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THE UNITED REPUBLIC OF TANZANIA

Elections Act, Act No. 1 of 1985

This Edition of the Elections Act 1985, incorporates all the amendments made to the Act up to and including 1st August, 1995, and is printed under the authority of section 18 of the Interpretation and General Clauses Act, 1972.

Dar es Salaam,
31st August, 1995

A. J. CHENGE,
Attorney General

1995
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F Clifton White Resource Center
International Foundation for Election Systems

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THE UNITED REPUBLIC OF TANZANIA

NO. 1 OF 1985

I ASSENT

JULIUS K. NYERERE,

President

3RD APRIL, 1985

An Act to provide for the law regulating the election of President, the elections to the National Assembly and to repeal the Elections Act, 1970.

ENACTED by the Parliament of the United Republic of Tanzania.

[10TH MAY, 1985]

CHAPTER I**PRELIMINARY**

Short title
and cons-
truction

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

(2) The provisions of this Act which relate to Presidential and Parliamentary elections shall be read as one with the Constitution, 1977 (hereinafter referred to as "the Constitution").

(3) This Act shall apply throughout the United Republic of Tanzania.

Interpre-	2.- (1) In this Act unless
tation	the context requires otherwise-
Acts-	"candidate" means a person who
No. 6 of 1992	submits himself for election to
s.2	the National Assembly;
Act No. 21	"Certificate of registration"
of 1992	means a certificate issued
s.2	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;
	"Commission" means the Electoral
	Commission of the United
	Republic established by the
	Constitution;
	"constituency" means a
	constituency for the purposes of
	elections to the National
	Assembly;
	"contested election" means an
	election in a constituency;
	"counting agent" means a person
	appointed as a counting agent
	under the provisions of
	section 70;
	"Director of Elections" means the
	person appointed to be the
	Director of Elections in
	accordance with the
	provisions of section 6 and

includes a person for the time being performing any of the functions of that office;

"election" means-

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

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

"election day" in relation to an election in any constituency means the day appointed under section 46 or any day substituted for that day in accordance with the proviso to that sub-section; or in the case of a parliamentary election the day on which a candidate is declared elected under section 44;

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

Act No. 6
of 1992
s. 2

"nomination" means nomination as
a candidate for election to
the National Assembly;

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

"Parliamentary election" means the
election of a member to the
National Assembly.

Act No. 5
of 1992

"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 57;

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

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

Act No. 21
of 1992

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

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

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

"qualified" or "qualification" means-

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

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

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

"Returning Officer" means a Returning Officer appointed under section 7 and includes in

relation to a constituency the Returning Officer appointed for that constituency;

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

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

Regulations,
directions
and
notices

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 if they are made, issued or given under the signature of the Chairman of the Commission or the Director of Elections.

**Composition of
Commission****Act No. 6
of 1992
s. 4**

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

- (a) a Chairman who shall be a Judge of the High Court or of the Court of Appeal of Tanzania;
- (b) a Vice Chairman;
- (c) a member appointed from amongst the members of the Tanganyika Law Society;
- (d) four other members who are persons possessing either adequate experience in the conduct or supervision of Parliamentary elections or such other qualifications as the President considers necessary for or pre-requisite to, the effective discharge of the functions of the Commission.

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

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

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

4A. [Repealed by Act No. 6 of 1992 s. 3].

4B. [Repealed by Act No. 6 of 1992 s.5]

4C. [Repealed by Act No. 6 of 1992 s.6]

**Polling
districts**

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

(2) Where the boundaries of any constituency are varied pursuant to section 74(6)(c) of the Constitution, or under any other circumstances in which the Commission thinks appropriate, the Commission may alter the number and area of polling districts within the

constituency; and upon such alteration the Commission shall publish in the Gazette, a notice specifying the alteration.

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

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

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

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

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

and instructions issued by the Director of Elections pursuant to the provisions of this Act.

Appoint-
ment of
Returning
Officers
and other
staff
Act No.8
of 1995
s.2

7.-(1) The Commission shall appoint for every election in every constituency a Returning Officer and such number of Assistant Returning Officers as the Commission may think necessary for the purposes of conducting an election in the constituency, and may appoint a Returning Officer for more than one constituency.

(2) A Returning Officer or Assistant Returning Officer may be appointed by office or by name.

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

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

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

Appoint-
ment of
Regional
Election
Coordinators,
etc., .

8.- (1) The Commission may during an election, appoint by office or by name in respect of every region, a Regional Coordinator to coordinate information, the availability of material, resources and other matters necessary for the efficiency conduct of elections in constituencies within the Region.

Act No. 8
of 1995
s.3

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

9. [Repealed by Act No. 6 of
1992 s.9]

CHAPTER II

REGISTRATION OF VOTERS

PART I

QUALIFICATIONS AND DISQUALIFICATIONS
FOR REGISTERING AS VOTERS AND VOTING

Qualification
for
registra-
tion
Act 1995 s.4

10. No person, other than a citizen of Tanzania who has attained the age of eighteen years of and who is not disqualified by this Act or by any other written law, shall be entitled to be registered as a voter under and in accordance with the provisions of this Act.

Disquali-
fication from
registration

11.- (1) No person shall be qualified for registration or be registered as a voter under this Act-

(a) if he is under a declaration of allegiance to some country other than Tanzania;

- (b) if under any law in force in Tanzania, he is adjudged or otherwise declared to be of unsound mind or is detained as a criminal lunatic or is detained during the pleasure of the President;
- (c) if he is under sentence of death imposed by any court in Tanzania or is under a sentence of imprisonment exceeding six months imposed by a court or as substituted by competent authority for some other sentence imposed by such a court; or

- (d) 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 purposes of paragraph

(c) of sub-section (1) -

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

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

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

Provided that no name shall be deleted from a register, except in accordance with the provisions of Parts III and IV of this Chapter or on 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.

**Register
of voters**

12.- (1) The Returning Officer shall make and maintain a register of voters for each and every polling district.

(2) Every register of voters shall consist of names of all persons who are registered as voters in the polling district.

(3) The register shall show relative to every registered voter, 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) Every register of voters shall be kept and maintained in such manner as the Director of Elections may direct.

Registration
of voters
in Tanzania
Zanzibar
Act No. 8
of 1995

12A. Notwithstanding the provisions of section 12, for the purposes of the conduct of the parliamentary and presidential elections in Tanzania Zanzibar the law relating to the registration of voters and to the register of voters for elections to the House of Representatives of Zanzibar shall mutatis mutandis be the law for the registration of voters and the register of voters in Tanzania Zanzibar for the purposes of this Act.

Place of, and
disqualifi-
cation from
voting

13.-(1) Subject to the provisions of this Act, a person who is registered as a voter in any polling district shall be entitled to vote in any election in that polling district and every such person shall be entitled to vote only at the polling station allocated to him in such a polling district.

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

(3) 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 authorized in that behalf by the Director of Elections may, by a certificate under his hand, authorize a registered voter who is a candidate at an election in a constituency, to vote at the election in that constituency at the polling station specified in such certificate, whether or not such candidate is registered as a voter in that polling district.

(5) Notwithstanding any other provisions of this Act, where a voter registered as such in any polling district is employed as a 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 authorized in that behalf by the Director of Elections may, by a certificate under his hand, authorize the voter to vote at any other polling station in such polling district, and that polling station shall, for the 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 as authorizing any such person to vote at any polling station other than the polling station allocated to him.

**Change of
name**

14. A person registered as a voter whose name has been changed consequent upon marriage or for any other reason since being registered, shall, if not disqualified from voting under section 13, be entitled to vote under the name in which he is registered.

PART II
REGISTRATION

**Times for
registration**

15.-(1) Where an election is to take place in any constituency the Commission may, at any time within six months before the date of such election, direct the Returning Officer in charge of such constituency to make available at each and every polling district within the constituency, facilities for the registration of voters.

