribed form. Certificate of registration
- (2) The Commission may by regulations made under section 127 require any person applying for registration as a voter, to fill in such forms as may be prescribed.
19. (1) Where any voter who is registered in one polling district becomes ordinarily resident in some other polling district, he may apply in accordance with the provisions of section 17 to the Registration Officer for the polling district in which he is ordinarily resident, and the Registration Officer shall:- Change of residence
- (a) if he is satisfied that the applicant:-
- (i) is qualified for registration.
  - (ii) is ordinarily resident in the polling district in respect of which he makes the application; and
- (b) on the surrender by the applicant of his certificate of registration, or on the applicant satisfying the Registration Officer that it is lost or destroyed, forthwith register the applicant in the register for the polling district and issue to him a new certificate of registration for the polling district.
- (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 Director of Elections; or
  - (b) if he is satisfied that the applicant's certificate of registration is lost or destroyed, give notice

of a new certificate of registration, and on receipt of such certificate of registration or notice, the Director of Elections shall amend the register accordingly.

- (5) Notwithstanding the provision of subsection (1) of section 17, or subsection (1) of this section, where by reason of:
- (a) any change of name of constituency; or
  - (b) any adjustment in the number of constituency; or
  - (c) any adjustment in the boundaries or areas of one or more constituencies, a constituency becomes part of other constituency or a polling district of one constituency becomes a polling district constituency with a new name;

it shall not be necessary for a voter whose name is no longer in any register affected but such adjustment to apply for the transfer of his name to the appropriate register but the Director of Elections shall as soon as possible effect such amendment or transfers as may be necessary to give effect to such adjustment as if an application for transfer had been made by the voters concerned pursuant to the provisions of this section.

20.- (1)

Where a certificate of registration issued to any person is lost, defaced or destroyed, the person to whom such certificate was issued may apply in person to the Registration Officer for the issue of a new certificate of registration.

Certificate of registration lost, defaced or destroyed.

(2)

On any such 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 such defaced certificate of registration.

21.-

Where any of the particulars on a certificate of registration or in a register requires amendment by reason of a change of circumstances affecting the person to whom it was issued, other than a change of residence from one polling

Amendment of particulars.

district to another, the person to whom such certificate of registration, and the Registration Officer shall upon such 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 advise the Director of Elections to make any necessary amendments to the registers.

Provided that no new certificate of registration shall be issued prior 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.

22. Where under the foregoing provisions of this Part, an application is made to a Registration Officer by a person who claims he has lost his certificate of registration issued to him or that such certificate or registration has been destroyed, the Registration Officer shall require the applicant to make a declaration in the prescribed form relating to such loss, or destruction, and without prejudice to his power to refuse the application on other grounds, may refuse the application unless the applicant makes such a declaration.      Declaration relating to lost or destroyed certificate of registration
23. Where a Registration Officer refuse 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 such refusal may within twenty one days after receipt by him of such statement, appeal against such refusal to resident magistrate.

PART III  
DIRECTIONS TO REGISTRATION OR  
CONTINUED REGISTRATION.

24. Any person may, an application made in that behalf to the Registration Officer or to the Director of Elections, inspect the register of any polling district on such day and at such time as the Registration Officer or as the case may be, the Director of Elections, may appoint.      Inspection of registers

25. - (1)

Inclusion of

where any person who has been registered as a voter and holds a valid certificate of registration in respect of a polling district discovers, pursuant to an inspection made in accordance with the provisions of section 24, that his name does not appear in the register of the polling district, he may apply to the Director of Elections to include his name in the register and the Director of Elections or, as the case may be, the Registration Officer shall, if satisfied that the name of such person should have been included in the register of the polling district, amend or cause to be amended the register by inclusion of the name of such person.

(2)

Where the Director of Election or the Registration Officer refuses to amend the register to include the name of any person, the person aggrieved by such refusal may object to such refusal.

26. - (1)

Objections

Any person whose name appears in the register for any polling district may object to the retention in that register of his name or the name of any other on the ground that he or such other person is not qualified or is no longer qualified to be registered therein or that such other person is dead.

(2)

The Director of Elections or the Registration Officer may object to the retention of any name in the Register of any Polling District on any such ground aforesaid.

(3)

Any person who makes an objection under this section or under section 25 shall hereinafter be referred to as the objector.

27. - (1)

Procedure

Except in the case of an objection being made by the 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. objections

(2)

Every objection, other than an objection made by the Director of Elections or a Registration Officer, shall be accompanied by the sum of ten shillings as 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 such 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 register is dead.

28.- (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 such inquiry will commence to each objector, and person in regard to whom objection has been made. At any such public inquiry any person appearing to the Registration Officer to be interested in or affected by the subject matter of the inquiry may appear and be heard either personally or by any other person duly authorised by him in writing in that behalf.

Inquiry and determination by Registration Officer.

(2) 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.

(3) If, in the opinion of the Registration Officer such prima facie proof as aforesaid is given, the Registration Officer shall require proof of the present qualification for registration of the person in regard to whom the objection has been made, and:-

(a) If such person's qualification is not proved to the Registration Officer's satisfaction, he shall delete or cause to be deleted person's name from the register;

(b) If such person's qualification is so proved he shall retain, or as the case may be include or cause to be retained or

- (4) If on the date fixed for inquiry into any objection, the objector or any person authorized in writing in that behalf by the objector fails to appear, or appears but fails to give prima facie proof as aforesaid to the satisfaction of the Registration Officer, the registration officer shall retain or cause to be retained the name of 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.
- (5) If an objection made by any person other than the Registration Officer or the Director of Elections is allowed 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 two hundred shillings, as the Registration Officer considers reasonable compensation for any loss incurred by such person in consequence of the objection.
- (6) Any sum awarded as compensation under this section shall be recoverable as though the order of the Registration Officer were a decree of a district court for the recovery of money.
- (7) 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 shillings shall be liable to be forfeited to the Government by order of the Registration Officer, but otherwise such deposit shall be refunded.
- (8) The validity of the 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 inquiry under this section shall be commenced at the stage at which the Registration Officer required proof of the present qualification of the person in regard to whom the objection is made.

29. - ( If an objector of person in regard to whom objection has been made is dissatisfied with the decision of the Registration Officer under section 28 he may, within twenty days from the date of such decision objector or person objected to may appeal



**PART IV**  
**APPEAL AND ADDITION TO OR DELETION**  
**FROM THE REGISTER**

30. - (1) Every appeal under section 23 shall state shortly the ground of appeal, and shall be accompanied by such sum as the commission may, by notice in the Gazette, prescribe as deposit. Appeals to a Resident Magistrate.
- (2) The resident magistrate shall hear every such appeal in public giving notice of the time, date and place of the hearing of the appeal to the parties concerned. 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 on the issue of certificates of registration, he shall forward to the Registration officer statement under his hand containing the names which he has decided shall be deleted from the register and a statement of the names of the person to whom certificates of registration shall be issued, and the Registration Officer shall amend or cause to be amended the register and issue such certificate of registration accordingly.

Provided that:

- (a) the Resident Magistrate shall not require a Registration Officer to issue a certificate of registration issued to him and relevant to the proceedings, or that any such certificate of registration has been destroyed, unless such person shall have made the declaration provided for in section 22; and
- (b) in any case to which section 20, 21, or 22 applies and no declaration has been made in accordance with section 22, 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 any appeal is dismissed and the resident magistrate is of the opinion that the appeal was made without reasonable cause, he may order that the deposit of twenty shillings be forfeited.

- (5) No party to an appeal shall be entitled to any costs or compensation;

Provided that if an appeal is made and not allowed by the resident magistrate and in his opinion the appeal was made without cause, the resident magistrate may, if he thinks fit, order the appellant to pay compensation of such amount not exceeding hundred 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 to be forfeited or any sum of money paid or to be paid by way of compensation in accordance with an order of the Registration Officer made under section 26 (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 district court for the recovery of the 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 giving false evidence or for non-attendance.

