

MOZAMBIQUE ELECTORAL LAW

Law n. 20/2002
Of the 10th October 2002

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SUPPLEMENT

SUMMARY

In the Republic's National Assembly:

Law Nº 20/2002

Creates the National Electoral Commission – CNE

Law number 20/2002
10 October 2002¹

CHAPTER 1

General Dispositions

Article 1 (Creation)

1. The law creates National Electoral Commission with the acronym of CNE.
2. This law stipulates the functions, powers, duties, and organisation of the National Electoral Commission.

Article 2 (Definition)

The National Electoral Commission is an organisational unit of the state, independent, responsible for management and supervision of national registration, electoral events and referendums.

Article 3 (Nature)

The National Electoral Commission is an organisational unit independent from public and political powers and in the exercise of its functions it owes obedience only to constitutional law.

Article 4 (Composition)

¹ Disclaimer: This is a direct translation of Mozambique's 2002 Electoral Law Act 20/2002 of 10th October however the text is not an official translation. In case of doubt, the original Portuguese version prevails *Boletim Da Republica 1 Série- Número 412002*.

1. The National Electoral Commission is composed by nineteen members, including a president, a deputy president,
2. Members of the National Electoral Commission must be Mozambican nationals, they must be 25 years old, professionally qualified and with acceptable moral values, that allow them to exercise their duties with honesty, independence, objectivity, impartiality, competence and zeal.

Article 5 (Designation)

1. Members of National Electoral Commission, according to article 4, clause 2, are designated as follows:
 - a) A president, by agreement with civil society;
 - b) Eighteen members to be presented by political parties or coalition parties with a seat in Assembly of People, in accordance with their parliamentary representation.
2. The President of the National Electoral Commission is nominated and conferred powers by the President of Republic, from among the candidates presented by civil society and elected by the members of the Commission.
3. Candidates for elections to the presidency of the National Electoral Commission are presented by registered and legally recognised organisations of civil society.
4. Candidate nominations are addressed to national commission for elections within ten days of the date on which the vacancy was announced in the organs of social communication.
5. Verification of the competence of three candidates is made by Commission members in terms of clause 1b of this article, in selection of three members.
6. The president of the National Electoral Commission for elections is elected through :
 - a) Consensus
 - b) Or if there is no consensus, he is elected by the majority vote of effective members, by secret poll.

Article 6 (Element designed by government)

1. The government designates its representative from parliament who attends sessions of the National Electoral Commission, with the right to speak and comment, but without the right to vote.
2. For each provincial communal or municipal commission for elections, the government also designates a representative with a permanent seat during sessions of respective commission, with speaking rights but without the right to vote.

CHAPTER II

General

Article 7 (Duties)

1. The National Electoral Commission for elections has the following duties:
 - a) To guarantee that the national registration, electoral processes and referenda be organised and developed with ethics and in conditions of full freedom, justice and transparency;

- b) To assure equity in treatment of citizens in all acts of electoral processes;
 - c) To assure equal opportunity and equal treatment for political parties and coalitions of parties or groups of citizen voters in all electoral procedures;
 - d) To assure equal opportunities and treatment for members of the National Electoral Commission and all their support units;
 - e) To assure equal opportunities and treatment of agents of the national registration, voting station staff and candidates' delegates.
 - f) To accept candidates for the national, provincial and municipal elections;
 - g) To register political parties and coalitions of parties or groups of proponent citizens;
 - h) To promote, through organs of social communication and through the media, civic education in any matters of electoral concern;
 - i) To approve registration procedures, identity cards for voters, voting procedures, the location of voting stations; to produce the material to be used in electoral processes;
 - j) To approve and educate agents of civic education, for the national registration and for voting;
 - k) To provide material to be used in electoral processes as well as the means of transport and equipment;
 - l) To approve a Code of Conduct for candidates, political parties, coalition parties or group of citizens.
 - m) To approve the Code of Conduct for officials employed during the electoral processes;
 - n) To approve regulations on utilisation of places and building to be used by political parties;
 - o) To approve regulations for the Technical Secretariat for Electoral administrative, that fix and attribute the duties and powers of departments and offices, as well as the structures to be established at provincial and municipal;
 - p) To decide the order on the ballot papers of candidates and lists in the presidential, legislative and municipal elections;
 - q) To approve regulations and instructions on the conduct of voter registration, electoral processes and referenda, that are to be issued in first series of the Bulletin of the Republic;
 - r) To allocate broadcast time on radio and television between the different candidates for presidential, parliamentary and municipal elections, with equality of access.
 - s) To guarantee secure conditions for voter registration, electoral events and referenda throughout the national territory;
 - t) To provide official statements, duly signed and stamped to observers and journalist, when the final results of national election are announced.
 - u) To guarantee security in the production, transport, reception, storage and distribution of material for voter registration and voting;
 - v) To ensure that any financial aid allocated to political parties is made available before the date of the start of the electoral campaign;
 - w) To ensure the transportation, storage and distribution of material used in electoral registration;
 - x) To determine the location of voter registration stations in such a way that they are accessible to citizens
 - y) To report to the Ministry of Public Affairs any illegal electoral act;
1. Other duties and powers of the National Electoral Commission include:
- a) The elaboration of a calendar, once a date for election is announced, to include dates and indication of deadlines;
 - b) Decision on the alteration for voting date within a day from the original date;