(2) Any person titled to be registered as a voter at any polling district and who has not been so registered, may present himself at a place where under the provisions of subsection (1) facilities for registration had been made available in the relevant polling district.

(3) Notwithstanding any other provision of this section to the contrary, it shall be lawful for the Commission to direct that the registration of voters in all or any polling district in the constituency specified in such direction, shall be suspended for such period as the Commission may direct if, in the opinion of the Commission, it is desirable to suspend the registration of voters in view of the fact that an election is not likely to take place in such

constituency in the near future or for any other reason.

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

**Certificate
of
registration**

16.-(1) Where a person makes an application for registration as a voter in accordance with the provisions of section 15, he shall, if he satisfied the Returning Officer or any other officer for the time being responsible for the registration of voters, that he is qualified to be registered as a voter at polling district within the jurisdiction of such Returning Office 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.

(2) The Commission may by regulations made under section 124 require any person applying for registration as a voter, to fill in such forms as may be prescribed.

**Change of
residence**

17.-(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 19, to the Returning Officer for the polling district in which he is ordinarily resident; and the Returning Officer shall-

(a) if he is satisfied that the applicant-

(i) is qualified
f o r
registration;
and

(ii) is ordinarily
resident in the
p o l l i n g
district in
respect of
which he makes
t h e
application;
and

(b) on the surrender by the applicant of his certificate of registration, or upon the applicant satisfying the Returning Officer that it is lost or destroyed,

register the applicant in the register for the polling district and issue to that applicant a new certificate of registration for that polling district.

(2) Where a Returning Officer registers an applicant under this section he shall immediately cancel the certificate of registration surrendered by the applicant.

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

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

it shall not be necessary for a voter whose name is in any register affected by 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 of 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 action.

Certificate
of
registration
lost, defaced
or destroyed

18.-(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 Returning Officer for the issue of a new certificate of registration.

(2) Upon any such application, the Returning 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.

**Amendment
of
particulars**

19. Where any of the particulars on a certificate of registration or in a register requires to be amended by reason of a change of name or of any other alteration in the circumstances affecting the person to whom a certificate of registration was issued, other than a change of residence from one polling district to another, the person to whom such certificate of registration was issued may apply for a new certificate of registration, and the Returning Officer shall upon such application being made 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:

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

**Declaration
relating
to lost or
destroyed
certificate
of regi-
stration**

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

**Refusal of
application**

21. Where a Returning Officer refuses an application under the provisions of this Part, he shall, if so required by the applicant, give to the applicant a written statement in the prescribed form setting out the grounds of his refusal, and any applicant aggrieved by such refusal may, within twenty-one days after receipt of such statement, appeal against such refusal to a court presided over by a resident magistrate.

PART III
OBJECTION TO REGISTRATION OR
CONTINUED REGISTRATION

**Inspection
of register**

22. Any person may, upon application made in that behalf to the Returning Officer or to the Director of Elections, inspect the register of any polling district on such day and at such time as the Returning Officer or, as the case may be, the Director of Elections determine:

Provided that such application shall not unreasonably be rejected.

**Inclusion
of name in
register**

23.-(1) 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 22, that his name does not appear in the register of the polling district, he may apply to the Director of Elections, and the Director of Elections or, as the case may be, the Returning 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 Elections or the Returning Officer refuses to amend the register to include the name of any person, the person aggrieved by such refusal may object to such refusal in accordance with the succeeding provisions of this Part.

Objections

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

(2) The Director of Elections or the Returning Officer may object to the retention of any name in the register of any polling district on any of the grounds referred to in subsection (1).

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

Procedure for making objections

25.-(1) Except in the case of an objection being made by the Director of Elections or a Returning Officer, every objection shall be made in duplicate in the prescribed form and shall be made to the Returning Officer within such period as may be prescribed.

(2) Every objection, other than an objection made by the Director of Elections or Returning Officer, shall be accompanied by a deposit of such sum as the Commission may, by notice in the Gazette, prescribe.

(4) The Returning 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 Returning Officer shall not be required to send a notice when an objection is made on the ground that a person whose name appears in the register is dead.

Inquiry and
determination
by Returning
Officer

26.-(1) The Returning 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 the person in regard to whom the objection has been made, and, at any such public inquiry, any person appearing to the Returning Officer to be interested in or affected by the subject

matter of the inquiry, may appear and be heard either in person or by any other person duly authorized by the person interested or affected in writing in that behalf.

(2) Where an objection is made to the retention or non-inclusion of any name in the register, the Returning 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 Returning Officer such *prima facie* proof is given, the Returning Officer shall require proof of the present qualification for registration of the person in regard to whom the objection has been made and-

- (a) if such person's qualification is not proved to the satisfaction of the Returning Officer, the Returning Officer shall delete or cause to be deleted that person's name from the register; or

(b) if such person's qualification is so proved the Returning Officer shall retain, or as the case may be, include or cause to be retained or included, such person's name in the register.

(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 to the satisfaction of the Returning Officer, the Returning Officer shall retain or cause to be retained the name of the person in regard to whom the objection is made in the register or, as the case may be, take no steps for the amendment of the register so as to obtain retain 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 Returning Officer or the Director of Elections is disallowed by the Returning Officer and in his opinion, the objection was made without reasonable cause, the Returning Officer may, if he thinks fit, order in

writing the objector to pay the person in regard to whom the objection has been made, compensation in such sum as the Commission may, by notice in the Gazette, prescribe.

(6) Any sum awarded as compensation under this section shall be recoverable as though the order of the Returning Officer were a decree of a district court for the recovery of money.

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

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

Objector
or person
objected
to may
appeal

27. If any objector or person in regard to whom objection has been made is dissatisfied with the decision of the Returning Officer under section 26, the objector or person may, within twenty days from the date of such decision appeal to a court presided over by a resident magistrate.

PART IV
APPEALS AND ADDITIONS TO OR
DELETIONS FROM THE REGISTER

Appeals to
a Resident
Magistrate
Act No.6
of 1992
Gazette, →
s.10

28. - (1) Every appeal under section 21 or 27 shall state shortly the grounds of appeal, and shall be accompanied by such sum as the Commission may, by notice in the prescribe as a deposit.

(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 and it shall be in his discretion whether to hear or not to hear any evidence and, his determination of the appeal shall be final and conclusive and shall not be called in question in any court.

(3) When the Resident Magistrate has determined an appeal which has been lodged with respect to any register on the issue of a certificate of registration, he shall forward to the Returning Officer a statement under his hand containing the names which he has decided shall be deleted from the register and a statement of a name of any person to whom a certificate of registration shall be issued, and the Returning 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 Returning Officer to issue a certificate of registration where any certificate of registration relevant to the proceedings has been lost or destroyed, unless such person shall have made the declaration provided for in section 20; and

(b) in any case to which section 18, 19 or 20 applies and no declaration has been made in accordance with section 20, the Returning Officer may refuse to issue a new certificate of registration until the previous certificate of registration issued to the person concerned has been surrendered.

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

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

Provided that if an appeal is made and now 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 sum as the Commission may, by notice in the *Gazette*, prescribe and any sum so awarded, shall be recoverable as though the order were a decree of a district court for the recovery of money.

(6) Where an appeal has been made under this section, the 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 Returning Officer 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 were a decree of a district court for the recovery of the money.

(7) A witness may be summoned and sworn at the hearing of an appeal under the provisions of this section in the same manner as nearly as circumstances permit as in a trial by a district court in the exercise of its criminal jurisdiction and shall, without prejudice to the provisions of any other law, be subject to the same penalties

for giving false evidence or for non-attendance.

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

Provisions
consequential
upon
additions
to, or
deletions
from,
register

29.-(1) Where the name of any person has been added to a register pursuant to section 26, or any certificate of registration has been issued to any person in pursuance of that section, the Returning Officer shall take steps in relation to that person as if he had not refused the application to which the appeal relates.