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

- (9) The procedure and practice of hearing 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 such of the other appeals or appeals as he shall specify.

31. (1) Where the name of any person has been added to a register under section 28, 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.

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

(2) Where the name of any person has been deleted from a register under section 28 or 30 the Registration Officer shall require such 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 22 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 surrendered.

CHAPTER III  
PRESIDENTIAL ELECTIONS

PART I  
NOMINATION OF PRESIDENTIAL CANDIDATES.

32. Whenever a Presidential election is to be held each registered political party intending to participate in the Presidential election shall submit to the Commission a name of a Presidential candidate for that party. Nomination of Presidential candidate.
33. In order to be validly nominated to stand as a Presidential candidate, a person must be nominated in writing by not less than two hundred nominators who are registered voters for the purposes of elections under this Act from each of the five Regions of Zanzibar. Number of nomination.
- 34.--(1) Notwithstanding the provisions of section 86(2) every Presidential candidate shall deliver in such manner and such place as the Commission may direct before noon on nomination day, two copies of each nomination paper and each shall contain the following particulars:- Particulars of nomination.
- (a) the name and address of the nominator;
  - (b) the number of certificate of registration of the nomination.
- (2) No person shall nominate more than one Presidential candidate.
- (3) For the Purpose of the Part 'Nomination day' means the day declared by the Commission as the last day for receiving names of aspiring Presidential candidates.
- 35.--(1) Where there is only one validly nominated Presidential candidate, the Commission shall declare such person as the sole Presidential candidate. Sole Presidential candidate.
- (2) The Presidential candidate declared under subsection (1) shall be duly elected to the Office of the President if he obtains more than fifty per cent of the total votes casted.
- (3) Where the sole Presidential candidate has failed to secure the required votes, the Commission shall declare another nomination day for the purpose of

36. -(1) Every Presidential candidate shall, at the time of delivering nomination papers pursuant to the provisions of this part, deposit with the office of the Commission, such sum of money as may be prescribed by the Commission.

Deposits.

(2) The deposit shall be forfeited to the Government if:-

- (a) the Presidential candidate withdraws his candidature after nomination day; or
- (b) the number of votes counted in his favour at the election is less than one-tenth of the total number of votes casted, save that such deposit shall not be forfeited if the candidate dies before election.

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

37. -(1) A Presidential candidate may withdraw his candidature by notice in writing signed and delivered by him to the Commission not later than four o'clock on nomination day.

Withdrawal  
of  
candida-  
ture.

38. -(1) Where:-

- (a) after four o'clock on nomination day there is no validly nominated candidate; or
- (b) at any time after four o'clock on nomination day and before the determination of election, any Presidential candidate dies, the Commission shall forthwith, by notice in the Gazette, appoint a further nomination day being a day not less than twenty one days thereafter.

Death or  
lack of  
candida-  
tes.

(2) Where a new nomination day is appointed under this section, the Commission shall appoint another Presidential election day and the appropriate procedure shall be commenced afresh save that no new nomination shall be required in the case of the other Presidential candidates.

PART II  
ELECTION PROCEDURE.

39. -(1) Subject to section 39B of this Act, the Commission, shall appoint a day hereinafter referred to as Presidential election day for the holding of a ballot in every constituency for the election of the President. Presidential  
Election day.
- (2) Subject to the provisions of this section, the Commission may appoint different Presidential election days for different constituencies and may revoke the appointment of a Presidential election day and appoint some other Presidential election day in its stead.
- (3) The Commission shall appoint as Presidential election days:-
- (a) in the case of a Presidential election held by reason of dissolution of the House of Representatives:-
- (i) for each constituency in which there is House of Representatives election, the day appointed as election day for that contested election;
- (ii) for every other constituency a day not less than forty days and not more than fifty days after nomination day.
- (b) in the case of a Presidential election to which paragraph (a) of this subsection does not apply, for every constituency a day not less than forty days and not more than fifty after the nomination of the Presidential candidates shall have been certified to the Commission.
- (4) Different days may be appointed under subparagraph (ii) of paragraph (a) or paragraph (b) of subsection (3) for different constituencies.
- (5) For the purposes of subsection (3) a Constituency for which the House of Representatives election is commenced afresh, shall be deemed to be a constituency in which there is no contested election.

39A. -(1) Every person registered as a voter under this Act shall be entitled to vote at a Presidential election.

Persons entitled to vote at a Presidential election.

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

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

(b) at the polling station allotted to him in the polling district for which he is so registered and not elsewhere.

(3) The Commission may give directions and prescribed conditions under which a person may, on the Presidential election day, be allowed to vote at a polling station other than that allotted to him.

39B. The provisions of Part V of Chapter III of this Act, shall apply mutatis mutandis in relation to Presidential candidates.

Application of Part V.

39C. The ballot for the election of a President in each constituency shall be held in like manner as the ballot in a contested House of Representatives election and, subject to any necessary modification and the provisions of this section, the provisions of Chapter IV of this Act, other than the provisions of section 73 and 77 shall apply for the regulation thereof and for such other matters as are provided for in Chapter IV of this Act.

Application of Chapter IV.

39D. -(1) After all the votes in a Presidential election from all the polling district in the Constituency have been counted (and if required recounted), the Returning Officer shall certify to the Commission, in such manner as the Commission shall direct:-

Counting of Votes.

(a) the total number of votes cast for the Presidential election in the constituency;

(b) the total number of such votes which are in favour of each Presidential candidates;

(c) in the case of a single Presidential candidate the total number of such votes which are in favour of the Presidential candidate,

and the Commission shall add together the respective totals for each Presidential candidate certified to it from all constituencies.

- (2) The Commission may, for any reason which appears to be sufficient, require that the votes in the constituencies, or in any particular constituency, to be recounted.
- (3) Subject to subsection (2), the Commission shall, after adding together all the respective totals certified to it by each Returning Officer in accordance with subsection (1), declare the result of the Presidential election in the country.

39E. -( 1) Where in the Presidential election no candidate has obtained more than fifty per cent of the total number of votes cast, the Commission shall, by notice published in the Gazette, appoint some other convenient day, but not more than forty days after the election day, for the second ballot of the Presidential election.

Second  
ballot.

- (2) Subject to subsection (1), the Presidential candidate with the first and second highest number of the votes shall be the only candidates in the second ballot.
- (3) Where there is a tie up in the votes for the first highest, the Presidential candidates who had tied up shall be the only candidates in the second ballot.
- (4) Where there is a tie up in the votes for the second highest, the Presidential candidates who had tied up shall, together with the candidate with the first highest number of votes, contest in the second ballot.



(e) in the case of a single Presidential candidate the total number of such votes which are in favour of the Presidential candidate,

and the Commission shall add together the respective totals for each Presidential candidate certified to it from all constituencies.

(2) The Commission may, for any reason which appears to be sufficient, require that the votes in the constituencies, or in any particular constituency, to be recounted.

(3) Subject to subsection (2), the Commission shall, after adding together all the respective totals certified to it by each Returning Officer in accordance with subsection (1), declare the result of the Presidential election in the country.

39E. -( 1) Where in the Presidential election no candidate has obtained more than fifty per cent of the total number of votes cast, the Commission shall, by notice published in the Gazette, appoint some other convenient day, but not more than forty days after the election day, for the second ballot of the Presidential election.

Second  
ballot.

(2) Subject to subsection (1), the Presidential candidate with the first and second highest number of the votes shall be the only candidates in the second ballot.

(3) Where there is a tie up in the votes for the first highest, the Presidential candidates who had tied up shall be the only candidates in the second ballot.

