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THE ELECTION ACT NO. II OF 1984



**THIS VOLUME INCORPORATES
ALL AMENDMENTS MADE UP TO
31ST MARCH, 1995**

**(A. T. ABOUD)
DIRECTOR OF ELECTIONS.
1 JUNE, 1995**

THE ELECTION ACT NO. II OF 1984

**(THIS VOLUME INCORPORATES ALL
AMENDMENTS MADE UP TO 31ST MARCH, 1995)**

**(A. T. ABOUD)
DIRECTOR OF ELECTIONS.
1 JUNE, 1995.**

THE REVISED LAWS AND ANNUAL REVISION

DECREE, 1961

(Under Section 10)

IN EXERCISE of the powers conferred upon me under subsection (2) to (14) of section 10 of the Revised Laws and Annual Revision Decree, 1961; I Idi Pandu Hassan, the Attorney General of Zanzibar do hereby consolidate the Zanzibar Election Act (Number 11 of 1984) and I have further make necessary alterations as allowed by the said provisions to give effect to the said consolidation.

This consolidation includes all amendments to the Zanzibar Election Act (Number 11 of 1984) made by Act No. 4 of 1990; Act No 8 of 1992; Act No. 14 of 1992 and Act No. 5 of 1995.

Zanzibar
15th May, 1995

IDI PANDU HASSAN
Attorney General

**LEGAL SUPPLEMENT (PART I) TO THE ZANZIBAR – TANZANIA
GAZETTE VOL. XCIV NO. 5398 OF 2ND NOVEMBER, 1985**

**THE ELECTION ACT, 1984
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ACT No. 11 of 1984

I ASSENT.

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

1ST DECEMBER, 1984.

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

ENACTED by the House of Representatives of Zanzibar

**CHAPTER I
PRELIMINARY**

1.-(1) This Act may be cited as the Election Act, 1984

Short title and
construction.

(2) The provisions of this Act shall be read as one with the Constitution of Zanzibar, 1984, (hereinafter referred to as 'the Constitution').

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

Interpretation.

"Candidate" means, a person who submits himself for election to the House of Representatives; or for election to a local authority;

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

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

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

"counting agent" means a person appointed as a counting agent under the provisions of section 77;

"contested election" means an election in a constituency;

"Director " means the person appointed to be the Director of Elections in accordance with the provisions of section 7 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 House of Representatives, means the House of Representatives election, and includes by-election;

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

"election day" in relation to an election in any constituency means the day appointed under section 51 or any day substituted therefor in accordance with the proviso to that section or in the case of Election for the House of Representatives in which unopposed candidate is declared elected under section 50;

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

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

"Political Party" means a political Party registered as such under the political Parties Act, No. 5 of 1992.

"polling agent" means a person appointed under the provisions of section 64.

"polling assistant" means a person appointed under the provisions of section 63.

"polling district" means the area or division of a constituency made pursuant to the provisions of section 6;

"prescribed" means prescribed by regulations made by the Commission under section 130;

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

"Presidential Election" means the election of the President of Zanzibar and Chairman of the Revolutionary Council;

"Presiding officer" means a person appointed under the provisions of section 63;

"qualified" or "qualification" means:-

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

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

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

"Registration Officer" means a Registration Officer appointed under section 8 and includes in so far as is provided for in that section an Assistant Registration Officer; and the "Registration Officer" in relation to a constituency means the Registration Officer appointed for that constituency;

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

"Returning Officer" means a Returning Officer appointed under section 10 and includes in so far as is provided for in that section an Assistant Returning Officer; and the "Returning Officer" in relation to a constituency means the Returning Officer appointed for that constituency;

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

"Zanzibar Electoral Commission" means the Zanzibar Electoral Commission established by the Constitution and 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 House of Representatives election in that constituency and references to a candidate to constituency shall be construed as reference to a candidate for the election of the House of Representatives 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 under the signature of the Chairman of the Commission or the Director of Elections.

The Zanzibar
Electoral
Commission

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

- (a) a Chairman who shall be a person qualified to be appointed as such as the President considers necessary;
- (b) a Vice Chairman who shall be elected by the members from among themselves;
- (c) six other members who are persons possessing either adequate experience in the conduct or supervision of House of Representatives or and Parliamentary election or such other qualifications as the President considers necessary for or pre-requisite to the effective discharge of the role of the Commission;

Provided that at least one of the members shall be a lawyer.

(2) 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 Commissioners present may appoint one of their member to act in the place of the Chairman.

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

Responsibility
of the
Commission.

5. The Commission shall be responsible for the over-rall supervision of the general conduct of all Presidential, Member of the House of Representatives, and Local Authorities and elections in Zanzibar.

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

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

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

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

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

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

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

(2) The Registration Officer appointed for a constituency shall appoint by office or name such number of Assistant Registration Officers as he may think fit.

(3) Subject to such directions as the Registration Officer may from time to time issue, an Assistant Registration Officer may exercise and perform all the powers and duties conferred or imposed on a Registration Officer.

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

Ex. Officio
Assistant
Registration
Officer.

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

Returning
Officers and
staff

10.-(1) Every District Officer shall be the Returning Officer for the constituency or constituencies in relation to which he is the District Administrative Officer.

(2) Notwithstanding subsection (1), the Director may in any fit case, by notice published in the Gazette, appoint a person by name or by office to be the Returning Officer for any constituency instead of the one referred to in subsection (1) and where such a person is so appointed, the District Officer shall cease to be the Returning Officer for the constituency.

(3) Each Returning Officer shall appoint by office such number of Assistant Returning Officers as he may think fit.

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

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

(6) Every Returning Officer and Assistant Returning Officer shall, before first embarking upon the functions of his office during any election, take and subscribe an oath of secrecy before a magistrate in the prescribed form.

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

CHAPTER II REGISTRATION OF VOTERS

PART I

QUALIFICATIONS AND DISQUALIFICATIONS FOR REGISTRATION AS VOTERS AND VOTING

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

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

- (a) if he is under a declaration of allegiance to some country other than Tanzania;
- (b) if under any law in force in Tanzania, he is adjudged or otherwise declared to be of unsound mind or is detained as a criminal lunatic or during the pleasure of the President;
- (c) if he is under sentence of death imposed on him by any court in Tanzania or sentence of imprisonment (by whatever repealed) exceeding six months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court;
- (d) if he is disqualified from registering as a voter under the provisions of this or any other law in force relating to offences connected with any election.

(2) For the purpose of paragraph (c) of Subsection (1):-

- (a) two or more sentences that are required to be served consecutively shall be regarded as separate sentences if none of them exceeds six months but if any one of them exceeds six months they shall be regarded as one sentence; and
- (b) no account shall be taken of a sentence of imprisonment imposed as an alternative to, or in default of the payment of a fine.

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

Provided that no name shall be deleted from a register, save in accordance with the provisions of 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.

(5) No person shall be registered as a voter if he is not ordinarily resident in that particular constituency.

(6) For the purposes of this section the phrase "ordinarily resident" shall have the following meaning:-

(i) A person shall be deemed to be ordinarily resident in a particular constituency if:-

- (a) he has a permanent abode in that constituency; or
- (b) he is living in that constituency under or by reason of service qualification; or
- (c) in any case has been living in that constituency for consecutive five years preceeding the Registration for any election.

(ii) A person shall be deemed to have permanent abode if accomodation is available for him for the past consecutive five years and he actually uses such accomodation as a place from where he works for gain. A person having more than one wife shall be at liberty to treat one permanent abode of any of his wives to be his permanent abode.