(2) Where the name of any person has been deleted from a register pursuant to section 26, the Returning 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 Returning Officer the declaration provided for in section 20;

within such period, being not less than ten days, as the Returning Officer shall specify; and the Returning Officer shall cancel any certificate of registration so surrendered.

Act No.21
of 1992
s.2

Act No.32
of 1994
sch.

CHAPTER III PRESIDENTIAL ELECTIONS

PART I PRESIDENTIAL AND VICE-PRESIDENTIAL CANDIDATES NOMINATION

Nomination
of
Presidential
and Vice
Presidential
Candidates

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

**Number of
nominators**

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

**Particulars
of nomination**

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

- (a) the name and address of the candidate for the office of President and of Vice President who shall be his running mate;
- (b) the names and addresses of the nominators; and
- (c) the numbers of the certificates, of registration of the nominators.

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

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

Deposits

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

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

- (a) the Presidential candidate withdraws his candidature after nomination day; or
- (b) the number of votes counted in his favour at the election is less than one-tenth of the total number of votes cast,

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

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

**Sole
Presidential
candidate**

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

(2) The Presidential candidate declared under subsection (1) shall be duly elected to the office of the President if he obtains more than fifty percent of the total votes cast.

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

**Withdrawal
of
candidature**

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

Death or
lack of
candidates
Act No.32
of 1994
Sch.

35A.-(1) Where-

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

(b) at any time
after four
clock on
nomination day
and before the
determination
of an election,
a n y
Presidential or
V i c e -
Presidential
candidate dies,

the Commission shall
immediately, by notice in
the Gazette, appoint a
further nomination day
being a day not less than
twenty-one days to give
time to the political party
concerned to nominate a new
Presidential or Vice-
Presidential candidate, as
the case may be.

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

PART II
ELECTION PROCEDURE

**Presidential
election
day**

35B.--(1) Subject to section 35D of this Act, the Commission shall appoint a day in this Act referred to as Presidential election day, for the holding of a ballot in every constituency for the election of the President.

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

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

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

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

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

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

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

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

**Persons
entitled to
vote at
Presidential
elections**

35C.-(1) Every person registered as a voter under this Act shall be entitled to vote at a Presidential election.

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

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

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

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

Application
of Chapter IV

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

Application
of Chapter V

35E. The ballot for the election of a President in each constituency shall be held in the like manner as the ballot in a Parliamentary election and the provisions of Chapter V of this Act shall apply *mutatis mutandis*.

Addition of
of
presidential
votes Act
No.18
of 1995

35F.-(1) After all the reports of the results and the ballot boxes containing the ballot papers relating to Presidential election, have been received from all the polling stations in the constituency, the Returning Officer shall, after determining the validity of any disputed votes, add together the figures of-

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

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

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

(4) The Returning Officer shall certify and give a copy of the report to each of the polling agents or if present, to the Presidential candidates.

(5) The Commission may, where there is any doubt as to the accuracy in the addition of Presidential votes in any constituency,

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

(7) A Presidential candidate shall be declared to have been elected President only if more than fifty percent of the total valid votes cast are in his favour.

**Second
ballot**

35G.-(1) If, at the initial ballot no Presidential candidate has received more than fifty percent of the total number of valid 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.

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

(5) Notwithstanding subsection (7) of section 35F at the second ballot, a Presidential candidate shall be declared to have been elected President if more than fifty percent of the total valid votes cast are in his favour or if he receives the greatest number of the valid votes cast.

Election
of President
to be
deemed
election
of Vice-
President

35H. Where a Presidential candidate is declared to have been elected his running mate shall be deemed to have been elected to the office of the Vice-president.

CHAPTER IV
PARLIAMENTARY ELECTIONS

PART I

QUALIFICATION OF CANDIDATES

Qualifica-
tion of
candidates
for par-
liamentary
election

36. No person shall be qualified to be a candidate for Parliamentary election or elected to be as a Member of Parliament unless he is qualified to be so elected by and in accordance with the provisions of section 67 of the Constitution.

PART II

NOMINATION OF CANDIDATES

Nomination
day
Act No.6
of 1992
ss.11 and 12

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

Provided that-

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

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

Provided that any such later day appointed as a nomination day for a parliamentary election shall be within the period provided for under the proviso to sub-section (1).

(3) The Commission shall give at least seven days notice of nomination day and, in the case of a parliamentary election to be held where the President

has given notice of his intention to dissolve Parliament, the notice of a nomination day may be given before such dissolution.

Nomination
of candi-
dates
Acts Nos.
6 of 1992
s.13
21 of 1992
s.2

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

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

- (a) the same, address and occupation of the candidate;
- (b) the names and addresses of the nominators and the numbers of their certificates of registration;
- (c) a certificate by the candidate that he is willing and otherwise qualified to stand for election.

(3) Every nomination paper shall be accompanied by-

- (a) a statutory declaration in the prescribed form, made and signed by the candidate before a magistrate and declaring the candidate's qualifications and that he is not disqualified for election;
 - (b) a certificate in the prescribed form by the Returning Officer in charge of the constituency certifying the contents in that certificate;
 - (c) such number of photographs of the candidate as the Commission may deem necessary, taken not earlier than three months preceding the nomination day;
 - (d) such biographical information relating to the candidate as may be required to be given by regulations in such form as may be prescribed.
- (4) Where, in any case, a nomination paper is not accompanied by the documents specified in subsection (3), the nomination of the candidate shall be deemed to be void:

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

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

(6) Every candidate or one of the nominators of the candidate, shall deliver the nomination paper together with one copy signed as provided for under this section, at the office of the Returning Officer not later than four o'clock in the afternoon of the nomination day.

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

(8) No person shall nominate more than one candidate for any one election and where a Returning Officer has issued a certificate under paragraph (b) of sub-section (3) in respect of a person's nomination of one candidate he shall

refuse to issue a certificate in respect of that person's nomination of another candidate for the same election:

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

(9) Where, notwithstanding the provisions of subsection (8), a person nominates more than one candidate for the same election and certificates have been issued under paragraph (b) of subsection (3) in respect of such person's registration, such person's nomination shall be valid only in respect of the nomination paper first delivered to the Returning Officer, and any nomination made by such person in respect of any candidate whose nomination paper is subsequently delivered, shall be invalid.

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

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

Deposits
Act No.6
of 1992
s.14

38A.-(1) A candidate or one of his nominators shall, at the time of delivering the nomination paper pursuant to the provisions of section 38, deposit with a Returning Officer such sum of money as may be prescribed.

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

(3) Where the deposit of a candidate is not forfeited under the provisions of subsection (2) of this section, it shall, as soon as is reasonably practicable after the declaration of the results of the election, be returned to the candidate

or paid to his personal legal representative, as the case may be, by the Returning Officer.

Candidate
to be nomi-
nated for
one
constituency
only

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

Objections
to and
decisions
as to
validity of
nomination
paper
Act No.6
of 1992
s.15

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

- (a) that the particulars given in respect of the candidate are insufficient to identify him;
- (b) that the nomination paper does not comply with or was not delivered in accordance with the provisions of this Part;
- (c) that it is apparent from the contents of the nomination paper that the candidate is not qualified to stand for election;
- (d) that the requirements of sub-section (3) of section 38 have not been complied with.

(2) No objection to a nomination paper shall be allowed unless it is made to the Returning Officer later than four o'clock in the afternoon of the day following nomination day.

(3) The objection may be made by another candidate in the constituency, or by the Director of Elections or the Returning Officer on his own motion and shall be made in writing, signed by the objector, and shall specify the grounds of objection.

(4) The Returning Officer shall, with the least possible delay, decide on the validity of every objection and inform the candidate concerned of his decision and, if the objection is allowed, of the grounds of his decision.