(4) Where there is a tie up in the votes for the second highest, the Presidential candidates who had tied up shall, together with the candidate with the first highest number of votes, contest in the second ballot.

**PART III  
FINAL NOMINATION OF CANDIDATES FOR  
PARLIAMENTARY ELECTION**

40. -(1) Where only one candidate is nominated for an election in a constituency, such candidate shall be deemed to be elected and the Commission shall, by notice in the Gazette declare him to have been elected.

*One  
unopposed  
candidate  
automatically  
nominated*

(2) Where a candidate withdraws after nomination, the provision of section 85 (A) shall apply and no party shall nominate a substitute candidate.

41 *This section is repealed by section 10 of Act No. 8/92 Repealed*

**PART IV  
ELECTION DAY**

42. Where candidates are nominated for election in a constituency, the Commission shall, by notice published in the Gazette, appoint a day not less than sixty days and not more than ninety days after the day on which they have been deemed to have been nominated to stand as candidates for election day in the constituency; save that:

*The  
Nominated  
candidates  
finally  
nominated  
and elect-  
ion day.*

- (a) where there are two or more contested elections during the house of representatives general election the Commission may appoint different election days for different constituencies;
- (b) the Commission may revoke the appointment of an election day and appoint some other day within such period as aforesaid to be election day.

43. - (1) Where there is a contested election the Returning Officer shall on or before the seventh day before the election day give notice in the constituency in such manner as he may think fit as to the following matters: Notice  
of  
election.

- (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 addresses, occupations and representative symbols of the candidates.

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

Provided that:

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

(3) Where the Returning Officer has appointed a polling day for a polling district pursuant to the provisions of this section, he may, where it appears to him to be in public

interest so to do, give notice in the constituency in such manner as he may think fit altering the polling day appointed for any polling district, and thereupon polling shall take place in that polling district on the polling day specified in such notice.

- (4) For the purpose of paragraph (a) of subsection (1), unless the Commission otherwise directs, the time of commencement of the poll shall be eight o'clock in the morning and time of the close of the poll shall be six o'clock in the evening or such earlier times as may be specified in the notice.

#### PART V THE ELECTION CAMPAIGN

44. - (1) Where there is a contested election in a constituency the election campaign shall be organised by the candidate, the candidate's political party or his agent.
- (2) The polling agent or the candidate's party, as the case may be, shall furnish the District Commissioner with a schedule indicating the proposed programme for his campaign public meeting specifying times and places of those meetings.
- (3) Any polling agent or a political party acting with the approval or consent of the candidate or of his political party may convene or address any public meeting held in the constituency other than one held pursuant to subsection (2), for the purpose of furthering the candidate's election in the programme of his political party.

45. This section is Repealed by section 13 of Act  
No. 8 of 1992.

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

Candidate  
to be  
identified  
by photo-  
graph.

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

47. This section repealed by section  
15 of act. No. 8 of 1992.

**PART VI  
WITHDRAWAL, DEATH AND ABSENCE OF  
CANDIDATES.**

48. A Candidate may withdraw his candidature by notice in writing signed and delivered by him to the Returning Officer not later than six o'clock in the evening of the day preceding nomination day and if that day is not a working day, a day preceding that other day. Withdrawal  
of  
candidature.
49. (1) Where, on nomination day and before the close of the close of the poll in an election a candidate in a constituency dies, the Returning Officer shall, upon being satisfied of the fact of the death, countermand the election in the constituency. Death of  
candidate.
- (2) In the case where the Returning Officer countermands an election pursuant to the provisions of subsection (1) the Commission shall by notice published in the Gazette appoint some other convenient day, not later than thirty days after such countermand, for the nomination of candidates for election in the constituency and electoral procedure in that constituency shall commence 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.
50. - If after a nomination day by reason of death, withdrawal or any other reason whatsoever, there are no candidates in a constituency, the Commission shall, by notice in the Gazette, 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 constituency, and the electoral procedure in that constituency shall be commenced afresh. Absence  
of  
candidate

**CHAPTER IV**  
**ELECTION AND VOTING PROCEDURE**

**PART I**  
**ELECTION PROCEDURE**

- 51.** In a contested election polling shall take place in each polling district in the manner hereinafter prescribed on the day appointed for polling in that polling district pursuant to the provisions of section 44. **Polling days and times.**
- 52.** The Returning Officer shall: **Arrangements for contested elections.**
- (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 section 44.
  - (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 such polling assistants a person to be in charge of the polling station to be known as the presiding officer;
  - (d) furnish each polling station with such number of 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 names in alphabetical order of surnames, or in such other order as the Commission may direct, address, occupations and representative symbols, if any, of the candidates;
  - (f) provide both within and without each polling station notice 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;
  - (h) provide each polling station with writing materials and instruments with which the voters can mark the ballot papers and for making official marks;

- i). subject to any direction the Commission may give in that behalf provide each polling station with copies of the register of voters for the polling district or such register as contains the names of the voters allowed to vote at that polling station.
- j). do such other acts and thing as he may be directed to do by the Commission.

53. -(1) Each candidate may appoint one person to be known as polling agent to attend at each polling station within the constituency for which he is a candidate for the purposes of:-

- (a) detecting personation;
- (b) representing and safeguarding the interests of a candidate at the polling station, and
- (c) co-operate with the presiding officers 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 station.

(ii) in subsection (3) by deleting the phrase 'District Executive Committee' and substituting for it the word 'Candidate'.

(2) Notice in writing of the appointment, stating the names and addresses of the polling agents, together with the polling station to which they have been assigned shall, in so far as it may be possible, be given to the Returning Officer not later than seven days before election day or within such shorter time as the Commission may allow.

(3) If any polling agent dies or becomes incapable of acting as such, the candidate 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.



- 1) subject to any direction the Commission may give in that behalf provide each polling station with copies of the register of voters for the polling district or such register as contains the names of the voters allowed to vote at that polling station;
- 2) do such other acts and things as he may be directed to do by the Commission.

53. - (2) Notice in writing of the appointment, stating the names and addresses of the polling agents, together with the polling station to which they have been assigned shall, in so far as it may be possible, be given to the Returning Officer not later than seven days before election day or within such shorter time as the Commission may allow.

- (3) If any polling agent dies or becomes incapable of acting as such, the candidate 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.

54. - (1) Every ballot box shall be constructed in a manner which allows a voter to put ballot paper in it but can not be withdrawn by him.

Ballot  
boxes.

- (2) Immediately before the commencement of voting the presiding officer at each polling station shall show the empty ballot box to persons lawfully present so that they may see that it is empty, and shall then close 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.

55. Every ballot paper shall:

- (a) contain the full names, addresses and occupations of the candidates as shown in their respective nomination papers arranged in the order in which they appear in the notice placed in accordance with section 42 and their symbols.

Form of  
ballot  
paper.

- (b) capable of being folded up;

- (c) have a serial number printed thereon;

(d) be attached to a counterfoil bearing in the same serial number that printed on the ballot papers.

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

Prohibition  
of  
disclosure of  
vote.

Provided that this section shall not apply in any legal proceedings in which the question whether a presiding officer acting under the provisions of paragraph (h) or (i) of section 52 acted bonafide as in issue.

## PART II

### VOTING AND COUNTING PROCEDURES

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

Methods of  
voting.