(iii) A person shall be deemed to have service qualification if:-

- (a) he is a student registered for full time course exceeding twelve months in any training institution recognised and declared by the Commission.
- (b) he is in the military service and has been transfered in the course of his employment including police Force and service in the Special Departments.
- (c) he is in the government or international organisation service and has been transferred in the course of his employment.

Provided, and for avoidance of doubt, it is hereby expressly provided that:-

- (i) a person who, for the purpose of his residential qualifications, is not qualified for registration in his current constituency at the time of registration, may return to and register in his previous constituency and shall be entitled to be registered in that constituency notwithstanding any provisions contained in this section; or
- (ii) a person who, for the purpose of his residential qualifications, is not qualified for registration in his current constituency at the time of registration and he cannot return to his previous constituency, he may register in his current constituency for the presidential election only;
- (iii) the burden of proof that a person is not ordinarily resident in a particular constituency shall lie on the complainant, save that this section does not remove the burden of a person who wants to be registered to prove before the Registration Officer that he is an ordinarily resident in that constituency.

(7) The Commission may from time to time by order, rule, direct and clarify on any matter relating to residence not expressly provided under this section.

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

Register of voters.

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

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

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

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

Place of and disqualification from voting

(2) Notwithstanding the provisions of subsection (1) a presiding officer or polling assistant at any polling station shall not permit any person to vote at that polling station unless such person satisfies the presiding officer or, as the case may be, that polling assistant, that he is the voter he claims to be by

producing to him the certificate of registration issued to such person or other proof of his identity as the Director of Elections may for the time being direct to be a sufficient proof of identity of the person claiming to be entitled to vote.

(3) Notwithstanding that a person is registered as a voter under this Act he shall not be entitled to vote in any election if any circumstances arise in relation to him, which if he were not so registered, would cause him to be disqualified for registration under this Act.

(4) Notwithstanding any other provisions of this Act, the Director of Elections or any person authorised in that behalf by the Director may, by a certificate under his hand, authorise a registered voter who is a candidate at an election in a constituency to vote at the polling station specified in such certificate whether or not such candidate is registered as a voter in that polling district.

(5) Notwithstanding any other provisions of this Act, where a voter registered as such in any polling district is employed as Returning Officer, presiding Officer, police Officer or in any other official capacity at a polling station in such polling district other than at the polling station allocated to him the Director of Elections or any person authorised in that behalf by the Director, may by certificate under his hand, authorise the voter to vote at any other polling station in such polling district, and that polling station shall for the purposes of this Act, be deemed to be the polling station allocated to such voter.

(6) A person who is serving a sentence of imprisonment may, subject to the provisions of this Act, be registered as a voter, or vote at an election only if permitted to do so by the written law governing his imprisonment.

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

Change of
name.

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

PART II REGISTRATION

Times for
registration

16.—(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 Registration 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 entitled to be registered as a voter at any polling district and who has not been so registered may present himself:-

- (a) in cases where under the provisions of subsection (1) facilities for registration are made available at polling district, at the relevant polling district;
- (b) in any other case, at the headquarters, and shall, upon so presenting himself and upon satisfying the officer in charge of the polling district or, as the case may be the headquarters, that he is entitled to be registered as a voter in accordance with the provisions of this Act.

(3) Notwithstanding any provisions of this section to the contrary, it shall be lawful for the Commission to direct that the registration of voters in all or any polling district in the constituency specified in such direction shall be suspended for such period as the Commission may direct if, in the opinion of the Commission, it is desirable to suspend the registration of voters in view of the fact that an election is likely to take place in such constituency in the near future or any other reason whatsoever.

(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.

17.-(1) Where a person makes an application for registration as a voter in accordance with section 16, he shall, if he satisfies the Registration Officer or any other officer for the time being responsible for the registration of voters, that he is qualified to be registered as a voter at a polling district within the jurisdiction of such Registration Officer or such other Officer be registered as a voter for such polling district and upon being so registered shall be issued with a certificate of registration in the prescribed form.

Certificate of registration

(2) The Commission may by regulations made under section 130 require any person applying for registration as a voter, to fill in such forms as may be prescribed.

18.-(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 16 to the Registration Officer for the polling district in which he is ordinarily resident, and the Registration Officer shall:-

Change of residence.

(a) if he is satisfied that the applicant:-

- (i) is qualified for registration;

(ii) is ordinarily resident in the polling district in respect of which he makes the application; and

(b) on the surrender by the applicant of his certificate of registration, or on the applicant satisfying the Registration Officer that it is lost or destroyed, forthwith register the applicant in the register for the polling district and issue to him a new certificate of registration for the polling district.

(2) Where a Registration Officer registers an applicant under this section, he shall forthwith:-

(a) cancel the certificate of registration surrendered by the applicant and forward it to the Director of Elections; or

(b) if he is satisfied that the applicant's certificate of registration is lost or destroyed, give notice to the Director of Elections of the issue by him of a new certificate of registration, and on receipt of such certificate of registration or notice, the Director of Elections shall amend the register accordingly.

(3) Notwithstanding the provision of subsection (1) of section 16, or subsection (1) of this section, where by reason of:

(a) any change of name of constituency; or

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

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

It shall not be necessary for a voter whose name is in any register effected 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 or transfers as may be necessary to give effect to such adjustment as if an application for transfer had been made by the voters concerned pursuant to the provisions of this section.

Certificate of
registration lost
defaced or
destroyed.

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

(2) On any such application, the Registration Officer shall, if satisfied that the application is properly made and that the applicant remains qualified for

registration, issue the applicant with a new certificate of registration upon the applicant paying the prescribed fee, if any, and where the application is made in respect of a defaced certificate of registration, upon the applicant surrendering such defaced certificate of registration.

20. Where any of the particulars on a certificate of registration or in a register requires amendment by reason of a change of name or of any other alteration in the circumstances affecting the person to whom it was issued, other than a change of residence from one polling district to another, the person to whom such certificate of registration, and the Registration Officer shall upon such application being made to him and upon being satisfied that the application is properly made and that the applicant remains qualified for registration issue to the applicant a new certificate of registration and shall advise the Director of Elections to make any necessary amendments to the register.

Amendment of
particulars.

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

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

Declaration
relating to lost
or destroyed
certificate of
registration.

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

Refusal of
application

PART III OBJECTIONS TO REGISTRATION OR CONTINUED REGISTRATION.

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

Inspection of
register

Inclusion of
name in a
register.

24.-(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 23, that his name does not appear in the register of the polling district, he may apply to the Director of Elections to include his name in the register and the Director of Elections or, as the case may be, the Registration Officer shall, if satisfied that the name of such person should have been included in the register of the polling district, amend or cause to be amended the register by inclusion of the name of such person.

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

Objections

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

(2) The Director of Elections or the Registration Officer may object to the retention of any name in the register of any polling district on any such ground aforesaid.

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

Procedure
for making
objections

26.-(1) Except in the case of an objection being made by the Registration Officer, every objection shall be made in duplicate in the prescribed form and shall be made to the Registration Officer within such period as may be prescribed.

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

(3) Only such objections as are made in accordance with the provisions of this section shall be received by the Registration Officer.

(4) The Registration Officer shall, as soon as practicable after receiving an objection made in accordance with this part or, in the case of an objection made by himself, within such period as may be prescribed, send a notice of such objection to the person in regard to whom such objection has been made.

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

27.-(1) The Registration Officer shall as soon as practicable hold a public inquiry into all objections which have been duly made giving not less than fourteen clear days' written notice of the date on which and the time and place at which such inquiry will commence to each objector, and person in regard to whom objection has been made. At any such public inquiry any person appearing to the Registration Officer to be interested in or effected by the subject matter of the inquiry may appear and be heard either personally or by any other person duly authorized by him in writing in that behalf.