(5) Any candidate who is dissatisfied with the decision of the Returning Officer on the validity of an objection may, in such manner and within such period as the Commission may prescribe, appeal to the Commission and the decision of the Commission shall be final and conclusive and shall not be challenged in any court, except by way of an election petition presented pursuant to the provisions of Chapter VII on one or other of the grounds specified in that Chapter.

41. [Repealed by Act No.6 of 1992
s.16].

Act No.6
of 1992
s.11

PART III
FINAL NOMINATION OF
CANDIDATES FOR
PARLIAMENTARY ELECTIONS

42. [Repealed by Act No.6 of 1992
s.17].

43. [Repealed by Act No.6 of 1992
s.18].

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

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

45. [Repealed by Act No.6 of 1992
s.20].

PART IV

ELECTION DAY

Nominated
candidates
and election
day
Act No.6
of 1992
s.21

46. 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 nominated to stand as candidates for election in the constituency:

Provided that-

- (a) where there are two or more contested elections during a Parliamentary election, the Commission may appoint different election days for different constituencies;
- (b) the Commission may revoke the appointment of an election day and appoint another day within the period specified under this section to be an election day.

Notice of
election
Act No.6
of 1992
s.58

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

- (a) the day or days and, subject to the provisions of subsection (4) the time or times of commencement and close of the poll;
- (b) the address of the polling station or stations;
- (c) in any polling district where there are two or more polling stations, the voters assigned to each polling station; and
- (d) the full names, addresses, occupations, a photograph and a symbol, if any, representative of the candidates.

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

(b) only one day shall be appointed as the polling day for each polling district; and

(c) the last day appointed for polling in any polling district in any constituency, shall be not later than such time after election day for the constituency as the Commission may appoint.

(3) 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 the 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 upon such notice, polling shall take place in the polling district on the polling day specified in the notice.

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

PART V

WITHDRAWAL, DEATH OR
ABSENCE OF CANDIDATES

With-
drawal
or cessa-
tion of
candida-
ture

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

(2) Subject to subsection 10 where a candidate withdraws his candidature after six o'clock in the afternoon of the day following nomination the provisions of section 38A(2) shall apply.

(3) Whenever a Member of Parliament resigns, dies or otherwise relinquishes his office, the Speaker shall in writing to the Chairman of the Commission, and by notice published in the *Gazette*, declare that there is a vacancy in the seat of the member.

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

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

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

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

Absence of
candidates
Act No.6
of 1992
s.24

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

PART V ELECTION CAMPAIGNS

Election
campaigns
Act No.6
of 1992
s.25
Act No.21
of 1992
s.2
Act No.8
of 1995
s.8

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

(2) The candidate, his agent or the candidate's political party, as the case may be, shall supply the Returning Officer with a schedule indicating the proposed programme for the public meetings of the candidate's campaign specifying the time and places of those meetings.

(3) A candidate or his agent or a political party acting with the approval or consent of the candidate may convene

or address any public meeting in the constituency held pursuant to subsection (2), for the purpose of furthering the candidate's election or the programme of his political party.

(4) A Returning Officer may call a meeting of all the candidates or their agents for the purposes of coordinating the campaign programme of the candidates.

(5) Every Returning Officer shall cause a copy of the coordinated programme to be submitted to the District Commissioner and the police officer commanding the police within the constituency and such programme shall constitute a notice of the proposed meetings for the purposes of the Political Parties Act, 1992 and the Police Force Ordinance.

No.5
of 1992
cap.322

52. [Repealed by Act No.6 of 1992
s.26]

Access
to and
obliga-
tion of
public
media
Act No.8
of 1995
s.9

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

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

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

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

54. [Repealed by Act No.6 of 1992
s.28].

CHAPTER V
ELECTION AND VOTING PROCEDURE

PART I
ELECTION PROCEDURE

Polling
days and
times

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

Arrange-
ments for
contested
elections
Act No.6
of 1992
s.58

56. The Returning Officer shall-
- (a) provide a sufficient number of polling stations in each polling district in accordance with terms of any notice given the provisions of section 47;
 - (b) appoint in respect of each polling district such persons, to be known as polling assistants, as he may think fit to assist presiding officer during the voting in the election;

- (c) appoint from among such polling assistants a person to be in charge of the polling station to be known as the presiding officer;
- (d) furnish each polling station with such number of polling booths as in the opinion of the Returning Officer may be necessary, in which the voters, screened from observation, can record their votes;
- (e) place or cause to be placed outside each polling station in a conspicuous place, a notice showing the names in alphabetical order of surnames, or in such other order as the Commission may direct, addresses, occupations, a photograph and a representative symbol, if any, of the candidate;

- (f) provide both within and outside each polling station, notices containing instructions relating to the voting procedure to be followed;
- (g) provide each presiding officer with such number of ballot boxes and ballot papers as in the opinion of the Returning Officer 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 directions the Commission may give in that behalf, provide each polling station with copies of the register of voters for the polling district or such part of such

register as contains the names of the voters allowed to vote at that polling station;

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

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

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

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

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

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

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

(4) The presiding officer shall, with the assistance and co-operation of the polling agent, solve or otherwise deal with each complaint at the polling station as soon as it arises and is

brought to his attention by a candidate, a polling agent, a voter or by any other person registered and entitled to vote at the polling station concerned.

**Ballot
boxes**

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

(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.

59. Every ballot paper shall-

**Form of
ballot
paper
Act No.6
of 1992
ss.30 and 58**

- (a) contain the full names, addresses and occupations of the candidates as shown in their nomination papers arranged in notice placed in accordance with section 47, their photographs and representative symbol, if any;

- (b) be capable of being folded up;
- (c) have a serial number printed upon it;
- (d) be attached to a counterfoil bearing the same serial number as that printed on the ballot paper.

**Prohibition
of dis-
closure of
vote**

60. No person who has voted at an election shall, in any legal proceedings to question the election return, be required to state for whom he voted:

Provided that this section shall not apply in any legal proceedings in which the question whether a presiding officer acted under the provision of subsection (3) paragraph (b) or (c) (i) of section 61 acted bona fide, is in issue.

PART II

VOTING AND COUNTING PROCEDURE

Method of
voting

Act No.13
of 1990

s.31

Act No.6
of 1992

s.31

Act No.32
of 1994

Sch.

Act No.8
of 1995

s.10

61.-(1) Without prejudice to the provisions of subsection (4) of section 47 and section 85, each polling agent shall be present at the opening of the voting at the polling station in respect of which he is appointed a polling agent.

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

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

- (a) every voter who wishes to vote shall present himself at the polling station allotted to him in the polling district for which he is registered, and shall satisfy the presiding officer or a polling assistant at such polling station, that he is the

voter he claims to be and that he has not voted at such polling station or elsewhere; and such person may satisfy the presiding officer or a polling assistant that he is the voter he claims to be by producing such documentary evidence as to his identity as the presiding officer or polling assistant may find satisfactory;

- (b) if a voter is incapacitated by blindness or other physical cause or is unable to read, he may ask a person of his own choice other than the presiding officer, a polling assistant or a polling agent, to assist the incapacitated person to record his vote in accordance with paragraph (c) to (k) of this subsection;

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

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

(e) subject to the provisions of paragraph (h), a voter on receiving a ballot paper shall go immediately into one of the polling booths in the polling station, secretly record his vote in the manner provided for in paragraph (f), fold up the ballot paper so as to conceal his vote and shall proceed to the ballot box and show to a polling assistant the back of the ballot paper so as to reveal the official mark and shall then put the folded ballot paper into the ballot box;

(f) a voter shall record his vote putting a mark against the name of the candidate for whom he wishes to vote and by that mark recording no more than one vote;

Act No.8
of 1995
s.10

- (g) a voter shall not place on the ballot paper any writing or mark by which he may be identified;
- (h) a voter shall vote without undue delay;
- (i) if a voter is incapacitated by blindness or other physical cause, or is unable to read, he may ask a person of his own choice other than the presiding officer, a polling assistant or a polling agent to assist the incapacitated person to record his vote in accordance with paragraph (e) and (f) of this section;
- (j) 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;

- (k) subject to the provision of paragraphs (i) and (j), a voter shall not show the mark which he has placed upon his ballot paper to any person, and if he does so the ballot paper shall be treated as a spoilt ballot paper.