- c) The guarantee of the regularity of vote counting;
 - d) The elaboration of data related to legislative elections;
 - e) The announcement of the results of national, legislative and municipal elections;
 - f) The elaboration of data with respect to presidential elections;
 - g) Responding within 48 hours to any claims or complaints related to decisions taken by subordinate organisational units and agents of electoral processes;
 - h) The elaboration of a final report of the electoral process and its publication.
2. National Electoral Commission is competent to exercise all the functions attributed by present statute or by other electoral legislation.

ARTICLE 8 (Complaints)

Any complaints arising from decisions by the National Electoral Commission must be addressed to the Constitutional Council.

ARTICLE 9 (Duties and powers of the President)

1. The duties and the powers of the President of the National Electoral Commission are as follows:
 - a) Representing the National Electoral Commission;
 - b) Calling of meetings, proposing agendas and heading sessions of the Commission;
 - c) Co-ordinating the activities of the Commission;
 - d) Communicating with the public, the national community and the international community through interviews and press conferences;
 - e) Conferring administrative powers on presidents of provincial and municipal commissions;
 - f) Implementing the decisions of the National Electoral Commission;
 - g) Ensuring with the Director General of the Technical Secretariat for Electoral Administration the responsibilities of the commission;
2. Another obligation of the President is to hold regular meetings with the co-ordinators of different commissions, civil society, members of government, and political parties.

ARTICLE 10 (Duties and powers of the deputy president)

The duties and powers of the deputy president are as follows:

- a) To represent the president of national commission in his absence;
- b) To assist the president of national commission for elections;

CHAPTER III

Members

ARTICLE 11 (Mandate)

1. The mandate of members of National Commission for elections is for five years.
2. Members of National Commission must be designated up until sixty days after the start for each legislative period.

ARTICLE 12
(Assumption of office and cessation of mandate)

1. Members of National Electoral Commission are conferred administrative power by the President of the Republic within 30 days after their designation.
2. The mandate of members of National Electoral Commission ceases with the assumption of office by new members.

ARTICLE 13
(Vacancy)

Vacancies in the National Electoral Commission are filled according to the procedures of designation of Article 5 of this law.

ARTICLE 14
(Incompatibility)

The mandate of members of the National Electoral Commission is incompatible with the exercises or functions of

- a) The President of the Republic;
- b) Members of the government;
- c) Judicial magistrates of the Ministry of Public Affairs;
- d) Deputies of the Assembly of the Republic;
- e) Candidates for presidential , provincial and municipal elections;
- f) Members of the military forces or security;
- g) Members of the Superior Council for social communication;
- h) Members of the Constitutional Council;
- i) Diplomats when still in their functions;
- j) Rectors of public universities;
- k) Administrators of local municipalities;
- l) Members of local municipalities;
- m) Holders of offices conferred by the President of Republic or the Prime Minister;
- n) Members of autonomous institutes, public enterprises and companies with public capital;
- o) Senior officeholders any political party;
- p) Provincial governors;
- q) National directors;
- r) Provincial directors;
- s) Chiefs of Administrative posts.