Inquiry and
determination
by Registration
Officer.

(2) Where an objection is made to the retention or non-inclusion of any name in the register, the Registration Officer shall call upon the objector, or any person authorized in writing in that behalf by the objector to give prima facie proof of the ground of the objection.

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

- (a) if such person's qualification is not proved to the Registration Officer's satisfaction, he shall delete or cause to be deleted that person's name from the register;
- (b) if such person's qualification is so proved he shall retain, or as the case may be include or cause to be retained or 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 as aforesaid to the satisfaction of the Registration Officer, the Registration Officer shall retain or cause to be retained the name of person in regard to whom the objection is made in the register or, as the case may be, take no steps, for the amendment of the register so as to obtain inclusion in the register of the name of the person objecting against the non-inclusion of his name in the register.

(5) If an objection made by any person other than the Registration Officer or the Director of Elections is disallowed by the Registration Officer and in his opinion, the objection was made without reason, he may, if he thinks fit, order in writing the objector to pay the person in

regard to whom the objection has been made, a compensation by such sum as the commission may, by notice in the Gazette prescribe.

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

(7) If an objection is disallowed by the Registration Officer and he is of the opinion that the objection was made without reasonable cause, the deposit of such sum as commission may, by notice in the Gazette prescribe shall be liable to be forfeited to the Government by order of the Registration Officer, but otherwise such deposit shall be refunded.

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

Objector or
person
objected to
may appeal

28. If an objector of person in regard to whom objection has been made is dissatisfied with the decision of the Registration Officer under section 27 he may, within twenty days from the date of such decision appeal therefrom to a Regional Magistrate.

PART IV APPEAL AND ADDITION TO OR DELETION FROM THE REGISTER

Appeals to a
Regional
Magistrate

29.—(1) Every appeal under section 22 shall state shortly the ground of appeal, and shall be accompanied by such sum as the Commission may, by notice in the Gazette, prescribe as a deposit.

(2) The Regional Magistrate shall hear every such appeal in public giving notice of the time, date and place of the hearing of the appeal to the parties concerned. It shall be in his discretion whether to hear or not to hear any evidence. His determination of the appeal shall be final and conclusive and shall not be called in question in any court.

(3) When the Regional Magistrate has determined the appeals which have been lodged with respect to any register on the issue of certificates of registration, he shall forward to the Registration Officer statement under his hand containing the names which he has decided shall be deleted from the register and

a statement of the names of the person to whom certificates of registration shall be issued, and the Registration Officer shall amend or cause to be amended the register and issue such certificate of registration accordingly:

Provided that:

- (a) the Regional Magistrate shall not require a Registration Officer to issue a certificate of registration issued to him and relevant to the proceedings, or that any such certificate of registration has been destroyed, unless such person shall have made the declaration provided for in section 21; and
- (b) in any case to which section 19, 20, or 21 applies and no declaration has been made in accordance with section 21, the Registration Officer may refuse to issue a new certificate of registration until the previous certificate of registration issued to the person concerned has been surrendered.

(4) If any appeal is dismissed and the Regional 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 forfeited to the Government, otherwise 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 not allowed by the Regional Magistrate and in his opinion the appeal was made without cause, the Regional 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. Any sum so awarded shall be recoverable as though the order was a decree of a district court for the recovery of money.

(6) Where an appeal has been made under this section, the Regional Magistrate may, whether he allows or dismisses the appeal order that any deposit forfeited or to be forfeited or any sum of money paid or to be paid by way of compensation in accordance with an order of the Registration Officer made under section 27 (or so much of such deposit or such sum as the Regional Magistrate may specify) shall not be paid or forfeited, or shall be returned to the objector, as the case may be, and any sum ordered to be returned shall be recoverable as though the order was a decree of district court for the recovery of the money.

(7) Witnesses may be summoned and sworn at the hearing of an appeal under the provisions of this section in the same manner as nearly as circumstances

admit as in a trial by a district court in the exercise of its criminal jurisdiction and shall, without prejudice to the provisions of any other law, be subjected to the same penalties or giving false evidence or for non-attendance.

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

(9) The procedure and practice of hearing appeals under this section shall be regulated in such manner as the Regional Magistrate shall decide, and without prejudice to the generality of the foregoing, a Regional Magistrate may, if satisfied that two or more appeals involve the same question, declare that the decision given in any appeal heard previously shall be binding on the parties to such of the other appeal or appeals as he shall specify.

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

30.—(1) Where the name of any person has been added to a register under section 27, or any certificate of registration has been issued to any person in pursuance of that section, the Registration Officer shall take such steps in relation thereto as if he had not refused the application to which the appeal relates.

(2) Where the name of any person has been deleted from a register under section 27 or 29 the Registration Officer shall require such person either:-

- (a) to surrender any certificate of registration issued to such person under this Act; or
- (b) to make and deliver to the Registration Officer the declaration provided for in section 21 within such period (not being less than ten days) as the Registration Officer shall specify, and the Registration Officer shall cancel any certificate of registration so surrendered.

CHAPTER III PRESIDENTIAL ELECTIONS

PART I NOMINATION OF PRESIDENTIAL CANDIDATES.

31. Whenever a Presidential election is to be held each registered political party intending to participate in the Presidential election shall submit to the Commission a name of a Presidential candidate for that party. Nomination of Presidential candidate.

32. In order to be validly nominated to stand as a Presidential candidate, a person must be nominated in writing by not less than two hundred nominators who are registered voters for the purposes of elections under this Act from each of the five Regions of Zanzibar. Number of nominators.

33.—(1) Notwithstanding the provisions of section 46, (2) every Presidential candidate shall deliver in such manner and such place as the Commission may direct before 4 o'clock on nomination day, two copies of each nomination paper and each shall contain the following particulars:- Particulars of nomination.

(a) the name and addresses of the nominators;

(b) the number of certificate of registration of the nominators.

(2) No person shall nominate more than one Presidential candidate.

(3) For the Purpose of this part 'nomination day' means the day declared by the Commission as the last day for receiving names of aspiring Presidential candidates.

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

(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 elections is less than one-tenth of the total number of votes casted,

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

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

Sole
Presidential
candidate.

35.—(1) Where there is only one validly nominated Presidential candidates, 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 per cent of the total votes casted.

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

Withdrawal of
candidature.

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

Death or lack
of candidates.

37.—(1) Where:-

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

(b) at any time after four o'clock on nomination day and before the determination of election, any Presidential candidate dies, the Commission shall forthwith, by notice in the Gazette, appoint a further nomination day being a day not less than twenty one days thereafter.

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

PART II ELECTION PROCEDURE

Presidential
Election day.

38.—(1) Subject to the provisions of section 40 of this Act, the Commission, shall appoint a day hereinafter referred to as Presidential election day for the holding of a ballot in every constituency for the election of the President.

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

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

(a) in the case of a Presidential election held by reason of dissolution of the House of Representatives:-

(i) for each constituency in which there is a House of Representatives election, the day appointed as election day for that contested election;

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

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

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

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

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

Persons entitled to vote at a Presidential election.

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

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

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

(3) The Commission may give directions and 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
Part V of
chapter IV.

40. The provisions of Part V of Chapter IV of this Act, shall apply mutatis mutandis in relation to Presidential candidates.

Application of
chapter VI

41. The ballot for the election of a President in each constituency shall be held in like manner as the ballot in a contested House of Representatives election and, subject to any necessary modification and the provisions of this section and section 42 and the provisions of Chapter VI of this Act, shall apply for the regulation thereof and for such other matters are provided for in chapter VI of this Act.