- (a) every voter who wishes to vote shall present himself at the polling station allotted to him in the polling district for which he is registered, and shall satisfy the presiding officer or a polling assistant at such polling station that he is the voter he claims to be and that he has not voted already at such polling station or elsewhere. A person may satisfy the presiding officer or a polling assistant that he is the voter he claims to be by producing to such officer or assistant such documentary evidence as to his identity as such officer or assistant may find satisfactory;
- (b) upon being satisfied as to the identity of the voter and that such person's name appears on the register for the polling district in which such 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 the register of voters or part thereof maintained at the polling station, shall be called out;

(111) the number of the voter in the copy of the register of voters or part thereof shall be marked on the counterfoil; and

(112) a mark shall be placed against the number of the voter in the copy of the register of voters or part thereof to denote that a ballot paper has been received by such voter;

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

and provided further that where no copy of the register or part thereof available at the polling station, the presiding officer or the polling assistant shall, in lieu of complying with the provisions of subparagraphs (111), (112), and (113), comply with such directions as the Commission may give in that behalf;

(2) subject to the provisions of paragraph (h) a voter on receiving ballot paper shall so immediately into one of the screened compartments on the polling station, secretly record his vote in the manner provided in paragraph (c), 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 ballot paper into the ballot box;

(3) a voter shall record his vote—

1) in a Presidential election, by putting a mark in the appropriate place on the ballot paper to indicate whether he votes in favour or against the candidate;

2) in a Parliamentary election, by putting a mark against the name of the candidate for whom he wishes to vote thereby recording no more than one vote;

(3) a voter shall not place on the ballot paper any writing or mark by which he may be identified;

(4) 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 call the presiding officer aside, and shall tell him, no other person

for whom he wishes to vote, and the presiding officer shall mark the ballot paper accordingly and shall in the presence of the voter, place the ballot paper in the ballot box and every ballot paper marked in accordance with this paragraph shall be deemed to have been marked by the voter in accordance with paragraph (c);

(1) If a voter is illiterate or does not understand how to record his vote, the presiding officer may, in the presence of the polling agent, explain to the voter the procedure;

(j) subject to the provisions of paragraph (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 spoiled ballot paper;

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

(k) a voter who has accidentally dealt with a ballot paper in such manner that it cannot conveniently be used as valid ballot paper may, on delivering such ballot paper to the presiding officer and after satisfying the presiding officer that the ballot paper has been spoiled by accident, obtain another ballot paper in the place of the paper so delivered up, and the spoiled ballot paper and its counterpart shall be immediately marked as cancelled.

58a.-(1) Notwithstanding the provisions of section 57, a person appointed as a polling agent for the purpose of a Parliamentary election may vote for the election concerned and any other election taking place simultaneously with such first-named election, in a constituency in which he is registered as a voter, by writing the name of the candidate of his choice on the special ballot paper and sending it to the Returning Officer for that constituency in a sealed envelope marked 'Ballot'.

by Polling agent

- (2) Ballot papers for the purpose of this section shall be provided by the Commission or the Director of Elections and may be obtained by Polling agent from the Returning Officer in the constituency for which they are appointed.
- (3) The Commission may issue directions for the purposes of ensuring that ballot papers issued under this section to any Polling agent to vote at the polling station at which they would have been required to vote in accordance with section 57, and this section not been enacted are properly utilized and are taken into account during the counting of votes.
- (4) A returning Officer shall account to the Commission for every special ballot paper issued to him under this section and shall return to the Commission any such papers received by him and not issued.

59. - (1) No person shall be admitted to vote at any polling station except the polling station assigned to him in the polling district in which he is registered as a voter.

Admission  
to  
polling

- (2) The presiding officer shall regulate the admission of voters to the polling station and exclude all other person except candidates, the polling agent and polling assistants, police officers on duty, the Director of Elections or any person authorised by him in that behalf, and any other person who in his opinion has lawful reason to be admitted.
- (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 the 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 so removed as aforesaid if charged with the commission in such 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 any opportunity of voting at such station.

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

Allegation  
of  
irregularities.

- (2) If, notwithstanding such warning, such person persists in his wish to vote and:-

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

(b) being thereto required as prescribed by section 62 makes and subscribes one or both of the declarations to which that section refers;

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

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

- (4) Before warning a person under sub-section (1), a presiding officer shall state to such person the reasons for his belief that such a person is not a voter entitled to vote at the polling station in question or, in the case of an allegation as mentioned in subsection (1) having been made by a candidate or polling agent present in the polling station in question, shall require such candidate or polling agent to state in his presence and the presence of the person wishing to vote, and so as to be heard by both of them, the reasons for the allegation. If a candidate or a polling agent refuses to comply with such requirement the presiding officer shall disregard the allegation made by him.

61. -(1) If a person representing himself to be a voter entitled to vote at a polling station applies for a ballot paper after another person has voted as such voter, the applicant shall, upon identifying himself to the satisfaction of the register, and being thereto required as prescribed by section 62 make and subscribe one or both of the declarations to which that section refers, be entitled to vote in the same manner as any other voter, but such ballot paper, hereinafter called a tendered ballot paper, shall be a colour different from the ordinary ballot papers, and instead of being put into the ballot box, shall be given to the presiding officer and endorsed by him with the name of the voter and his number in the copy of the current register or part thereof, and set aside in a separate packet, and shall not be counted by the Returning Officer as hereinafter provided, and the name of the voter and, where a copy of the register or part thereof is available at the polling station, such person's number on such register or part thereof, shall be entered on a list, and this list shall be admissible in any legal proceedings arising out of the election.

Tendered  
ballot  
papers.

(2) The presiding officer may require any person to whom a tendered ballot paper is delivered to make and subscribe one or both the declarations to which section 62 applies.

62. -(1) The presiding officer at any polling station may, in his discretion, and shall, on the request of a candidate present at the polling station or the polling agent, require any person wishing to vote, before he is given a ballot paper, to furnish such evidence 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,

Declarations  
by voters.

(2) If any person fails to furnish such evidence of his identity or refuses to make any such declaration, the presiding officer may refuse to give him a ballot paper.

63. - (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,

Adjournment  
of polling  
in case of  
riot

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

(a) the hours of polling on the day to which is adjourned shall be the same as for the original day; and

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

64. - (1) 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 a sufficient time to enable them to vote.

Closing of  
the poll.

65. - (1) The presiding officer of each polling station shall as soon as practicable after the closing of the poll, in the presence of such number of the candidates as attend, and of the polling agent if any, make up into separate packets, sealed with his own seal and the seal of the candidates if they desire to fix their seals;

Procedure  
on closing  
of poll.

(a) the unused and spoiled or cancelled ballot papers placed together,

(b) the counterfoils of the used ballot papers;

(c) tendered ballot papers;

(d) the marked copies of registers of parts thereof;

(e) the tendered voters list.

(2) The packet shall be accompanied by a statement, to be called the ballot papers account, prepared by the presiding officer in the prescribed form.

The unopened ballot boxes shall be secured by the presiding officer and sealed with his seal and with the seals of such of the candidates, as attend and desire to affix their seals, in such manner that the boxes cannot be opened and nothing can be inserted therein without the seals being broken.

(3) The presiding officer shall despatch each such packet and the ballot boxes in safe custody to the Returning Officer.

66. - (1) Each candidate may appoint one person to be known as a counting agent, to attend at the counting of votes

Counting  
agent.



(2) Notice in writing of the appointment stating the name and address of the counting agent, shall be given by the candidate to the Returning Officer not later than one day before election day, and the Returning Officer may refuse to admit to the place where the votes are counted any person purporting to be a counting agent in respect of whom such notice has not been given.

(3) If a counting agent dies or becomes incapable of acting as such the candidate may appoint another counting agent in his place, and shall immediately give to the Returning Officer notice in writing of the name and address of the counting agent so appointed.

67. - (1) The Returning Officer shall make arrangements for counting the votes in the presence of the counting agents as soon as practicable after the close of the poll in the constituency and shall, so far as practicable proceed continuously with the counting, allowing only reasonable time for refreshment, until it is complete.

(2) The Returning Officer shall appoint such number of persons as he shall consider necessary to assist him in counting the votes and such persons shall be known as enumerators.