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

- (l) a voter who has accidentally dealt with a ballot paper conveniently be used as a valid ballot paper may, on delivering such ballot paper may, on delivering such ballot paper to the presiding officer and after satisfying the presiding officer that the ballot paper has been spoilt by accident, obtain another ballot paper in the place of the ballot paper so

delivered and the spoilt
ballot paper and its
counterfoil shall be
immediately marked as
cancelled.

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

62. [Repealed by Act No.18 of
1995 Sch].

Admission
to polling
station

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

Act No.8
of 1995
s.11

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

- (a) presiding officer;
- (b) polling assistant;
- (c) polling agent;

- (d) voter;
- (e) a person assisting an incapacitated voter pursuant to section 61;
- (f) observer duly authorized in writing by the Commission;
- (g) candidate;
- (h) member of the Commission;
- (i) Director of Elections;
- (j) police officer or any other person responsible for security at the polling station.

(3) The Commission may give directions regulating the conduct of observers.

(4) If any person misbehaves in the polling station or fails to obey the lawful orders of the presiding officer, he may immediately, by order of the presiding officer, be removed from the polling station by any police officer in or near the station by any police officer in or near the station or by any other person authorized in writing by the presiding officer or by the Returning Officer, and the person so removed shall not, unless with the permission of the presiding officer, be allowed to enter the polling station.

(5) Any person removed pursuant to subsection (4), if charged with the commission of any offence in such polling station, may be kept in custody until he can be brought before a magistrate but the powers conferred by this section shall not be exercised so as to prevent any voter who is otherwise entitled to vote at any polling station, from having an opportunity of voting at such polling station.

**Allegation
of irregularities
Act No.6
of 1992
s.33**

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

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

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

(b) having been required to make and subscribe to a declaration as prescribed by section 66, makes and subscribes to one or bot of the declaration 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 subsection (1), a presiding officer shall state to such person the reasons for his belief ~~(that such a person the reasons for his belief)~~ that such a person is not a voter entitled to vote at the polling station in question or, in the case of an allegation referred to in subsection (1) made by a candidate or polling agent present in the polling station in question, shall require such candidate or polling agent to state in his presence and in the presence of the person wishing to vote, the reasons for

the allegation; and if a candidate or a polling agent refuses to comply with such requirement, the presiding officer shall disregard the allegation made.

**Tendered
ballot
papers**

65.-(1) If a person representing 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 presiding officer as the person named in the register, and having been required as prescribed by section 66, to make and subscribe to a declaration, makes and to subscribes 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, to be called a tendered ballot paper, shall be of a different colour from the ordinary ballot papers, and, instead of being put into the ballot box, the tendered ballot 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 of that register, and set aside in a separate packet, and shall not be counted by the Returning Officer as provided in this Part, and, the name of the voter and, where a copy of the

register or part of the register is available at the polling station, such person's number on such register or part of the register, shall be entered on a list, and this list shall be admissible in any legal proceedings arising out of the election.

(2) The presiding officer may require any person to whom a tendered ballot paper is delivered to make and subscribe to one or both the declarations to which section 66 applies.

**Declaration
by voters**

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

(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.

**Adjourn-
ment of
polling in
case of
riot**

67.-(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 immediately give notice to the Returning Officer.

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

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

**Closing of
poll Act No.6
of 1992
s.34**

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

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

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

(2) At the conclusion of the polling, the presiding officer shall prepare a report, detailing all complaints raised during and after the close of the poll and the steps taken in respect of each of them and the report shall be read before and be confirmed and signed by the polling agent, the presiding officer and a polling assistant, and shall be submitted to the Returning Officer in accordance with section 79A.

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

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

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

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

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

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

Counting
of Votes
Act No.18
of 1995
Sch.

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

71.-(1) The Presiding Officer of each polling station assisted by the polling assistants assigned to the polling station, shall as soon as practicable after the closing of the poll, in the presence of the persons referred to in section 72, if present, proceed continuously with the counting of votes in accordance with the methods and the procedures provided in this Part until the counting is completed.

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

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

prescribed form, relating to that complaint and how it was resolved.

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

Persons who
may be
present at
counting
of votes
Act No.18
of 1995
Sch.

72.-(1) No person other than the following may be present at the counting of votes-

- (a) the presiding officer;
- (b) a polling assistant;
- (c) a polling agent or an alternate polling agent;
- (d) a candidate;
- (e) a police officer or such other person responsible for security at the place where votes are being counted;
- (f) a Returning Officer, Assistant Returning Officer, or a Regional Coordinator;
- (g) a member of the Commission;
- (h) the Director of Elections or an electoral officer of the Commission; and
- (i) an election observer duly authorized in writing by the Commission."

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

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

73.-(1) Before the presiding officer and polling assistants proceed to count the votes, they shall, in the presence of the persons referred to in section 72, if present-

- (a) ascertain and record the number of all the persons who voted at the polling station;
- (b) count and record the number of all the unused ballot papers, including any spoilt ballot papers and seal them in a special envelope;
- (c) inspect each seal and any padlock affixed to the ballot box to ascertain whether or not they have been opened or tampered with;
- (d) unseal each seal, one after another and unlock the padlock; and
- (e) open the ballot box.

(2) After the ballot box has been opened the Presiding Officer shall take out and count aloud each ballot paper and record the total of the ballot papers found in the ballot box.

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

(a) the presiding officer shall unfold each ballot paper, display it for viewing by those present and announce aloud the candidate for which the vote has been cast or whether the ballot paper is blank, spoilt or otherwise invalid;

(b) the ballot papers which have been announced shall be arranged and displayed in separate lots facing upwards, according to the candidate for which they are cast or as blank or invalid votes;

- (c) the presiding officer shall count aloud and record the votes in each lot and verify their total with the total of all the ballot papers which were found in the ballot box and the number of voters who cast their votes at the polling station.

Ballot papers
which shall
not be
counted as
valid
Act No.18
of 1995
Sch.

74. A ballot paper shall not be counted as a valid vote if-

- (a) it does not bear an official mark;
(b) the vote on it has been recorded otherwise than in accordance with section 61 or it is required under that section to be treated as spoilt;
(c) anything is written or marked by which a voter can be identified otherwise than by the serial number printed on it;
or
(d) it is unmarked or void for uncertainty.

**Endorse-
ments by
Returning
Officer**

75.-(1) The presiding officer or a polling assistant shall endorse the word "rejected" on any ballot paper which, under the provisions of section 74 is not counted.

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

**Rejected
ballot
papers
Act No.6
of 1992
s.36**

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

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

Equality
of votes
and recount
in contested
elections.

77.-(1) Where pursuant to section 80, an equality of votes is found to exist between the candidate in a contested election so that an addition of a vote would entitle any of them to be declared elected, the Returning Officer shall make a recount of the votes cast.

(2) If there is again an equality of votes as ascertained by such a recount, the Returning Officer shall, subject to the provisions of section 78, report the fact to the Commission which shall, by notice published in the Gazette, appoint some other convenient day, not later than thirty days after the election day, for the nomination of candidates for the constituency and the electoral procedure for such vacancy shall be commenced afresh.

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

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

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

Decision
of presiding
officer
Act No.18
of 1995
Sch.

79. The presiding officer shall, after consultations with the polling assistants, the polling agents or if present, the candidates, decide on any question arising in respect of any ballot paper and if disputed, the decision shall be subject to review by the Returning Officer, during the addition of votes from all the polling stations in the constituency and the decision of the Returning officer shall be final and subject only to review by an election petition pursuant to Chapter VII of this Act.