Counting of
votes

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

- (a) the total number of votes cast for the Presidential election in the constituency;
- (b) the total number of such votes which are in favour of each Presidential candidates;
- (c) in the case of a single Presidential candidate the total number of such votes which are in favour of the Presidential candidate; and the Commission shall add together the respective total for each Presidential candidate certified to it from all constituencies.

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

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

(4) 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.

—(1) Where in the Presidential election no candidate has obtained more than fifty per cent of the total number of votes cast, the Commission shall, by

notice published in the Gazette appoint some other convenient day, but not more than forty days after the election day, for the second ballot of the Presidential election.

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

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

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

(5) Notwithstanding the provision of section 42 (4), 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.

CHAPTER IV THE HOUSE OF REPRESENTATIVES ELECTIONS

PART I

QUALIFICATION OF CANDIDATES

Qualification of
candidates for
the House of
Representa-
tives.

44. No person shall be qualified to be elected as a constituent member of the House of Representatives unless he is qualified to be so elected by and in accordance with the provisions of the Constitution.

PART II NOMINATION OF CANDIDATE

Nomination
day

45.-(1) Where a House of Representatives Election is to be held in a Constituency or where such election is countermanded and the election procedures are to commence afresh, the Commission shall, by notice Publish in the Gazette, appoint a day (hereinafter in this part referred to as the nomination day) for the nomination of candidates for the election.

Provided that:-

(a) where a general election is to be held, the nomination day for any Constituency shall be not less than five nor more than twenty-five days after the dissolution of House of Representatives;

(b) where a by-election is to be held, the nomination day shall be not less than twenty nor more than fifty days after the occurrence of the event upon which the by - election is to take place.

(2) The Commission may appoint different nomination days for different constituencies, and may revoke the appointment of a nomination day and appoint some later day as nomination day.

Provided that any such later day appointed for a nomination day for a House of Representatives 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 House of Representatives general election, where the President has given notice of his intention to dissolve the House of Representatives, the notice of nomination day may be given before such dissolution.

46.—(1) In order to be validly nominated to stand as a candidate for a constituency a person must be nominated in writing by not less than twenty five voters registered in the polling districts within the constituency for which he is a candidate. Nomination of candidates

(2) The writing shall be in the prescribed form, and shall be signed by the candidate and by the persons nominating him, and shall contain the following particulars:

- (a) the name, address and occupation of the candidate;
- (b) the names, and addresses of the nominators of the candidate;
- (c) a certificate by the candidate that he is willing and 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, 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 that the nominators are registered as voters in the polling districts within that constituency;
- (c) such number of photographs of the candidate as the Electoral Commission may deem necessary taken not earlier than three months preceeding 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 shall be accepted as valid notwithstanding that such nomination paper was not accompanied by any such documents if the document in question is 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 persons nominating him, shall deliver his nomination paper (together with one copy thereof) signed as herein before provided at the office of the Returning Officer not later than four o'clock in the afternoon of the nomination day.

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

(8) No person shall nominate more than one candidate for any one election and where a Returning Officer has issued a certificate under paragraph (b) of subsection (2) in respect of a person's nomination on one candidate he shall refuse to issue a certificate in respect of that person's nomination of another candidate for the same election.

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

(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 issue a certificate in respect of a nominator who is registered in a polling district of which he has charge, issue a certificate accordingly.

(11) The fact that, subsequent to the 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. 47.—(1) A candidate or one of the persons nominating him shall, at the time of delivering nomination paper pursuant to the provision of section 46, deposit with a Returning Officer such sum of money as may be prescribed by the Commission.

(2) The deposit of an opposed candidate shall be forfeited to the Government if he withdraws his candidature after nomination day or if the number of votes counted in his favour at the election is less than one tenth of the

total number of votes counted for the seat which he was a candidate, save that such deposit shall not be forfeited if the candidate dies.

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

48. No person shall be nominated as a candidate for election in more than one constituency, but any party may, notwithstanding any provision or requirement in this Act, field any person to be a candidate in any constituency and such candidate may register and vote at such constituency.

Candidate to be nominated for one seat only.

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

Objection to and decision as to validity of nomination paper.

(a) that the particulars given in respect of the candidate are insufficient to identify him;

(b) that the nomination paper does not comply with or was not delivered in accordance with the provision of this Part;

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

(d) that the requirements of subsection (4) of section 46 have not been complied with.

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

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

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

(5) Any candidate who is dissatisfied by the decision of the Returning Officer on the validity of an objection may, in such manner and within such period as the Commission may prescribe, appeal to the Commission and the decision of the Commission shall be final and conclusive and shall not be

challenged in any court, save by way of an election petition presented pursuant to the provisions of Chapter VII on one or other of the ground specified in that Chapter.

Unopposed
Candidate.

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

(2) Where a candidate withdraws after nomination, the provision of section 47 (2) shall apply and no party shall nominate a substitute candidate.

PART III ELECTION DAY

Nominated
candidates and
election.

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

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

Notice of
election.

52.—(1) Where there is a contested election the Returning Officer shall on or 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) of this section 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 stations; and
- (d) the full names, addresses, occupations and symbol of the party and photograph of the candidates.

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

Provided that:—

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

(3) Where the Returning Officer has appointed a polling day for a polling district pursuant to the provisions of this section, he may, where it appears to him to be in public interest, so to do, give notice in the constituency in such manner as he may think fit altering the polling day appointed for any polling district, and thereupon polling shall take place in that polling district on the polling day specified in such notice.

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

PART IV WITHDRAWAL, DEATH AND ABSENCE OF CANDIDATES.

53. A candidate may withdraw his candidature by notice in writing signed and delivered by him to the Returning Officer not later than six o'clock in the evening of the day preceeding nomination day and if that day is not a working day, a day preceeding that other day.

Withdrawal of
candidature.

54.—(1) Where, after four o'clock in the evening 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 the death countermand the election in the constituency.

Death of
candidates.

(2) In the case where the Returning Officer countermands an election pursuant to the provisions of subsection (1) of this section 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 candidate validly nominated at the nomination and every such candidate shall be deemed to have been nominated unless he gives a notice of his withdrawal.

absence of
candidates.

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

PART V THE ELECTION CAMPAIGN

Election
Campaign.

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

(2) The agent or the candidate's party, as the case may be, shall furnish the District Commissioner with a schedule indicating the proposed programme for his campaign public meetings specifying times and places of those meetings.

(3) Any agent or a political party acting with the approval or consent of the candidate or of his political party may convene or address any public meeting held in the constituency other than one held pursuant to subsection (2), for the purpose of furthering the candidate's election in the programme of his political party.

Candidate to be
identified by
symbol and
photograph.

57.—(1) For the purpose of assisting voters to identify a candidate, every candidate shall be identified by a photograph of the candidate and symbol of his party which has been approved by the Returning Officer.

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

CHAPTER V LOCAL AUTHORITY ELECTIONS.

58.—(1) A person shall be elected as a member of Local Authority or stand as a candidate at an election for Local Authority if he is qualified for election.

Qualifications
for election for
Local
Authority.

(2) A person shall be qualified for election as a member of a Local Authority if he satisfies the following conditions that is to say-

- (i) he is a Zanzibari who has attained the age of twenty one years;
- (ii) he is registered as a voter and is not disqualified from voting under the provisions of this Act or any other law;
- (iii) he is the ordinary resident within the area of jurisdiction of the Local Authority;
- (iv) he can read and write in Kiswahili or English;
- (v) he is a member sponsored by a political party registered as such by the Political Parties Act, 1992, and
- (vi) he is engaged in lawful business.