ARTICLE 15
(Legal immunity)

During their terms of office the members of National Electoral Commission enjoy legal immunity except in those cases in which their activities might have an improper effect on the final result of elections or referenda.

ARTICLE 16

(Right to subsidy)

The members of National Commission for elections have a right to a monthly subsidy covered from the state budget.

CHAPTER IV

Functioning

Article 17 (Functioning)

1. The National Electoral Commission functions on a permanent basis.
2. The National Electoral Commission operates in plenary sessions, in committees and it can adopt other forms of functioning.

Article 18 (Quorum and decision-making)

1. A session of the National Electoral Commission can be held only if there is one quarter of its members present.
2. The National Electoral Commission makes its decisions normally through consensus.
3. In the absence of consensus, decisions are made through a majority vote of its members.

Article 19 (Secretariat)

1. The National Commission has a secretariat that assures technical, administrative, logistic and protocol assistance;
2. Its composition, organisation and functioning are defined in regulations to be approved by a session of National Commission.

Article 20 (Divisions of commission)

1. The National Commission is organised as follows:
 - a) Division for organisation and electoral operations;
 - b) Division for legal affairs;
 - c) Division for civic education;
 - d) Division for financial administration;
 - e) Division for internal and external relationships.
2. The National Commission should attribute duties to these divisions.
3. In the exercise of its functions the National Commission can create divisions.

Article 21 (Executive of National Electoral Commission)

The executive of the National Commission is composed by the president of the National Electoral Commission and the deputy presidents.

Article 22 (Competency of executive)

The competency of the table of the National Commission is to propose an agenda and a plan of activities.

Article 23
(Support bodies of the National Electoral Commission)

1. Support units are :
 - a) Provincial commissions;
 - b) Municipal and District commissions;
2. Provincial and Municipal commissions are designated only for the periods of voter registration, electoral events or referenda.
3. Provincial Commissions begin functioning 45 days before the commencement of registration and elections and referenda and cease functioning as soon as they present their final report to the National Commission.
4. Municipal and District Commissions begin functioning 30 days before the commencing date of voter registration, elections, and referenda and cease functioning as soon as they present their final reports to the provincial commissions.

Article 24
(Composition)

1. The Provincial Commission is composed by nine members, including the president and two deputy presidents.
2. Municipal and District Commissions is composed by nine members, including a president and two vice-presidents.
3. Members of support structures of the National Commission must conform with the requirements of clause 2 of article 4 of this law.

Article 25
(Designation)

1. Members of Provincial, Municipal and District Commissions are nominated as follows:
 - a) A president by proposals from civil society;
 - b) The remaining members by are chosen by political parties in accordance with their shares of parliamentary representation.
2. Presidents of Provincial and Municipal Commissions are appointed by the President of Republic, from the candidates presented by civil society and elected by concerned commissions.
3. Deputy presidents of provincial and municipal commissions are chosen by the members mentioned in clause 1 of this article.
4. Members of Provincial Commissions are conferred power by the President of the National Electoral Commission or his delegate.
5. Presidents of Provincial Commissions are conferred power by President of the National Electoral Commission or his delegate.
6. Members of Municipal or District Commissions are conferred power by Presidents of Provincial Commissions or their delegates.
7. Presidents of Municipal or District Commissions are conferred power by Presidents of Provincial Commissions or their delegates.
8. Proposals of candidates for election to Provincial, Municipal or District Commissions are presented by civil society to the concerned commission, within 7 days from the date the vacancies are made public in the organs of social communication.

9. The verification of competency of the candidates is made by members of concerned commission.
10. The president for provincial, municipal or communal is elected:
 - a) By consensus;
 - b) If there is no consensus, he is elected by a majority vote of effective members. The vote is through a secret ballot.