**Duties
presiding
officer
after
counting
Act No.18
of 1995
Sch.**

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

- (a) seal up in separate packets the valid, the disputed and the rejected, ballot papers;
- (b) prepare a separate report of the results of each of the Parliamentary and Presidential elections in the manner and form as the Commission may direct, which shall be signed by the presiding officer and the polling agents, if present;
- (c) require the polling agents or if present, a candidate to state in the prescribed form any complaint or to confirm satisfaction with the counting of votes;
- (d) affix in some conspicuous place a copy of the report of the partial results of the elections at the polling station;
- (e) if available in sufficient numbers, give each polling agent a copy of the report of results;

- (f) lock up and seal in the ballot box, all the packets of ballot papers; and
- (g) accompanied by such number of polling agents present as the Commission shall direct, transmit and hand over to the Returning Officer, the ballot box together with the report of the partial results of the elections at the polling station.

Addition
of votes
in Parliame-
ntary
election, etc.
Act No.18
of 1995
Sch.

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

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

- (a) The Returning officer;
- (b) Assistant Returning officer;
- (c) Regional Co-ordinator;
- (d) a member of the Commission;
- (e) the Director of Elections or an electoral officer of the Commission;
- (f) a candidate;
- (g) a counting agent;
- (h) a police officer or such other person responsible for security at the place of counting;

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

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

(4) Where a request is made pursuant to subsection (3) the Returning Officer shall not unreasonably, refuse to check the addition or to recount the ballot papers of any particular polling station.

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

- (a) a member of the Commission;
- (b) the Director of Elections;
- (c) electoral officer of the Commission;
- (d) a candidate;
- (e) a counting agent;

- (f) a police officer or such other person responsible for security at the place where the presidential votes are being added;
- (g) an observer duly authorised in writing by the Commission;
- (h) such other persons as the Commission may authorise.

Declara-
tion of
result
Act No.13
of 1990
s.13

81. When the result of a contested election has been ascertained the Returning officer shall-

- (a) immediately declare to be elected, the candidate for whom the majority of votes has been cast;
- (b) send a notification of election in successful candidate,; and
- (c) compile a report and submit it to the Commission, indicating-
 - (i) the complaints raised at each stage of the election and the measures or decisions taken in respect of each;
 - (ii) the views of the candidates in relation to the election; and

- (iii) the result of the election; and the Commission shall then cause the results, together with the number of votes recorded for each candidate in each constituency, to be published in the Gazette.

81A. [Repealed by Act No.6 of 1992

s.37].

**Custody of
documents**

82.-(1) The Returning Officer shall ensure the safe custody of all documents relating to the conduct of an election.

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

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

**Powers of
polling
assistants**

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

**Candidate
has power
of his
polling
agent or
counting
agent**

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

**Non-
attendance
of agents
not to
invalidate
proceedings**

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

Where two
or more
elections
held simultane-
taneously
Act No.6
of 1992
s.38

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

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

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

and Parliamentary election;

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

elections which is first delivered to him;

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

Defini-
tion of
campaign
period
Act No.8
of 1995
s.13

87. For the purposes of the provisions of Chapter VI and Chapter VII, the term "campaign period" in relation to a Parliamentary election, means, except for section 97, the whole of the period immediately following after dissolution of Parliament or the occurrence of a vacancy in the House declared by the Speaker by notice published in the Gazette up to the day immediately preceding election day.

CHAPTER VI

OFFENCES

PART I

OFFENCES RELATING TO
REGISTRATION AND NOMINATION

Offences
in relation
to regist-
ration
Act No. 6
of 1992
s. 39

88.-(1)

Every person who-
(a) for the purposes
of procuring
the registration
of himself or of
any other
person, or of
procuring a
certificate of
registration,
f r o m a
registration
officer or from
any other person
having any duty
in relation to
the application
for registration
or for the issue
of certificates
of registration,
any false
statement
material to any
application on
his own behalf
or on behalf of
such other

person for
registration or
for the issue of
a certificate of
registration;

(b) knowing or
having reason to
believe that he
is registered in
a polling
district,
applies to be
registered
otherwise than
in accordance
with section 17,
and without
disclosing to
the Returning
Officer his
previous
registration in
another polling
district;

(c) applies to be
registered in a
polling district
after he has
applied to be
registered in
another polling
district and the
earlier
application has
not, been

determined
pending any
investigation
into the
applicant's
qualifications
or withdrawn;

- (d) having been
issued with a
certificate of
registration,
applies for the
issue to himself
of a new
certificate of
registration,
otherwise than
in the
circumstances
set out in
sections 17,
section 18 or 19
and without
disclosing to
the Returning
Officer the
circumstances in
which the
application is
made; or
- (e) knowingly makes
any declaration
provided for in
section 20 which
is false, or

which he does
not believe to
be true in a
material
particular,

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.

(2) Any person whose name has
been deleted from a register and who has
been required by a Returning Officer
either to surrender a certificate of
registration issued to him or to make
and to deliver to the Returning Officer
the declaration provided for in section
20 within the specified time by such
Returning Officer, who without lawful
excuse, neither surrenders such
certificate nor makes and delivers such
declaration within the specified time,
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.

Official
discourage-
ment of
persons
from
seeking
nomination
etc.

Act No. 6
1992,
s. 40

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

(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 Prosecutions.

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

Offences
in relation
to registers
and
certifi-
cates of
registration
Act No. 6
of 1992
s. 41

90.- (1)

Every person who-

(a) forges or fraudulently to defaces or fraudulently destroys and register of voters; or

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

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.

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

Offences
in relation
to nomi-
nation papers
or ballot
papers

91.(1)

Every person who-

- (a) forges or fraudulently defaces or fraudulently destroys any nomination or paper, or ballot paper or delivers to a Returning Officer any nomination paper knowing the same to be forged;
- (b) knowingly nominates more than one Presidential candidate;

Acts Nos.
6 of 1992
s. 42
21 of 1992
s. 2

- (c) forges or
countersfeits or
fraudulently
destroys any
ballot paper or
the official
mark on any
ballot paper;
(d) being a
Returning
Officer or
presiding
officer
knowingly or
negligently
fails to put an
official mark
on a ballot
paper;
(e) being a
Returning
Officer or
presiding
officer
knowingly or
negligently
authorises the
use of a
tendered ballot
paper in a
manner which
contravenes the
provisions of
this Act;

- (f) without due authority supplies any ballot paper to any person;
- (g) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorized by law to put in;
- (h) 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
- (i) without due authority, destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers

in use for the
purpose of an
election;

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.

(2) Any person who, for the
purposes of procuring for himself or for
any other person, nomination as a
candidate, knowingly makes any false
statement material to such nomination in
a nomination 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.

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

False
publi-
cation
of with-
drawal
Act No. 8
1995
s. 14

91A. Any person who knowingly, by utterance, print or broadcasting, publishes any statement of the withdrawal of any candidate for the purposes of promoting the election of another candidate is guilty of an of illegal practice and shall be liable on conviction to imprisonment for a term not exceeding two years.

Corrupt
induce-
ment of
with-
drawal
Act No.8
1995
s. 14

91B. Any person who corruptly induces or procures another person to withdraw from being a candidate to an election in consideration of payment or promise of payment and any person who withdraws in pursuance of such of inducement or procurement, is guilty of corrupt practice and shall be liable on conviction to imprisonment for a term not exceeding five years.

PART II

OTHER ELECTION OFFENCES

Misce-
llaneous
offences

92. Any person who wilfully furnishes false evidence or makes a false statement in a declaration made under section 66, 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 both.

Maintenance
of secrecy
at elections
Act.No. 6
of 1992
s. 43

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

(2) The Returning Officer shall have power to administer any oaths required to be taken under the provision of subsection (1).