59.—(1) A person shall be disqualified for election as a member of a Local Authority:-

Disqualifica-
tions for
election
for Local
Authority.

- (a) if he under a declaration of allegiance to some country other than the United Republic;
- (b) if under any law in force in Tanzania he is adjudged or otherwise declared to be of unsound mind;
- (c) if:-
 - (i) he is under sentence of death imposed on him by any court in Tanzania or a sentence of imprisonment exceeding six months imposed on him by a court; or
 - (ii) he is detained under an order made under the preventive Detention Act, and has so been detained under the order for a period exceeding six months; or
 - (iii) he has been deported, in accordance with the provisions of the Deportation Ordinance, under an order made under that ordinance which has been in force for a period exceeding six months, and is still in force;

- (d) if he is a party to, or partner in a firm or manager of a company which is a party to any subsisting contract with the local authority to which he seeks election and has not, within one month before the date of election, published in the Kiswahili or English language newspapers circulating within the area of authority concerned, a notice setting the nature of the contract and his interest or the interest of the firm or company in the contract;
- (e) if he is disqualified from becoming a member of a local authority by or under any written law;
- (f) if he is disqualified from registering as a voter under this Act or disqualified from voting at any election under this Act or under any written law relating to offences connected with any election;
- (g) subject to such exceptions and limitations as the President may, by order published in the Gazette, prescribe if he holds or acts in any offices or appointment in Zanzibar or a local authority;

(2) For the purpose of sub-paragraph (1) 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 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.

Nomination of candidates.

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

Application of chapter IV.

61.—(1) The provision of Chapter IV of this Act relating to nomination of candidate, election day, withdrawal, death and absence of candidates and the election campaign in respect of members of the House of Representatives shall, *mutatis mutandis*, apply to elections in respect of the members of the local authority, except that reference to constituency shall be area or ward in this part.

(2) Notwithstanding the provision of subsection (1) of this section, the Commission may make regulations, rules, or procedure relating to the elections of local authority.

(3) Any regulations, rules or procedures made under this section shall be published in the Gazette.

CHAPTER VI
ELECTION AND VOTING PROCEDURE

PART I
ELECTION PROCEDURE

62. In a contested election polling shall take place in each polling district in the manner hereinafter prescribed on the day appointed for polling in that polling district pursuant to the provisions of section 52.

Polling days
and times.

63. The Returning Officer shall:

Arrangements
for contested
elections.

- (a) provide a sufficient number of polling stations in each polling district in accordance with the terms of any notice given under the provisions of section 52;
- (b) appoint in respect of each polling district such persons, to be known as polling assistants, as he may think fit to assist at the voting in the election;
- (c) appoint from among such polling assistants a person to be in charge of the polling station to be known as the presiding officer;
- (d) furnish each polling station with such number of compartments as in the opinion of the Returning Officer may be necessary in which the voters can, screened from observation, record their votes;
- (e) place or cause to be placed outside each polling station in a conspicuous place a notice showing the names in alphabetical order of surnames, or in such other order as the Commission may direct, addresses, occupations and representative photograph and part symbol, if any, of the candidate;
- (f) provide both within and without each polling station notices containing instructions relating to the voting procedure to be followed;
- (g) provide each presiding officer with such number of ballot boxes and ballot papers as in the opinion of the Returning Officer may be necessary;
- (h) provide each polling station with writing materials and instruments with which the voters can mark the ballot papers and for making official marks;

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

(j) do such other Acts and thing as he may be directed to do by the Commission.

Polling agent.

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

(a) detecting personation;

(b) representing and safeguarding the interests of a candidate at the polling station, and

(c) co-operating with the presiding officer and polling assistants to secure the smooth compliance with the law and procedure pertaining to the conduct of the voting and the elections at the polling station.

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

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

(4) The presiding officer shall, with the assistance and cooperation of the polling agent, solve or deal otherwise with each complaint in his polling station as soon as it arises and is brought to his attention by a candidate, a polling agent, a voter or other person registered and entitled to vote at the polling station concerned.

Ballot boxes.

65.—(1) Every ballot box shall be constructed in a manner which allows a voter to put ballot paper in it but can not 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.

66. Every ballot paper shall:

Form of ballot paper.

- (a) contain the full names, addresses and occupations of the candidates as shown in their respective nomination papers arranged in the order in which they appear in the notice placed in accordance with section 46 and their photographs;
- (b) capable of being folded up;
- (c) have a serial number printed thereon;
- (d) be attached to a counterfoil bearing in the same serial number that printed on the ballot papers.

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

Prohibition of disclosure of vote.

Provided that this section shall not apply in any legal proceeding in which the question whether a presiding officer acting under the provisions of paragraph (h) or (i) of section 68 acted bona fide as in issue.

PART II VOTING AND COUNTING PROCEDURE

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

Methods of voting.

(1) Without prejudice to the provisions of section 52 (4) and 91, each polling agent shall be present at the opening of the voting at the polling station in respect of which he is appointed polling agent. Provided that absence of the polling agent shall not invalidate the votes.

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

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

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

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

And provided further that where no copy of the register or part thereof available at the polling station, the presiding officer or the polling assistant shall, in lieu of complying with the provisions of sub-paragraphs (ii), (iii), and (iv), comply with such directions as the Commission may give in that behalf;

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

- (e) a voter shall record his vote by putting a mark against the name of the candidate for whom he wishes to vote thereby recording no more than one vote;
- (f) a voter shall not place on the ballot paper any writing or mark by which he may be identified;
- (g) a voter shall vote without undue delay;
- (h) if a voter is incapacitated by blindness or other physical cause, or is unable to read, he may call the presiding officer or a companion aside, and shall tell him, no other person being present or within hearing, the name of the candidate for whom he wishes to vote, and the presiding officer or a companion shall mark the ballot paper accordingly and shall in the presence of the voter, place the ballot paper in the ballot box and every ballot paper marked in accordance with this paragraph shall be deemed to have been marked by the voter in accordance with paragraph (e);
- (i) if a voter is illiterate or does not understand how to record his vote; the presiding officer may, in the presence of the polling agent, explain to the voter the procedure;
- (j) subject to the provisions of paragraph (h) and (i), a voter shall not show the mark which he has placed upon his ballot paper to any person, and if he does so the ballot paper shall be treated as a spoilt ballot paper;

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

(k) Voting by disabled persons.

- (i) If a voter makes an application to the presiding officer to be allowed on the ground of disability to vote with the assistance of another person by whom he is accompanied (hereinafter referred to as the "companion"), the presiding officer shall require the voter to declare orally whether he is so incapacitated by his disability as to be unable to vote without assistance.

(ii) If the presiding officer:—

- (a) is satisfied that the voter is so incapacitated; and

(b) is also satisfied by a written declaration made by the companion (in this provision referred to as "the declaration made by the companion of a disabled voter") what the companion –

(i) is a qualified person within the meaning of this provision; and

(ii) has not previously assisted more than one disabled person to vote at the election; the presiding officer shall grant the application, and then anything which is by this provision required to be done to or by that voter in connection with the giving of his vote may be done to, or with the assistance of, the companion;

(iii) For the purpose of this provision, a person shall be qualified to assist a disabled voter to vote, if that person is either:–

(a) a person who is entitled to vote as an elector at the election;

(b) the father, mother, brother, sister, husband, wife, son or daughter of the disabled voter and has attained the age of 18 years.

(iv) The name and number in the register of electors of every voter whose vote is given in accordance with this provision and the name and address of the companion shall be entered on a list (in this provision referred to as "the list of disabled voters assisted by companions").

(v) The declaration made by the companion:–

(a) shall be in the prescribed form.