ARTICLE 26 (Duties and powers)

1. The duties and powers of the Provincial, Municipal and District Commissions are:
 - a) To control electoral procedures and assure the observance of the constitution and the dispositions of this statute during the realisation of electoral census and referenda;
 - b) To notify the Ministry of Public Affairs of any illegal electoral act;
 - c) To record the vote result; at their level
 - d) To receive complains on electoral processes and forward them to National Electoral Commission;
 - e) To ensure that electoral tally sheets are duly signed and stamped and forwarded to the National Electoral Commission.
 - f) To distribute copies of the electoral tally sheets, duly signed and stamped to the proxies of each candidate and political party, party coalition and group of citizens.
 - g) To hand over copies of electoral tally sheets duly signed and stamped to observers and journalists when this is required.
 - h) To post up the list of nominated candidates approved by National Electoral Commission in provincial, municipal or district offices for public inspection.
 - i) To post up elections results.
2. The Provincial, Municipal and District Commissions must implement all instructions from the National Electoral Commission.

CHAPTER V Technical Secretariat Electoral Administration (STAE)

Article 27 (Definition)

1. The Technical Secretariat for Electoral Administration is a state organism for electoral administration with representation at provincial, municipal and communal levels.
2. The technical secretariat for electoral administration organises, implements and assures activity related to technical administration of electoral census, electoral processes and referenda.
3. The Director General and Deputy Directors Generals have permanent seats in the plenary sessions of National Commission with speaking rights but without voting rights.

Article 28 (Subordination)

1. The Technical Secretariat for Electoral Administration remains subordinate to the National Electoral Commission.
2. The Director General of the Technical Secretariat for Electoral Administration is

responsible to assure preparations and zealous achievement with respect to all decisions taken by this organism in exercise of the competences related to the organisation, management, co-ordination, execution, conduction and supervision of electoral census, electoral processes and referenda.

3. The Director General of the Technical Secretariat for Electoral Administration maintains regular contact with the President of the National Electoral Commission.

Article 29 **(Directorate)**

1. The National Electoral Commission selects the Director General of the Technical Secretariat for Electoral Administration on the basis of public advertisement and consideration of his record.
2. The Technical Secretariat for Electoral Administration is composed by a Director General, appointed by the Council of Minister from a proposition by the National Electoral Commission.
3. During electoral period and referenda the Director General is assisted by two deputy directors, designated by political parties with seats in the National Assembly of Republic, according to their shares of parliamentary representation.
4. The dispositions contained in clauses 1, 2, 3 are applicable with some necessary adaptations to the agencies of the Technical Secretariat for Electoral Administration at provincial, municipal or district levels.

Article 30 **(Personnel)**

1. The Technical Secretariat for Electoral Administration is composed by permanent officials. These are recruited through tender and qualifications and approved by the National Electoral Commission from the propositions of the Director General of the Technical Secretariat for Electoral Administration.
2. During voter registrations, elections and referenda the personnel of the Technical Secretariat for Electoral Administration are supplemented by other skilled elements indicated by political parties with seats in the National Assembly of Republic according to their shares of parliamentary representation.
3. The integration of other skilled elements from political parties takes place within 45 days before the start of acts mentioned in clause 2 of this article.
4. The integration and activities of elements referred to in clause 2 ceases 45 days after the announcement of final result of general elections or referenda.
5. When voter registration is being updated in advance of elections, elements indicated by political parties will remain in place for both activities without interruption.
6. In the case of death, the departure or impeachment of one of elements designated by political parties, these must propose his replacement in terms of clause 2 of this article.

Article 31 **(Duties)**

The duties of the Technical Secretariat for Electoral Administration are:

- a) The administration of voter registration;
- b) The arranging of transport and distribution of material for registration and ballots;
- c) To implement the regulations, instructions and directives of the National Electoral Commission;
- d) To train electoral officials;

- e) To organise and execute electoral processes and referenda;
- f) To advise on and respond to electoral queries;
- g) To ensure the elaboration and publication of statistics on electoral processes and referenda;
- h) To elaborate its regulations for approval by the National Electoral Commission;
- i) To perform other functions that are within of its attributions and which are determined by statutes or law.