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

(4) No such officer, clerk, interpreter, candidate, agent or any other person, shall obtain or attempt to obtain in the polling station information as to the candidate for whom any person in such station is about to vote or has voted, or communicate at any time to any person any information obtained in a polling station as to the candidate for whom any person in such station is about to vote or has voted.

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

(6) No person except a presiding officer acting for a purpose authorised by this Act, or person assisting an incapacitated person and acting for such purpose, shall communicate or attempt to communicate with any person after such person has received a ballot paper and before he has placed the same in a ballot box.

(7) 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 twenty thousand shillings or to imprisonment for a term not exceeding four years or to both.

Penalty
for
bribery,
treating,
etc.,
Act No. 8
of 1995
15

94. Any person who commits the offence of bribery, treating or undue influence shall be guilty of a corrupt practice and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding five years or to both.

Penalty
for personation
Act No. 6
of 1992
s. 44

95. 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 an offence and shall be liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding four years or to both.

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

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

(2) 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 or under any other written law.

Person
to be
deemed
guilty
of
bribery
Act No. 8
of 1995
s.16

97.--(1) Subject to subsection
(2), the following persons shall be
deemed to be guilty of bribery within
the meaning of this Act-

(a) every person
who, before or
during the
campaign period,
directly or
indirectly, by
any other person
on his behalf,
gives, lends or
agrees to give
or to lend, or
o f f e r s ,
promises, or
promises to
procure or to
endeavor to
procure, any
m o n e y o r
v a l u a b l e
consideration 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
any voter to
vote or to
refrain from
voting, or

corruptly does any such act, on account of such voter having voted or refrained from voting at any election;

- (b) every person who, before or during the campaign period directly or indirectly by himself, his agent or by his political party on his behalf, gives or procures or agrees to give or to procure or to endeavor 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 to refrain from voting, or corruptly does any such act, on account of such voter having voted or refrained from voting at any election;

- (c) every person who, before or during the campaign period, directly or indirectly, by himself, his agent or by his political party on his behalf, makes any gift, loan, offer, promise, procurement, or agreement to or for any person in order to induce such person to procure or to endeavor to procure, the nomination of a

person as a candidate by a political party, the election of any person as a Member of Parliament 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 endeavours to procure the nomination of a person as a candidate by a political party, the return of any person as a Member of Parliament or the vote of any voter at an

- election;
- (e) every person who, for purposes of promoting or furthering an election campaign, or during the campaign, or during the campaign period, advances or pays, or causes to be paid, any money to or for the use of any other person, with the intent that such money, or any part of that money, 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 the campaign period 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 from 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 at any election.

(2) The provisions of this section shall not extend or 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.

(3) Where it is alleged that the act constituting bribery was committed by an agent or an other person on behalf of the candidate, it shall be a

defence for the candidate if he proves that it was committed without his knowledge, consent or approval or that of his agent.

(4) For the purposes of this section an act or transaction shall not be deemed to constitute bribery if it is proved to have been designed to advance the interests of community fund raising, self-help, self-reliance or social welfare projects within the constituency and to have been done before the campaign period.

Persons
to be
deemed
guilty
of treating
Act No. 8
of-1995
s. 16.

98.-(1) Subject to subsection
(2) the following persons shall be
deemed to be guilty of treating within
the meaning of this Act-

(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,

d r i n k ,
entertainment or
provisions to or
for any person,
for the purpose
of corruptly
influencing that
person, or any
other person, to
vote or to
refrain from
voting at such
election; and

(b) every the
person who
corruptly
accepts or
takes any such
food, drink,
entertainment
or provision.

(2) For the purposes of
subsection (1) nothing done as an act of
normal or traditional hospitality shall
be deemed to be treating.

Persons to
be deemed
guilty of
undue
influence

99. Every person who directly or
indirectly, by himself or by any other
person on his behalf, makes use of or
threatens to make use of any force,
violence or restraint, or inflicts or
threatens to inflict by himself or by
any other person, any temporal or
spiritual injury, damage, harm, or loss,
upon or against any voter, in order to

induce or to compel such voter to vote or to refrain from voting, or on account of such voter having voted or refrained from voting, at any election or who, by abduction, duress or any fraudulent contrivance, impedes or prevents the free use of the vote by any voter either to give or to refrain from giving his vote at any election, shall be guilty of undue influence within the meaning of this Act. X

Bribery,
treating
and
undue
influe-
nce in
relation
to
members
and
officers
of
Commi-
ssion
Act No.8
of 1995
s.17

100.-(1) Where any person does any act described in sections 97, 98 or 99 to or in respect of a member or officer of the Commission referred to in section 6, with intent that that person shall discriminate in favour of one or other of the candidates at the election, or where any such member or officer does any such act which is so described, on account of discriminating or having discriminated in favour of one or other of the candidates, such person 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, sections 97, 98 and 99 shall be read as if references to the voters and to voting were reference to the persons specified in subsection (1) and to such discrimination respectively, and as if the sreferences to the intent specified

in those sections were references to the intents specified in subsection (1) of this section.

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

101. 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 purpose 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.

Penalty for
persons
guilty of
certain
corrupt
and illegal
practices
Act No.8
of 1995
s. 18

102-(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 that election or in the case of a general election, at any other election held during that general election;
- (b) for the purpose of procuring the issue of any ballot paper to any other 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's
certificate of
registration to
himself or such
other person,

shall be guilty of a
corrupt practice and
shall be liable on
conviction to a fine
not exceeding five
hundred thousand
shillings or to
imprisonment for a
term not exceeding
five years or to
both.

(2) 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
vote or is
prohibited, by

- this Act or by any other law, from voting at such election;
- (b) for the purpose of procuring the issue to himself of a ballot paper, knowingly tenders an invalid certificate of registration; or
- (c) before or during an election, knowingly publishes any false statement of the withdrawal of a candidate at such election for the purpose of promoting the election of another candidate,

shall be guilty of an illegal practice and shall be liable on

conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding twelve months or to both.

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

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

Display of emblems in vicinity of place of voting prohibited
Act No. 6
1992
ss. 47
and s. 58

104.-(1) No person shall, within any buildings 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, photograph, favour or other emblem indicating support for a particular candidate in the election.

(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 thousand shillings.

**Defacement
of notices**

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

**Documents
to bear
name and
address of
printer and
publisher
Act No. 6
of 1992
s. 48**

106.-(1) No person shall-

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

poster; or
(c) distribute or
cause to be
distributed any
p r i n t e d
document for
the purpose
referred to in
subsection (1),
unless the bill,
placard, poster or
document bears upon
its face, the name
and address of the
printer and publisher
and-

(i) in the
case of
Presiden
t i a l
election
, such
bill,
placard,
poster
o r
document
h y a s
b e e n
approved
by the
Commissi
on;

(ii) in the

case of
parliamentary
election
such
bill,
placard,
poster
or
document
has been
approved
by the
Returning
Officer.

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

(3) Any person who contravenes the provisions of subsection (1) 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.

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

Persons
convicted
of corrupt
illegal
practice
to be
removed
from
register
Act No.8
of 1995
s. 19

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

- (a) shall delete the name of such person from the register of voters in which he is registered;
- (b) shall inform in writing the Returning Officer for the polling district concerned of such deletion;
- (c) immediately upon being so informed the Returning Officer shall take all such steps as, in the case of deletion of a name from the register under section 26 or section 28, he is required to take by sub-

section (2) of
section 29.

CHAPTER VII

AVOIDANCE OF ELECTIONS BY ELECTION PETITION

Avoidance
of election
and election
petition
Act No. 6
of 1992
s. 49
Act No. 8
of 1995
s. 20

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

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

- (a) that, during the election campaign, statements were made by the candidate, or on his behalf and with his knowledge and consent or approval, with intent to exploit tribal, racial or religious issues or

differences pertinent to the election or relating to any of the candidates, or, where the candidates are not of the same sex, with intent to exploit such difference;

- (b) non-compliance with the provisions of this Act relating to election, if it appears that the election was not conducted in accordance with the principles laid down in such provisions and that such non-compliance affected the result of the election; or
- (c) that the candidate was at the time of

his election, a person not qualified for election as a Member of Parliament.