68. Except with the consent of the Returning Officers, no person other than the Returning Officer, Assistant Returning Officers, the enumerators, the counting agents, such persons as may be authorized in writing by the Commission, the candidates and their counting agents may be present at the counting of votes.

69. Before the Returning Officer and Assistant Officer proceed to count the votes, they shall, in the presence of the counting agents, if any open each ballot box and taking out the ballot papers, shall count and record the total number thereof, and then mix together the whole of the papers contained in the ballot boxes.

70. - (1) The Returning Officer and Assistant Returning Officer while counting and recording the number of ballot papers and counting the votes, shall keep the ballot papers with their faces upwards.

Counting  
of votes

Persons  
who may  
be  
present

Method  
of  
counting  
votes.

Votes  
which  
are not  
to be  
counted

(2) Any ballot papers:-

- (a) which does not bear an official mark;
- (b) on which voters are recorded otherwise than as provided in section or which is to be treated as spoilt under the provisions of that section or;
- (c) on which anything is written or marked by which a voter can be identified otherwise than by the printed number thereon; or
- (d) which is unmarked or void for uncertainty: shall not be counted

Provided that special ballot issued under the Provisions of section 58 shall be counted if it complies with the provisions of that section and any directions given by the Commission under that section.

71. - (1) The Returning Officer or an Assistant Returning Officer shall endorse the 'rejected' on any ballot paper which, under the provisions of section 70 is not counted. Endorsements by Returning Officer.
- (2) The Returning Officer shall add the endorsement the words 'rejection objection to' if an objection to his decision is made by any counting agent.
72. - The Returning Officer shall prepare a statement showing the number of ballot papers rejected under the following heads:- Rejected ballot papers.
- (a) want of official mark;
  - (b) voting record otherwise than as provided in paragraph (c) of section 57 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; and
  - (d) unmarked or void for uncertainty and shall on request allow any counting agent to copy the statement.
73. - (1) Where an equality of votes is found to exist between the candidates in a contested election so that an addition of a vote would entitle any of them to be declared elected, the Returning Officer shall make a recount of the votes cast. Equality of votes and recount in contested elections.
- (2) If there is again an equality of votes as ascertained by such a recount, the Returning Officer shall, subject to the provisions of section 75, report the fact to the Commission which shall by notice published in Gazette, appoint some other convenient day, not later than thirty days after the election day, for the nomination of candidates for the constituency and electoral procedure for such vacancy shall be commenced afresh.
74. - (1) A candidate or his counting agent may, if present when the counting or any recount of the votes is completed, require the Returning Officer to have the votes recounted or again recounted but the Returning Officer may refuse to make a third or subsequent recount if the result of the last two recounts were the same. Candidates or counting agent may require recount.

- (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 thereof have been given a reasonable opportunity to exercise the right conferred by subsection (1).

75. The decision of the Returning Officer as to any question arising in respect of any ballot paper shall be final, and shall be subject to review only on an election petition questioning the election pursuant to Chapter VII of this Act.

Returning Officer's decision final.

76.-(1) Upon the conclusion of the counting of the votes the Returning Officer, with the Assistant Returning Officers, shall seal up in separate packets the counted and rejected ballot papers.

Returning Officer's duties of conclusion of counting.

- (2) The Returning Office shall not open the sealed packet of tendered ballot papers or the sealed packet containing the marked copy of the register of voters or part thereof, or the sealed packet containing the counter foils of used ballot papers but shall proceed, in the presence of the counting agents, to verify the ballot paper account given by each presiding officer by comparing it with the number of ballot papers recorded in accordance with section 74 the unused and spoilt papers in his possession and the tendered voters list and shall re-seal each packet after examination.

- (3) The Returning Officer shall prepare a statement as to the result of the verification and shall on request allow any counting agent to copy such statement.

77. When the result of a contested election has been ascertained the Returning Officer shall:-

Declaration of result.

- (a) forthwith declare to be elected the candidate for whom the majority of votes has been cast; and
- (b) send notification of election in writing to the successful candidate; and
- (c) report the result of the election to the Commission which shall cause such results, together with the number of votes recorded

for each candidate in each constituency to be published in the Gazette.

78. - (1) The Returning Officer shall ensure the safe custody of all documents relating to the conduct of an election.
- (2) The Commission shall ensure the safe custody of all documents relating to the conduct of an election which are forwarded to it under any of the provisions of the Act.
- (3) The Returning Officer and the Commission shall cause all documents to which this section applies to be destroyed after the expiration of six months from election day unless otherwise directed by an order of the High Court arising from any proceedings relating to the election.

Custody of documents.

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

Power of polling assistant

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

Candidate has power of his polling agent or counting agent.

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

Non-attendance of agents no to invalidate proceedings.

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

Where two or more elections held simultaneously

- (a) polling at the two elections, shall be conducted simultaneously at all polling stations in that district;
- (b) the Returning Officer shall provide separate and distinctive ballot boxes and every presiding officer shall so organize and conduct his polling station and shall so place the ballot boxes thereat, as to avoid any confusion arising by reason of simultaneous polling;

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

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

83. Where in a presidential election there is an equality of votes for and against the Presidential candidate the Commission shall, by notice published in the Gazette, appoint some other convenient day for the Presidential election, and the electoral procedure for the Presidential election shall be commenced afresh.

Equality of votes in Presidential election

CHAPTER V  
LOCAL AUTHORITY ELECTIONS.

84. -(1) No person shall be qualified to be elected as a constituent member of the House of Representatives unless he is qualified to be elected by and in accordance with the provisions of the Constitution. Qualification of candidates for the House of Representatives and Local Authority Election.
- (2) A person shall be qualified for election as a member of a Local Authority if he satisfies the following conditions that is to say -
- (i) he has attained the age of twenty one years;
  - (ii) he is registered as a voter and is not disqualified from voting under the provisions of this Act or any other law;
  - (iii) he is the ordinary resident within the area of jurisdiction of the Local Authority;
  - (iv) he has a literacy qualification that is he must be able to read and understand documents normally considered by the Commission;
  - (v) he is sponsored by a political party registered as such by the Political Parties Act, 1992, and
  - (vi) he is engaged in a lawful business.

85. In order to be validly nominated at a nomination to stand as a candidate for an area, a person must be nominated in writing by not less than twenty five voters registered in the polling districts within the area, for which he is a candidate. Nomination of candidates.

- (1) A candidate or one of the persons nominating him shall, at the time of delivering nomination paper pursuant to the provision of section 85, deposit with a Returning Officer such sum of money as may be prescribed by the commission.
- (2) The deposit of an opposed candidate shall be forfeited to the Government if he withdraws his candidature after nomination day or if the number of votes counted in his favour at the election is less than one tenth of the total number of votes counted for the seat which he was a candidate, save that such deposit shall not be forfeited if the candidate dies.

- (3) Where a deposit of a candidate is not forfeited under the provision of subsection (2) of this section, it shall, as soon as is reasonably practicable after the declaration of the results of the election, be returned to him or paid to his personal legal representative as the case may be, by the Returning Officer.

86.--(1) 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:

Name and Address of the candidate.

- ( 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 otherwise qualified to stand for election.
  - ( d ) the proposed symbol of the Political Party of which he is a candidate.
- (2) 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, candidate's qualifications and that he is not disqualified for election,
  - ( b ) a certificate in the prescribed form by the Registration Officer in charge of the constituency certifying it.
- (3) Where, in any case, a nomination paper is not accompanied by the documents specified in subsection (2) the nomination of the candidate shall be deemed to be void.