Article 32 **(Competences of Director General)**

The competences of Director General are to:

- a) Represent the Technical Secretariat for Electoral Administration;
- b) Nominate and confer powers to chiefs of departments;
- c) Supervise activities of different departments that compose the Technical Secretariat for Electoral Administration;
- d) Promote good relations between the Technical Secretariat for Electoral Administration and other public services, national and foreign;
- e) Exercise general administrative powers;
- f) Supervise the management of personnel;
- g) Perform all activities that fall within the attributions of the Technical Secretariat for Electoral Administration.
- h) Maintain regular contact with the President of the National Electoral Commission.
- i) Submit for approval to the National Electoral Commission the internal regulations for the functioning of the Technical Secretariat for Electoral Administration.
- j) Submit to approval of to the National Electoral Commission, proposals for the appointment of personnel to the Technical Secretariat for Electoral Administration.

Article 33 **(Competence of deputy general directors)**

1. The competence of deputy general director are to:
 - a) Assist the general director to achieve this job;
 - b) Replace general director in his absence.
2. Implement all the activities that fall within the competencies of the Director General

Article 34 **(Requirements)**

Cadre of the Technical Secretariat for Electoral Administration must be Mozambican nationals, be aged at least 25, professionally competent and ethical and capable of exercise their functions with honesty, independence, impartiality, competence and zeal.

Article 35 **(Incompatibility)**

Incompatibilities fixed by the National Electoral Commission extend to members of STAE.

Article 36
(Structure of STAE)

1. The technical secretariat for electoral administration has the following structure at central level:
 - a) General director;
 - b) Directorate for organisation and electoral operations;
 - c) Directorate for training and civic education;
 - d) Directorate for finance and administration;
 - e) Judicial office
2. The technical secretariat for electoral administration has the following structure at provincial level:
 - a) Provincial directorate
 - b) Department for organisation and electoral operations;
 - c) Department for training and civic education;
 - d) Department for finance and administration
 - e) Press Office;
3. The technical secretariat for electoral administration at municipal or district level:
 - a) Municipal or District directorate;
 - b) Sector for organisation and electoral operations;
 - c) Sector for training and civil education;
 - d) Sector for administration and finance.
4. The Technical Secretariat for Electoral Administration has the powers to create additional structure with the approval of the National Electoral Commission.

CHAPTER VI

Functioning

Article 37
(Collective bodies of the Technical Secretariat for Electoral Administration)

The consultative council of the Technical Secretariat for Electoral Administration is headed by the Director General. Its duty is to plan and review the activities and management of the Secretariat.

1. The consultative council is composed of:
 - a) Director General;
 - b) Deputy General Director;
 - c) Directors of areas;
 - d) Chief of offices.
2. The Director General can invite other cadres to the meetings of the council.
3. The Technical Secretariat for Electoral Administration maintains similar committees at different levels. Their function is to analyse and appreciate activities in each area.
4. Committees are chaired by the head of each area or by a delegate nominated by the Director General.

Article 38
(Budget)

All expenses of STAE are covered by the state national budget.

Article 39

(Right to subsidy)

Members of Commission at provincial and municipal or district level, as well as members designated by STAE during their period of functioning will receive a subsidy covered by the state national budget

Article 40 (Premises)

The Government must provide premises to the electoral agencies.

Article 41 (Collaboration)

Agencies and agents of public administration, political parties, coalition parties and private entities must provide any assistance the National Electoral Commission needs to perform its duties well.

Article 42 (Symbols of National Electoral Commission)

The symbols the National Electoral Commission are:

- a) A flag
- b) An Emblem
2. CNE is the Portuguese acronym for National Electoral Commission
3. The CNE must approve its own symbols, as well as its slogans.

Article 43 (Headquarters)

The main office of CNE remains situated in the capital city. However, its meetings can be held in any part of the national territory.

CHAPTER VII Transitional and Final Disposition

Article 44 (Transitional disposition)

Power conferred to CNE in terms of the present statute will start within 30 days after its publication. Its mandate will cease at the end of the current legislative period.

Article 45 (Divulgence in organ of social communication)

Divulgence of acts and deliberations of the National Commission are free in any organs of social communication of the public sector.

Article 46 (Revocation)

Revocation is applied to all legal dispositions that are contrary to the present statutes.

Article 47
(Entry into force)

The present statutes enter into force on date of this publication approved by the National Assembly of the Republic on 20 September 2002.

Speaker of the National Assembly of the Republic
Eduardo Joaquim Matembwe

Issued on 10 October 2002