(b) shall be made before the presiding officer at the time when the voter applies to vote with the assistance of a companion and shall forthwith be given to the presiding officer who shall attest and retain it.

(vi) No fee or other payment shall be charged in respect of the declaration.

(l) a voter who has accidentally dealt with a ballot paper in such manner that it cannot conveniently be used as valid ballot paper may, on delivering such ballot paper to the presiding officer and after satisfying the presiding officer that the ballot paper has been spoilt by accident, obtain another ballot paper in the place of the

paper so delivered up, 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 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 a polling assistant; if the complaint concerns the conduct of the Presiding officer it shall be recorded in the presence of the polling agent.

69.—(1) Notwithstanding the provisions of section 68, a person appointed as a polling agent for the purpose of a House of Representatives election may vote for the election concerned and any other election taking place simultaneously with such first-named election, in a constituency in which he is registered as a voter by writing the name of the candidate of his choice on the special ballot paper and sending it to the Returning Officer for that constituency in a sealed envelope marked 'Ballot'.

Voting by
Polling agent.

(2) Ballot papers for the purpose of this section shall be provided by the Commission or the Director of Elections and may be obtained by polling agent from the Returning Officer in the constituency for which they are appointed.

(3) The Commission may issue directions for the purposes of ensuring that ballot papers issued under this section to any Polling agent to vote at the polling station at which they would have been required to vote in accordance with section 68, had this section not been enacted are properly utilized and are taken into account during the counting of votes.

(4) A Returning Officer shall account to the Commission for every special ballot paper issued to him under this section and shall return to the Commission any such papers received by him and not issued.

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

Admission to
polling station.

(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 67;
- (f) observer duly authorized in writing by the commission;
- (g) candidate;
- (h) member of the commission;
- (i) Director of Elections;
- (j) police officer or person responsible for security at the polling station.

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

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

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

Allegation of irregularities.

71.—(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 may commit an offence under this Act by so voting.

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

- (a) produces any evidence to show that he is entitled to vote at the polling station in question, and
- (b) being thereto required as prescribed by section 64 makes and subscribes one or both of the declarations to which that section refers;

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

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

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

72.—(1) If a person representing himself to be a voter entitled to vote 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 being thereto required as prescribed by section 64 makes and 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, hereinafter called a tendered ballot paper, shall be a colour different from the ordinary ballot papers, and instead of being put into the ballot box, shall be given to the presiding officer and endorsed by him with the name of the voter and his number in the copy of the current register or part thereof, and set aside in a separate packet, and shall not be counted by the Returning Officer as hereinafter provided, and the name of the voter and, where a copy of the register or part thereof is available at the polling station, such person's number on such register or part thereof, shall be entered on a list, and this list shall be admissible in any legal proceedings arising out of the election.

Tendered
ballot papers.

(2) The presiding officer may require any person to whom a tendered ballot paper is delivered to make and subscribe one or both the declarations to which section 64 applies.

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

Declaration by
voters.

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

Adjournment
of polling in
case of riot.

74.—(1) Where the proceedings at any polling station are interrupted or obstructed by riot or open violence, the presiding officer shall adjourn the proceedings until the following day and shall forthwith give notice to the Returning Officer.

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

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

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

Closing of the
poll.

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

Procedure on
closing of poll.

76.—(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 and what complaint he has in relation to the manner the voting was conducted in the polling station, and any complaint reported shall be solved or dealt with otherwise 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. The report shall then 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 sub section (3).

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

(a) the unused and spoilt or cancelled ballot papers placed together.

(b) the counterfoils of the used ballot paper;

(c) tendered ballot papers;

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

(e) the tendered voters list.

(f) the keys for the locks to the ballot boxes used at the polling station.

(g) the report prepared under subsection (2)

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

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

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

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

Counting agent.

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

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

78.-(1) The Returning Officer as the case may be, Assistant Returning Officer shall, before embarking upon the procedure for counting votes brief the candidates of any important occurrences reported to him from polling stations, and then require each candidate to submit in the prescribed manner and before the other candidate and the counting agents of both candidates, whether or not and what complaint he has, other than that contained in the report aforesaid, in relation to the conduct of the voting in the constituency.

Counting of votes.

(2) Any complaint submitted under subsection (1) shall be settled or dealt with otherwise, and the Returning Officer or, as the case may be, Assistant Returning Officer shall make out a report, in the prescribed form concerning this stage of the proceedings in the elections which shall then be read out to, confirmed and signed by both candidates their respective counting agents and the Returning Officer or Assistant Returning Officer, as the case may be.

(3) At the conclusion of every stage in the process of counting votes the candidate if present or their counting agents shall be required to state in the prescribed form whether or not and what complaint they have, or their satisfaction, in relation to each such stage concluded. Each complaint raised shall be settled or otherwise decided at that stage, and the Returning Officer shall then prepare an account in the prescribed form detailing the situation at that stage, which shall be confirmed and signed by the Returning Officer and later submitted to the commission.

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

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

Person who
may be
present .

79. No person other than the following shall be present at the counting of votes:—

- (a) the Returning Officer;
- (b) assistant Returning Officer;
- (c) Enumerator;
- (d) Counting agent;
- (e) Candidate;
- (f) police officer or other person responsible for security at the place of counting of votes;
- (g) a member of the commission;
- (h) Director of elections or an electoral officer; and
- (i) observer duly authorised in writing by the Commission.

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

Method of counting votes.

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

Votes which are not be counted as ballot papers.

(2) Any ballot papers:-

- (a) which does not bear an official mark;
- (b) on which votes are recorded otherwise than as provided in section 68 on which is to be treated as spoilt under the provisions of that section; or
- (c) on which anything is written or marked by which a voter can be identified otherwise than by the printed number thereon; or
- (d) which is unmarked or void for uncertainty shall not be counted: Provided that special ballot issued under the provisions of section 69 shall be counted if it complies with the provisions of that section and any directions given by the Commission under that section.

82.-(1) The Returning Officer or an Assistant Returning Officer shall endorse the word 'rejected' on any ballot paper which, under the provisions of section 83 is not counted.

Endorsements by Returning Officer.

(2) The Returning Officer or Assistant Returning Officer shall add the endorsement the words rejection objected to 'if an objection to his decision is made by any counting agent.

83. The Returning Officer shall prepare a statement showing the number of ballot papers rejected under the following heads:-

Rejected ballot papers

- (a) want of official mark;
- (b) voting record otherwise than as provided in paragraph (c) of subsection (3) of section 68 or to be treated as spoilt under the provisions of paragraph (j) of that section.

- (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.

84.—(1) Where 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 a 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 85, 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 candidate for the constituency and electoral procedure for such vacancy shall be commenced afresh.

Candidate or counting may require recount.

85.—(1) A candidate or his counting agent may, if present when the counting or any recount of the votes is completed, require the Returning Officer to have the votes recounted or again recounted but the Returning Officer may refuse to make a third or subsequent recount if the result of the last two recount were the same.

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

Returning Officer's decision final.

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

Returning Officer's duties of conclusion of counting.

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

(2) The Returning Officer shall not open the sealed packet of tendered ballot papers or the sealed packet containing the marked copy of the register of voters or part thereof, or the sealed packet containing the counter foils of used ballot papers but shall proceed, in the presence of the counting agents, to verify the ballot paper account given by each presiding officer by comparing it with the number of ballot papers recorded in accordance with section 68 the unused and spoil papers in his possession and the tendered voters list and shall re-seal each packet after examination.