(3) Notwithstanding the provisions of subsection (2); where upon trial of an election petition 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 High Court further finds, after giving the Attorney-General or his representative an opportunity of being heard, that the candidate has proved to the High Court-

- (a) that no illegal practice was committed by the candidate himself or with the knowledge and consent or approval of such candidate;
- (b) that the candidate took all reasonable means for preventing the commission of any illegal

practices at
such an
election; and

(c) that in all
other respects
illegal
practice on the
part of the
candidate,

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

Where High Court may hold certain acts or omissions to be exempt Act No. 8 of 1995 s. 21 109. Where it appears to the High Court either up on application or by an election petition-

(a) that act or omission of a
candidate at any election
or of his agent or of to
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 that nature; and

(b) that upon taking into
account all the relevant
circumstances, it would be
just that the candidate or
his agent or that other

person, or any of them, should not be subject to any of the consequences under this Act for such act or omission,

the High Court may make an order allowing the act or omission to be an exception from those provisions of this Act which would otherwise make the act or omission an illegal practice, and the

candidate, agent or person shall not be subject to any of the consequences under this Act for the act or omission and the election of the candidate shall not, by reason only of such act or omission be void.

Offences
by
election
officials
Act No. 8
of 1995
s. 22

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

CHAPTER VIII
PROCEDURE AND JURISDICTION
OF THE HIGH COURT

Petitions
triable by
High Court
Act No. 13
of 1990
s. 18
Act No. 6
of 1992
s. 50

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

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

(3) On the trial of an election petition under this Act, the Court may by order compel the attendance of any person as a witness who appears to the Court to have been concerned in the election to which the petition refers, and any person refusing to obey such order shall be guilty of contempt of Court and the Court may examine any witness so compelled to attend or any party to the petition and after the examination of such witness by the Court, the witness may be cross-examined by or on behalf of the petitioner, the respondent and the Attorney-General or his representative, if present, or any of them.

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

Who may
present
petition
Acts Nos.

13 of 1990
s. 19
6 of 1992
s. 51

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

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

Reliefs
which may
be claimed
Acts Nos:

13 of 1990
s. 20
6 of 1992
s. 51

112. In instituting an election petition, a petitioner may claim all or any of the following reliefs to which he may be entitled, namely-

- (a) a declaration that the election is void;

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

Certificate
as to
validity of
election
Acts Nos.
13 of 1990
s. 20
of 1992
s. 51

113. At the conclusion of the trial of an election petition, the Court shall determine whether the Member of Parliament whose nomination or election is complained of, or any other person or which person, was duly nominated or elected, or whether the election was void, and shall certify such determination to the Director of Elections and upon such certification the determination shall be final, and the election shall be confirmed or a new election shall be held, as the case may require, in accordance with the certification.

Reports of 114.-(1) Where the Court
High Court, is determines that a person is guilty
to the of any illegal practice, it shall
Director, certify the same to the Director of
of Election Elections and if the person concerned is
as to illegal practices registered as a voter-

Acts Nos.

(5)

13 of 1990

(a) the Director of
Elections shall delete
his name from the
register of voters in
which he is
registered;

s. 20

6 of 1992

(b) the Director of
elections shall
inform in writing the
Returning Officer for
the polling district
concerned, of such
deletion;

s. 51

(c) immediately upon
being so informed,
the Returning Office
shall take all such
steps as, in the case
of deletion of a name
from the register
under section 26 or
section 28, he is
required to take by
subsection (2) of
section 29.

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

(a) whether any illegal practice has been proved to have been committed by or with the knowledge and consent or approval of any candidate at the election, and the nature of such practice, if any; and

(b) the names and other particulars of all persons, if any, who have been proved to the satisfaction of the Court to have been guilty of any illegal practice.

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

(4) When the Court certifies that an offence of illegal practice has been committed by any person, that person shall be subject to the same disqualifications as if at the date of that certificate, he had been convicted of the offence of illegal practice.

(5) When the 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 consequences, the candidate shall be subject to the same disqualifications as if at the date of that certificate, he had been convicted of the offence of illegal practice.

(6) The Director of Elections shall immediately-

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

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

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

(7) Immediately upon being so informed, the Returning Officer shall take all steps as maybe necessary for ensuring that the person concerned returns the certificate of registration and any other relevant document for cancellation.

Time for
presenta-
tion and
determi-
nation of
election
petition
Act No. 6
of 1992
s.52

115.-(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.

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

Votes to
be struck
off at
scrutiny

Acts nos. 13
of 1990
s. 22
6 of 1992
S. 51

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

- (a) the vote of any
person, other
than a candidate
or an official
voting under
subsections (4)
or (5) of
section 13 whose
name was not in
the register of
voters of the
polling district
in which he
voted;
- (b) the vote of any
person who
committed or
procured the
commission of
the offence of
personation at
the election;
- (c) the votes of
any person
proved to have
voted more than
once at such
election ,
except the
first vote
recorded by

such person,
where such
first vote can
be identified
to the
satisfaction of
the Court;

- (d) the vote of any
person who, by
reason of a
conviction for
the offence of
illegal
practice or by
reason of the
certificate of
the Court, or
by reason of
any conviction
for an offence
against this
Act or any
other law, was
disqualified
from voting at
an election

(2) Upon a scrutiny at the
hearing of an election petition, 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 (d) of subsection (1) of this section, be struck off at a scrutiny by reason only of the voter not having been, or not being qualified to have his name entered in the register of voters.

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

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

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

118. [Repealed by Act No. 13 of 1990, section 24].

CHAPTER IX FINANCIAL AND MISCELLANEOUS PROVISIONS

Inaccurate
descript-
ions

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

Powers of
Director of
Elections
and Returning
Officers
to demand
information

120.-(1) In the exercise of their respective duties under this Act, the Director of Elections and Returning officers or any other person concerned with the conduct of voting or with the registration of voters, shall at all times have power to demand information from any person any necessary to ascertain if a person is qualified to stand as candidate, and to identify any person or the place of abode of any person, and to ascertain whether any person has become disqualified from voting or from standing as a candidate.

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

Renumeration of
staff
Act No.6
of 1992
54

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

Expenses

to be

charged on

Consolidated

Fund

122. All expenses incurred-

- (a) in the preparation of the registers, the issue of 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, Returning Officers and any other person employed in the conduct of an election;
- (c) in the remuneration of the officers specified in section 121; and
- (d) by any public officer in connection with any official matter connected with or arising out of an election;

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

Service of
notices
Act No. 6
of 1992
55

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

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

Regulations
Act No. 6
of 1992
s. 56

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

- (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.
- (c) 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.

Exemption
from stamp
duty

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

Directions

126. The Commission may, subject to the provisions of this Act, issue directions of a general or of a specific character in relation to the functions of Returning Officers, presiding officers and other persons employed or for any of the purposes of the Act: Provided that no such direction shall be inconsistent with any provision of this Act or of regulations made under section 124.

Replacement
of regi-
sters, etc.

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

CHAPTER X
REPEAL AND TRANSITIONAL
PROVISIONS

Repeal of
Act No. 25
of 1970

128. The Elections Act, 1970 is
repealed.

Savings
Act No. 6
of 1992
s. 57

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

- (a) all forms approved by
the Commission for the
purposes of this Act,
shall be deemed to be
forms prescribed by
regulations made under
section 124 of this
Act;
- (b) all subsidiary
legislation made
under the Act
repealed by section
128 and all
directions issued by
the Commission and
still in force, shall
be deemed to have
been made under this
Act until repealed or
revoked under this
Act;

Transitional
provisions

Act No. 6

of 1992

s. 59

130. [Omitted for being spent].