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



- (4) The Returning Officer shall provide nomination papers and shall supply any voter with such number of nomination papers as he may require.
- (5) Every Candidate or one of the persons nominating him, shall deliver his nomination paper (together with one copy thereof) signed as herein before provided at the office of the Returning Officer not later than six o'clock in the afternoon of the primary nomination day.
- (6) The Returning Officer shall forthwith cause a copy of the nomination paper to be posted in a conspicuous place outside his office.
- (7) 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 (2) 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.  
Provide 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 such first mentioned nomination papers.
- (8) Where, notwithstanding the provisions of subsection (7), a person nominates more than one candidate for the same election and certificates have been issued under paragraph (b) of subsection (2) in respect of such person's registration, such person's nomination shall be valid only in respect of the nomination made by such person in respect of any candidate whose nomination paper is subsequently delivered shall be invalid.
- (9) A Registration Officer shall, when requested by or on behalf of a candidate to issue a certificate in respect of a nominator who is registered in a polling district of which he has charge, issue a

(10) The fact that, subsequent to the primary nomination day, the name of a person who has nominated a candidate is deleted from a register of a voters for the relevant polling district shall not invalidate the nomination of the candidate.

87.

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

Candidate to be nominated one seat only.

88. -(1) Objections may be made to a nomination paper on all or any of the following grounds, but on no other ground, namely:-

Objections to and decision as to validity of nomination paper.

(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 provision 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 86 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 constituency, or by the Director of Elections or 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 ground of his decision.

(5) Any candidate who is dissatisfied by the decision of the Returning Officer on the validity of an objection may, in such manner and within such period as the Commission may prescribe, appeal to the Commission and the decision of the Commission

behalf of such issue of other person for registration or for a certificate of registration.

- (b) knowing or having reason to believe that he is registered in a polling district, applies to be registered in a polling district, applies to be registered (otherwise than in accordance with section 19 and on disclosing to the Registration Officer his existing registration) in another polling district; or
  - (c) applies to be registered in a polling district after he has applied to be registered in another polling district and the earlier application has not been determined, pending any investigation into the applicant's qualifications, or withdrawn, or
  - (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 19 or section 20 or section 21 and on disclosing to the Registration Officer the circumstances in which the application is made); or
  - (e) knowingly makes any declaration provided in section 22 which is false, or which he does not believe to be true in a material particular, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.
- (2) Any person whose name has been deleted from a 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 a declaration, who without lawful excuse, neither surrenders such certificate nor makes and delivers such declaration within such specified time, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten thousand shillings, or to

shall be final and conclusive and shall not be challenged in any court, save by way of an election petition presented pursuant to the provisions of Chapter VII on one or other of the ground specified in that Chapter.

- 89.-(1) A Returning Officer shall, after he has determined the validity of the nomination papers lodged with him, inform the Commission of the names of the candidates validly nominated and of the particulars stated in respect of each such candidate.
- (2) Where only one candidate is nominated for an election in a constituency, the Returning Officer shall declare the candidate to have been elected and shall so inform the Commission where the Constituency is situated.
- (3) Where a Returning Officer determines that no candidate has been validly nominated for election in that constituency, the Returning Officer shall so inform the Commission where it is situated.
- (4) Where the Commission has been advised under subsection (3) that no candidate has been validly nominated for election in that constituency the Commission shall exercise its powers under the nomination of candidates for election and for taking a poll therein, in the case of an ordinary election.

Procedure  
after  
determina-  
tion of  
validity  
of nomina-  
tions.

90. The voting and counting procedure of the local authority members shall be conducted in the way provided under Part II of Chapter IV of this Act in cases of Parliamentary election.

Voting  
and  
counting  
procedure.

91. Results of the election for local authority members shall be released by the Commission as early as may be practicable, and shall then be published in the Official Gazette.

Declara-  
tion of  
the result

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CHAPTER VI  
OFFENCES - PART I  
OFFENCES RELATING TO REGISTRATION AND  
NOMINATION.

92.-(1) Every person who:

- (a) for the purposes of procuring the registration of himself or of any other person of a certificate of registration officer or to any other person having any duty in relation to applications or registration or for the issue of certificates of registration any false statement material to any application on his own

Offences in  
relation to  
registration

imprisonment for a term not exceeding twelve months or to both such five and imprisonment.

93.-(1) Every person who:-

Offence in relation to nomination papers or ballot papers

- (a) forges or fraudulently defaces or fraudulently destroys any nomination papers, or delivers to a Returning Officer any nomination paper knowing the same to be forged; or
- (b) forges or counterfeits or fraudulently destroys any ballot paper or the official mark on any ballot paper; or
- (c) without due authority supplies any ballot paper to any person; or
- (d) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorized by law to put in; or
- (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 papers then in use for the purpose of an election.

shall be guilty of 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 such fine and imprisonment.

- (2) Any person who, for the purposes of procuring nomination as a candidate for himself or for any other person, knowingly makes and false statement material to such nomination in a nomination paper, biographical information form or statutory declaration delivered to a Returning Officer, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

- (3) In any prosecution for an offence in relation to the nominations papers, ballot boxes, ballot papers, counterfoils, marking instruments and other things in use at an election, the property in such papers, boxes instruments and things may be stated to be in possession of the Returning Officer for such election.

94. -(1) Any person holding any official office or acting in any official capacity who, in the exercise of the functions of such office or in such capacity, makes any statement or does any act with intention to discourage any other person from seeking nomination under this Act or to procure any person who has been nominated to withdraw his candidature, shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.
- (2) No proceedings shall be instituted against any person for an offence contrary to this section without the prior consent of the Director of Public Prosecution.

Official discouragement of persons seeking nomination etc

95. -(1) Every person who:
- (a) forges or fraudulently defaces or fraudulently destroys any register of voters; or
  - (b) forges counterfoils or fraudulently destroys any certificate of registration or official duplicate certificate of registration or any official marks thereon,
- shall be guilty of an offence and shall be liable on conviction to fine not exceeding five thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.
- (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 the same to the person to whom it was issued when it is demanded

Offences in relation to register and certificates of registration

by such person or a Registration Officer in that behalf, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand shillings or to imprisonment for twelve months or to both such fine and imprisonment.

PART II  
OTHER ELECTIONS OFFENCES

96. Any person who:
- (a) wilfully furnishes false evidence or makes a false statement in a declaration made under section 62.
- (b) contravenes the provisions of subsection (1) of section 47, shall be guilty of an offence and shall be liable on conviction to fine not exceeding two thousand shillings or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.
97. -(1) Every officer, clerk, interpreter, candidates and agent authorized to attend at a polling station or at the counting of votes, shall, unless he has taken an oath of secrecy under the foregoing provisions of this Act, before so attending take an oath of secrecy in the prescribed form.
- (2) The Returning Officer shall have power to administer any oaths required to be taken under the provisions of subsection (1).
- (3) Every officer, clerk, interpreter, candidate and agent in attendance at a polling station shall maintain, and aid in maintaining, the secrecy of the voting in such station and shall not communicate, except for some purpose authorized by law, to any person any information as to the name or number of any voter who has or has not applied for a ballot paper or voted at the station, or as to the official mark.
- (4) No such officer, clerk, interpreter, candidate or agent, and no person whatsoever shall obtain or attempt to obtain in the polling station information
- Miscellaneous offence.
- Maintenance of secrecy at elections.



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

- (5) Every officer, clerk, interpreter, candidate and agent in attendance at the counting of the voting shall maintain, and aid in maintaining, the secrecy of the voting and shall not ascertain or communicate any information obtained at such counting as the candidate for whom any vote is given by any particular ballot paper.
- (6) No person, except a presiding officer acting for a purpose authorized by this Act, or a person authorized by the presiding officer and acting for such purpose as aforesaid, shall communicate or attempt to communicate with any person after such person has received a ballot paper and before he has placed the same in a ballot box.
- (7) 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 five thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

98. Every person who is guilty of bribery, treating or undue influence shall be guilty of a corrupt practice and 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 such fine and imprisonment.