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

(4) At the conclusion of the counting of the votes each candidate or his counting agent shall, in the prescribed form, state whether or not and what complaint he has in relation to the counting of the votes. All complaints submitted at this stage shall be settled or dealt with otherwise, and shall then each be incorporated in the report of the Returning Officer to be submitted to the Commission under section 88, which shall be confirmed and signed by the candidates or their counting agents and the Returning Officer.

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

Declaration of result.

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

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

Custody of documents.

(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.

90. 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.

Power of polling assistants.

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

Candidate has power of his polling agent or counting agent.

No-attendance
of agents not to
invalidate
proceedings.

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

Where two or
more elections
held simulta-
neously.

93. Where in the polling district the same day is appointed as the election day for the Presidential Election and a contested House of Representative election:-

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

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

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

Equality of
votes in
Presidential
election.

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

CHAPTER VII OFFENCES

PART I OFFENCES RELATING TO REGISTRATION AND NOMINATION.

95.-(1) Every person who:

- (a) for the purposes of procuring the registration of himself or of any other person of a certificate of Returning officer or to any other person having any duty in relation to 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 issue of other person for registration or for a certificate of registration; Offences in relation to registration.
- (b) knowing or having reason to believe that he is registered in a polling district, applies to be registered in a polling district, applies to be registered (otherwise than in accordance with section 19) to be registered in another polling district and the earlier application has not been determined, pending any investigation into the applicants's qualifications, or withdrawn; or
- (d) having been issued with a certificate of registration applies for the issue to himself of a new certificate of registration (otherwise than in the circumstances set out in section 19 or section 20 or section 21 and on disclosing to the Returning Officer the circumstances in which the application is made); or
- (e) knowingly makes any declaration provided in section 21 which is false, or which he does not believe to be true in a material particular, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

(2) Any person whose name has been deleted from a register and who has been required by a 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 21 within a time specified by such Returning Officer who without lawful excuse, neither surrenders such certificate nor makes and delivers such declaration within such specified time, shall be guilty of an

offence and shall be liable on conviction to a fine not exceeding ten thousand shillings, or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

Offences in
relation to
nomination
papers or ballot
papers.

96.—(1) Every person who:-

- (a) forges or fraudulently defaces or fraudulently destroys any nomination papers, or delivers to a Returning Officer any nomination paper knowing the same to be forged; or
- (b) forges or counterfoils or fraudulently destroys any ballot paper or the official mark on any ballot paper; or
- (c) without due authority supplies any ballot paper to any person; or
- (d) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorized by law to put in; or
- (e) without due authority takes out of any polling station any ballot paper or is found in possession of any ballot paper outside a polling station; or
- (f) without due authority, destroys, takes, opens or otherwise interferes with any ballot papers then in use for the purpose of an election.
- (g) knowingly nominates more than one Presidential candidate;
- (h) being a Returning Officer or a Presiding Officer knowingly or negligently fails to put a correct authentication mark on a ballot paper;
- (i) being a Returning Officer or a Presiding Officer knowingly or negligently authorise the use of tendered ballot paper in the manner which contravenes the provisions of this act.

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(2) Any person who, for the purposes of procuring nomination as a candidate for himself or for any other person, 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 such fine and imprisonment.

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

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

Official discouragement of persons, from seeking nomination etc.

(2) No proceedings shall be instituted against any person for an offence contrary to this section without prior consent of the Attorney General.

(3) In this section "official office" and "official capacity" means an office in the service of the Revolutionary Government of Zanzibar or the United Republic or a capacity in respect of the Revolutionary Government of Zanzibar or the United Republic.

98.—(1) Every person who:

- (a) forges or fraudulently defaces or fraudulently destroys any register of voters; or
- (b) forges counterfoils or fraudulently destroys any certificate of registration or official duplicate certificate of registration or any official marks thereon,

Offences in relation to registers and certificates of registration.

shall be guilty of an offence and shall be liable on conviction to fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

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

PART II

OTHER ELECTIONS OFFENCES

Miscellaneous
offences.

99. Any person who:-

(a) wilfully furnishes false evidence or makes a false statement in a declaration made under section 73.

(b) contravenes the provisions of subsection (1) of section 57, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

Maintenance
of secrecy at
elections.

100.—(1) Every officer, clerk, interpreter, candidate and agent authorized to attend at a polling station or at the counting of votes, shall unless he has taken an oath of secrecy under the foregoing provisions of this Act, before so attending takes an oath of secrecy in the prescribed form.

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

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

(4) No such officer, clerk, interpreter, candidate or agent, and no person whosoever 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 and agent in attendance at the counting of the voting shall maintain, and aid in maintaining, the secrecy of the voting and shall not ascertain or communicate any information obtained at such counting as to the candidate for whom any vote is given by any particular ballot paper.

(6) No person, except a presiding officer acting for a purpose authorized by this Act, or a person authorized by the presiding officer and acting for

such purpose as aforesaid, shall communicate or attempt to communicate with any person after such person has received a ballot paper and before he has placed the same in a ballot box.

(7) Every person who acts in contravention of the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

101. Every person who is guilty of bribery, treating or undue influence shall be guilty of a corrupt practice and shall be liable on conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding five years or to both such fine and imprisonment. Penalty for bribery, treating etc.

102. Every person who is guilty of personation or of aiding abetting, counselling or procuring the commission of the offence of personation, shall be guilty of a corrupt practice and shall be liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment. Penalty for personation.

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

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

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

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

- (b) every person directly or indirectly by himself or by any other person on his behalf, gives or procures or agrees to give or procure or to 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 refrain from voting or corruptly does any such act as aforesaid on account of such voter having voted or refrained from voting at any election;
- (c) every person who directly or indirectly, by himself or by any other person on his behalf, makes such gift, loan offer, promise procurement, or agreement as aforesaid, to or for any person in order to induce such person to procure or to endeavour to procure, the election of any person as a member or the vote of any voter at any election;
- (d) every person who, upon or in consequence of any such gift, loan offer, promise, procurement or agreement, procures or engages promises or endeavour to procure the return of any person as a member or the vote of any voter at an election;
- (e) every person who advances, or pays, or cause to be paid, any money to or for the use of any other person, with the intent that such money or any part thereof shall be expended in bribery at any election of who knowingly pays, or causes to be paid, any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election;
- (f) every voter who, before or during any election, directly or indirectly, by himself or by any other person on his behalf, receives, agrees to receive or contracts for any money, gift, loan or valuable consideration, office, place or employment for himself or for any other person, for voting of agreeing to vote or for refraining or agreeing to refrain from voting at any election; and
- (g) every person who, after any election, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting, or having induced any other person to vote or refrain from voting at any election. Provided always that the provision of this section shall not extend or to be construed to extend to any money paid or agreed to be paid for or on account of any expenses lawfully and bonafide incurred at or concerning any election.

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

Person to be deemed guilty of treating.

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

106. Every person who, directly or indirectly, by himself or by any other person on his behalf, makes use of or threaten to make use of any force, violence or restrain, or inflicts or threatens to inflict by himself or any other person, any temporal or spiritual injury, damage, harm or loss, upon or against any voter 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 regain from giving his vote at any election shall be guilty of undue influence within the meaning of this Act.

Person to be deemed guilty of undue influence.

107.—(1) Where any person does any such act as is described in section 103, 104 or 105 to or in respect of a member of an organ of the Party which is charged with the organisation and conduct of the relevant election campaign, or a supervisory delegate appointed for the constituency with the intent that such member or delegate shall discriminate in favour of one or other of the candidates at the election, or where any such member or delegate does any such act as is so described on account of discriminating or having discriminated in favour of one or other of the candidates, he shall be deemed, according to the circumstances of the case to be guilty of bribery, treating or undue influence within the meaning of this Act.