Penalty  
for  
bribery  
treating  
etc.

99. Every person who is guilty of personation or of aiding abetting counselling or procuring the commission of the offence of personation, shall be guilty of a corrupt 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 such fine and imprisonment.

Penalty  
for  
personation.

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

Disqualification entitled by conviction for corrupt or illegal practice.

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

101. - The following persons shall be deemed to be guilty of bribery within the meaning of this Act:-

Persons to be deemed guilty of bribery.

(a) Every person who directly or indirectly, by himself or by any other person on his behalf, gives, lends or agrees to give or lend, or offers, promises, or promises to procure or to endeavour to procure, any money or valuable consideration to or for any voter or to or for any other person, in order to induce any voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of such voter having or refrained from voting at any election.

(b) every person directly or indirectly by himself or by any other person on his behalf, gives or procures or agrees to give or procure or to endeavour to procure, any office, place or employment to or for any voter, or to or for any person on behalf of any voter, or to or for any other person, in order to induce such voter to vote or refrain from voting or corruptly does any such act as aforesaid on account of such

such voter having voted or refrained from voting at any election.

- (c) every person who directly or indirectly, by himself or by any other person on his behalf, makes such gift, loan offer, promise procurement, or agreement as aforesaid, to or for any person in order to induce such person to procure or to endeavour to procure, the election of any person as a member or the vote of any voter at any election.
- (d) every person who, upon or in consequence of any such gift, loan offer, promise, procurement or agreement, procures or engages promises or endeavour to procure the return of any person as a member or the vote of any voter at an election.
- (e) every person who advances, or pays, or cause to be paid, any money to or for the use of any other person, with the intent that such money or any part thereof, shall be expended in bribery at any election or who knowingly pays, or causes to be paid, any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election.
- (f) every voter who, before or during any election, directly or indirectly, by himself or by any other person on his behalf, receives, agrees to receive or contracts for any money, gift, loan or valuable consideration, office, place or employment, for himself or for any other person, for voting or agreeing to vote or for refraining or agreeing to refrain from voting at any election; and
- (g) every person who, after any election, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting, or having induced any other person to vote or refrain from voting at any election.

Provided always that the provisions of this section shall not extend or to be construed to extend to any money paid or agreed to be paid for or on account of any expenses lawfully and bonafide incurred at or concerning any election.

102. The following persons shall be deemed to be guilty of treating within the meaning of this Act:-

Persons to be deemed guilty of treating

- (a) every person who corruptly, by himself or by any other person either before, during or after an election, directly or indirectly gives, or provides, or pays, wholly or in part, the expense of giving or providing food, drink, entertainment or provisions to or for any person, for the purpose of corruptly influencing that person, or any other person, to vote or refrain from voting at such election, and
- (b) every person who corruptly accepts or takes any such food, drink, entertainment or provision.

103. Every person who, directly or indirectly, by himself or by any other person on his behalf, makes 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 such voter, to vote or refrain from voting, or on account of such voter having voted or refrained from voting at any election or who, by abduction, duress or any fraudulent contrivance, impedes or prevents the free use of the vote by any voter either to give or refrain from giving his vote at any election shall be guilty of undue influence within the meaning of this Act.

Persons to be deemed guilty of undue influence.

104.-(1) Where any person does any such act as is described in section 101, 102 or 103 to or in respect of a member of an organ of the Party which is charged with the organisation and conduct of the relevant election campaign, or a supervisory delegate appointed for the constituency with the intent that such member or delegate shall discriminate in favour

Briber, treating and undue influence in relation to members of an organ of Party.

of one or other of the candidates at the election, or where any such member or delegate 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 bribery, treating or undue influence within the meaning of this Act.

- (2) For the purposes of this section, section 101, 102 and 103 shall be read as if references to the voters and to voting were references to such members and delegates and such discrimination respectively, and as if the references to the intent specified therein were references to the intent specified in subsection (1) of this section.

105.- (1) Every person who at any election:

- (a) applies for a ballot paper in the name of another person or knowingly tenders a vote in the name of another person, whether that name is the name of a person living or dead or of a fictitious person or
- (b) for the purposes of procuring the issue to himself of a ballot paper knowingly tenders a certificate of registration issued to some other person, shall be guilty of personation within the meaning of this Act.

Persons to be deemed guilty of personation

106.- (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 such other person has already voted at the election, at any other election held during that general election.
- (b) for the purpose of procuring the issue of any ballot paper to any person or to himself, delivers any certificate of registration issued to himself or to some third person to such other person, or induces or procures some third person to deliver such third person certificate of registration to himself or such other person

Penalty for persons guilty of certain corrupt and illegal practices

110. -(1) A person shall not:-

Documents to  
bear name and  
address of  
printer and  
publisher.

- (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 such bill, placard or poster as aforesaid; or
- (c) distribute or cause to be distributed any printed document for the said purpose,

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

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

(ii) in the case of a parliamentary election such bill, placard, poster or document has been approved by the relevant Commission.

(2) For the purposes of this section, any process for multiplying copies of 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 provision of subsection (1) 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 such fine and imprisonment.

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

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

Person convicted of corrupt or illegal practice to be removed

shall be guilty of a corrupt practice and 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 fine and imprisonment.

(2) Every person who:-

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

(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 for the purpose of promoting the election of another candidate;

shall be guilty of an illegal practice 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 such fine and imprisonment.

107. 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 publicly held, acts or incites others to act as in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together shall be guilty of an illegal practice and shall be liable on conviction to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding eight months or to both such fine and imprisonment.

Interference with lawful public meeting to an illegal practice.

108.—(1) No person shall, within any building where voting in an election is in progress, or at any place within the radius of two hundred meters of any such building, wear or display any card, symbol, favour or other emblem indicating support for a particular candidates in the election.

Display of emblems in vicinity or place of voting prohibited.

(2) Any person acting in contravention of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred shillings.

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

Defacement of notice



- (a) shall delete the name of such person from the register of voters in which he is registered,
- (b) shall inform in writing the Registration Officer for the polling district concerned of such deletion.
- (c) forthwith upon being so informed such Registration Officer shall take all such steps as in the case of deletion of a name from the register under section 28 or section 30, he is required by subsection (2) of section 31 to take.

121A. The Zanzibar Electoral Commission shall subject to the Constitution and the Act of the House of Representatives, exercise and perform all such functions and duties as are conferred upon it by this Act, the Regulations or directions of the Minister.

The  
Electoral  
Commission.

CHAPTER VII  
PROCEDURE AND JURISDICTION OF COURT.

112. -(1) Every election petition shall be tried by the High Court.
- (2) Witness shall be subpoenaed and sworn in the same manner as nearly as circumstances admit as in a trial by the High Court in the exercise of its original civil jurisdiction and shall without prejudice to the provision of any other law, be subject at the same penalties for giving false evidence or non-attendance.
- (3) On the trial of an election petition under this Act, the court may order compel the attendance of any person as a witness who appears to it to have been concerned in the election to which the petition refers, and any person refusing to obey such order shall be guilty of a contempt of court. The court may examine any witness so compelled to attend or any party to the petition. After the examination of a witness as aforesaid by the court such witness may be cross-examined by or on behalf of the petitioner the respondent and the Attorney General or his representative, if present or any of them.

Petition  
triable  
by High  
Court.

113. An election petition may be presented by any one or more of the following persons, namely:-
- (a) A person who lawfully voted or had a right to vote at the election to which the petition relates;

Who may  
present  
petitia

- (b) a person claiming to have had or had a right to be nominated or elected at such election;
- (c) a person alleging himself to have been a candidate at such selection;
- (d) the Attorney General.

114. All or any of the following reliefs to which a petition may be entitled may be claimed in an election petition, namely:-

Reliefs  
in  
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.

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

Reports  
to the  
Director  
at end of  
hearing  
of  
election  
petition.

- (a) the Director shall delete his name from the register of voters in which he is registered.
- (b) the Director shall inform in writing the Registration Officer for the polling district concerned of such deletion.
- (c) forthwith upon being so informed, the Registration Officer shall take all such steps as, in the case of deletion of a name from the register under section 28 or section 30, he is required by section 29(2) to take.

(2) At the conclusion of the trial of an election petition, the High Court shall also certify to the Director:-

- (a) whether any illegal practice has not been proved to have been committed by or with the knowledge and consent or approval of any candidate at the election, and the nature of such practice, if any, and

- (b) the name and descriptions of all persons, if any, who have been proved to the satisfaction of the High Court to have been guilty of any illegal practice.
- (3) Before any person, who is neither a party to an election petition, nor a candidate on behalf of whom the seat is claimed by an election petition, is certified by the High Court under this section, the court shall give such person an opportunity of being heard and of giving and calling evidence to show cause why he should not be so certified.
- (4) Where the High Court certifies that an illegal practice has been committed by any person, that person shall be subject to the same disqualifications as if at the date of the said certificate he had been convicted of that practice of offence.
- (5) When the High Court certifies that an illegal practice has been committed by any person with the knowledge and consent or approval of a candidate, then in addition to any other consequence, the candidate shall be subject to the same disqualifications as if at the date of the said certificate he had been convicted of that practice.
- (6) The Director shall forthwith:
- (a) cause a copy of such certificate to be published in the Gazette;
  - (b) delete from the register the name of any person registered in it who appears from the record to be disqualified from voting at an election.
  - (c) inform in writing the Registration Officer for the relevant polling district of every such deletion of the name of the person who is registered as a voter in that polling district.
- (7) Forthwith upon being so informed, the Registration Officer shall take all steps as may be necessary for ensuring that the person concerned returns the certificate of registration and any other relevant document for cancellation.

116. -(1) Every election petition shall be presented within fourteen days from the date of the declaration of the results of the election by the Returning Officer.

Time for presentation and determination of election petition.

(2) The High Court shall hear and determine each election petition within two years from the date of presentation of the election petition before it.

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

Votes to be struck off at a scrutiny.

(a) the vote of any person (other than a candidate or official voting under subsection (4) or subsection (5) of section 15 whose name was not in the register of voters of the polling district in which he voted.

(b) the vote of any person whose vote was procured by bribery, treating or undue influence.

(c) the vote of any person who committed or procured the commission of personation at the election.

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

(e) the vote of any person who, by reason of a conviction for 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 law, was disqualified from voting at an election.

(2) On a scrutiny at the trial of an election the court may take into account any vote recorded on a tendered ballot paper if in the opinion of the court there is justification for doing so.

- (3) The vote of a registered voter shall not except in the case 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 qualified to have his name entered on the register of voters.

118.--(1) 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.

Rules of Court.

- (2) Rules made under this Part shall be published in the Gazette.

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

Avoidance of election and petition

- (2) The election of a candidate as a member shall be declared void on any of the following grounds which are proved to the satisfaction of the High Court namely:-

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

19. This section is repealed by Section 21 of Act No. 8 of 1992.

(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 (2), whereupon trial of an election petition respecting an election under this Act the High 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 the candidate's agents and the court further finds, after giving the Attorney-General or his representative an opportunity of being heard, that the candidate has proved to the court:-

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

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

(c) that in all other respects the election was free from illegal practice on the part of the candidate and his agents,

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

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

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

121. When it appears to the High Court either on application or upon an election petition:-

- (a) that any act or commission 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 upon taking into account all the relevant 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 such act or omission, the High Court may make an order allowing the act or commission to be an exception from those provisions of this Act which would otherwise make the act or commission an illegal practice, and thereupon the said candidate, agent or person shall not be subject to any of the consequences under this Act of the said act or omission, and the election of any candidate shall not by reason only of such act or omission, be void.

When High Court held certain acts or commissions to be exempt.



CHAPTER VIII  
FINANCIAL AND MISCELLANEOUS

122. No misnomer or inaccurate description of any person or place named or described in any other document whatever 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 designed in such register, notice or document as to be identifiable. Incurate descriptions.
123. (1) In the exercise of their respective duties under this Act, the Director of Elections, Registration Officer and Returning Officers shall at all time have power to demand from any person any information necessary to ascertain 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. Powers of Director of Elections Registration and Returning Officers to demand information.
- (2) Any person who, after any lawful demand made under the provisions of subsection (1) fails to give information as he possesses or unreasonably delays in giving the same, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand shillings.
124. A Returning Officer, the Director of Elections, and other persons employed under this Act, and for the purpose of the Act, shall, if not holding an office of emolument in the service of the United Republic, receive such reasonable remuneration for the services as the Commission sees fit to authorize. Remuneration of staff.
- Provide that person holding an office of emolument shall be entitled to such allowance and sitting allowances as the Director of Elections may determine.

125.

All expenses incurred:

Expenses to  
be charged on  
general revenue

- (a) in the preparation of the registers, the issue of certificates of registration and in doing such other matters or things as may be required to be done for the purpose of carrying out the provisions of this Act,
- (b) by the Commission, the Director of Elections, Registration Officers and Returning Officers in the conduct of an election;
- (c) in the remuneration of the officers specified in section 124, and
- (d) by any public officer in connection with any official matter connected with or arising out of an election.

Shall be a charge on, and paid out of the consolidated fund.

126.

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

Service  
of notice

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

127.-(1) The Commission may make regulations for the better carrying out of the provisions of this Act and without prejudice to the generality of the foregoing may make regulations:-

Regulations

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

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

128. 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. Exemption from stamp duty.
129. The Commission may, subject to the provisions of this Act, issue directions of a general or a specific character in relation to the functions of Returning Officers, Registration Officers and other persons employed for any of the purposes of the Act. Directions
- Provided that no, such direction shall be inconsistent with any provision of this Act or of regulation made under section 127.
130. Where, in the opinion of the Director of Elections, it is necessary to replace any register of voters for any reason whatever, it shall be lawful for him to direct that such register be replaced by a new register. Replacement of registers, etc

#### CHAPTER IX

#### REPEAL AND TRANSITIONAL PROVISIONS.

131. The Election Act of Chairman of the Revolutionary Council and President of Zanzibar Act No.3/1980 is repealed. Repeal of Act No.3/1980
132. Notwithstanding the repeal of that Act:- Saving
- (a) subject to the provisions of the Constitution every person registered as a voter in accordance with the provisions of the Elections Act, 1980 as in force before the commencement of this Act, shall be deemed to have been registered as a voter under and in accordance with the provision of this Act,
- (b) every register of voters and certificate of registration as a voter maintained or issued under and in accordance with the provisions of Elections Act, 1980 shall be deemed to have been maintained with the necessary issued and modifications under and in accordance with the provisions of this Act.

- (c) all forms approved by the Commission for the purpose of any of these Acts, shall be deemed to be the forms prescribed by regulations made under section 127 of the Act;
- (d) all other legislation made under the repealed Act still in force shall, be deemed to have been made under this Act until replaced or revoked under this Act.

133

Passed in the House of Representatives on  
11th October, 1984.

(Ididi P. Bassan)

CLERK TO THE HOUSE OF REPRESENTATIVES.

- 133 (1) Not with standing the amendment of the Election Transitional Proviission/ Act, 1984 and section 118 of the consitution all rules, regulation and dirextions made by the Electoral Commission before the commencement of this Act, shall continue in force and effect until amended, replaced or altered in any other manner by the commission or the Chief Justice.
- (2) The Minister responsible for the Government business in the House of Representatives may make Regulations for giving better effect to the provisions of this Act.