Bribery treating and undue influence in relation to members of an organ or party

(2) For the purposes of this section, section 103, 104 and 105 shall be read as if references the voters and to voting were references to such members and delegates and such discrimination respectively, and as if the references to the intent specified therein were references to the intent specified in subsection (1) of this section.

108.—(1) Every person who at any election:

Person to be deemed guilty of personation.

- (a) applies for a ballot paper in the name of another person of knowingly tenders a vote in the name of another person.

whether that name is the name of a person living or dead or of a fictitious person; or

- (b) for the purposes of procuring the issue to himself of a ballot paper knowingly tenders a certificate of registration issued to some other person, shall be guilty of personation within the meaning of this Act.

Penalty for persons guilty of certain corrupt and illegal practices.

109.-(1) Every person who:-

- (a) votes or attempts to vote, or induces or procures some other person to vote at any election if he, or if to his knowledge such other person has already voted at the election, at any other election held during that general election;
- (b) for the purpose of procuring the issue of any ballot paper to any person or to himself, delivers any certificate of registration issued to himself or to some third person to such other person, or induces or procures some third person to deliver such third person certificate of registration to himself or such other person shall be guilty of a corrupt practice and shall be liable in conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

Interference with lawful public meeting to and illegal practice.

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

Display of emblems in vicinity or place of voting prohibited.

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

(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.

112. 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.

Defacement of notice.

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

Documents to bear name and address of printer and publisher.

- (a) print or publish or cause to be printed or published any bill, placard or poster having reference to an election or any printed document distributed for the purpose of promoting or procuring the election of a candidate; or
- (b) post or cause to be posted any such bill, placard or poster as aforesaid; or
- (c) distribute or cause to be distributed any printed document for the said purpose, unless the bill, placard, poster or document bears upon the face thereof the name and address of the printer and publisher and:-
 - (i) in the case of Presidential election, such bill, placard, poster or document has been approved by the Zanzibar Electoral Commission;
 - (ii) in the case of a House of Representatives election such bill, placard, poster or document has been approved by the relevant Returning Officer.

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

(3) Any person who contravenes the provision of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

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

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

Person convicted of corrupt or illegal practice to be removed from register.

- (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) forthwith upon being so informed such Returning Officer shall take all such steps as in the case of deletion of a name from the register under section 27 or section 29, he is required by subsection (2) of section 30 to take.

(2) Every person who:—

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

shall be guilty of an illegal practice and shall be liable on conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

CHAPTER VIII PROCEDURE AND JURISDICTION OF COURT.

115.—(1) Every election petition shall be tried by the High Court in accordance with the provision of this Act. Petition triable by High Court.

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

(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 it 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.

116. An election petition may be presented by any one or more of the following persons, namely:— Who may present petition.

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

117. All or any of the following reliefs to which a petition may be entitled may be claimed in an election petition, namely:— Reliefs in Election Petition

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

Certificate of a court as to validity of election.

118. At the conclusion of the trial of an election petition the court shall determine whether the member whose nomination or election is complained of or any other and which person, was duly nominated or elected, or whether the election was void, and shall certify such determination to the Director. Upon such certificate being given, such 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 such certificate.

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

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

- (a) the Director shall delete his name from the register of voters in which he is registered;
- (b) the Director shall inform in writing the Returning Officer for the polling district concerned of such deletion;
- (c) forthwith 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 27 or section 29, he is required by section 30 (2) to take.

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

- (a) whether any illegal practice has not been proved to have been committed by or with the knowledge and consent or approval of any candidate at the election, and the nature of such practice, if any; and
- (b) the name and descriptions of all persons, if any, who have been proved to the satisfaction of the High Court to have been guilty of any illegal practice.

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

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

(5) When the High Court certifies that an illegal practice has been committed by any person with the knowledge and consent or approval of a candidate, then in addition to any other consequences, the candidate shall be subject to the same disqualifications as if at the date of the said certificate he had been convicted of that practice.

(6) The Director shall forthwith:

- (a) cause a copy of such certificate to be Published in the Gazette;
- (b) delete from the register the name of any person registered in it who appears from the record to be disqualified from voting at an election;
- (c) inform in writing the 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) Forthwith upon being so informed, the Returning Officer shall take all steps as may be necessary for ensuring that the person concerned returns the certificate of Registration and any other relevant document for cancellation.

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

Time for presentation and determination of election petition.

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

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

Votes to be struck off at a scrutiny.

- (a) the vote of any person (other than a candidate or official voting under subsection (4) or subsection (5) of section 14 whose

name was not in the register of voters of the polling district in which he voted;

- (b) ~~the~~ vote of any person whose vote was procured by bribery, treating or undue influence;
- (c) the vote of any person who committed or procured the commission of personation at the election;
- (d) the votes of any person proved to have voted more than once at such election save the first vote recorded by such person, where such first vote can be identified to the satisfaction of the court;
- (e) the vote of any person who, by reason of conviction for a corrupt or illegal practice or by reason of the report of the court, or by reason of any conviction for an offence against this act or any other law, was disqualified from voting at an election.

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

(3) The vote of a registered voter shall not except in the case specified in paragraph (e) of subsection (1) of this section, be struck off at a scrutiny by reason only of the voter not having been or not qualified to have his name entered on the register of voters.

Rules of court. 122.-(1) The Chief Justice may make Rules of Court regulating the procedure and practice to be followed and prescribing the fees to be paid on and in relation to petitions and applications under this Part.

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

Avoidance of election and petition.

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

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

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

(3) Notwithstanding the provision of subsection (2), whereupon trial of an election petition respecting an election under this Act the High Court finds that an illegal practice in connection with the election has been committed by or with the knowledge and consent or approval of any of the candidate's agents and the court further finds, after giving the Attorney- General or his representative an opportunity of being heard, that the candidate has proved to the court :-

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

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

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

- (a) that any act or commission of a candidate at any election or of his agent or another person which but for this section would be an illegal practice, has been done or made in good faith through in advertence or accidental miscalculation or some other reasonable cause of a like nature; and

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

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

CHAPTER IX FINANCIAL AND MISCELLANEOUS

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

126.-(1) In the exercise of their respective duties under this Act, the Director of Elections, and Returning Officers shall at all time have power to demand from any person any information necessary to ascertain what persons are qualified to stand as 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 standing as a candidate. Powers of Director of elections, Registration and Returning Officers to demand information

(2) Any person who, after any lawful demand made under the provisions of subsection (1) of this section fails to give such information as he possesses or unreasonably delays in giving the same, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand shillings.

127. A Returning Officer, the Director of Elections, and other persons employed under this Act, and for the purpose of the Act, shall, if not holding an office of employment in the service of the United Republic, receive such reasonable remuneration for the services as the Commission sees fit to authorize. Provided that person holding an office of employment shall be entitled to such allowance and sitting allowances as the Director of Elections may determine. Remuneration of staff.

128. All expenses incurred:

- Expenses to be charged on general revenue.
- (a) in the preparation of the registers, the issue of certificates of registration and in doing such other matters or things as may be required to be done for expenses to be charged on general revenue the purpose of carrying out the provisions of this Act,
 - (b) By the Commission, the Director of Elections, and Returning Officers in the conduct of an election;
 - (c) in the remuneration of the officers specified in section 127, 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

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

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

Regulations

130.-(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.

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

Exemption from stamp duty.

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

Directions.

132. The commission may, subject to the provisions of this Act, issue directions of a general or a specific character in relation to the functions of Returning Officers, Registration Officers and other persons employed for any of the purposes of the Act.

Provided that no, such direction shall be inconsistent with any provision of this Act or of regulation made under section 130.

Replacement of registers, etc.

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

