



Republic of mozambique
The House of Assembly

Electoral Law

(Law nr 8/2007)



Law n.º 8/2007

February 26

Having the need to proceed with the revision of the Law n.º 20 /2002, October 10 in order to improve the organizational process, coordination, execution, transportation and supervision of the census and the electoral process, in terms with the law n.º 3 of the article 135, and the paragraph d) of the law n.º 2 of the article 179 from the Constitution, the House of the Assembly (parliament) determines the following.

CHAPTER I

General dispositions

Article 1

(Creation)

1. It created the National Commission of Elections, designated by CNE.
2. The organizational procedures, its functionalities, operability and competences are presented in this Law.

ARTICLE 2

(Definition)

1. The National Commission of Elections is an organ of the State, independent impartial and responsible for the supervision of the census and the electoral process.
2. Under the principles of this present Law, it supervises, orientates, and coordinates, monitors and control the electoral Process.
3. The National Commission of Elections has is own statutes, personnel and budget.

ARTICLE 3

(Nature)

The National Commission of Elections is an independent organ from any public authorities depending only on the constitution and the laws.

ARTICLE 4

(Composition)

1. The National Commission of Elections is constituted by thirteen members, the President and twelve members..
2. Only Mozambican citizens who are twenty-five years and above with recognized moral and professional merit are to exercise the tasks with suitability, independent, objectivity, impartiality, competence and devotion can be members of the National Commission of Elections.

ARTICLE 5

(Designation)

1. In respect to the law n. ° 2 of the article 4 the members of the National Commission of Elections, are designated as follows:
 - a) Five members are to be appointed out by the Political parties or by coalitions which are represented in the parliament, in accordance with their seats in the parliament.
 - b) Eight members are proposed by the civic society organizations legally constituted, of which their names will be made public according to the line a) of the nr 1 of the present article.
2. The members referred in nr. 1 of this article is to be introduced to the Speaker of the Parliament within thirty days after the beginning of the legislature.
3. The Chairman of the National Commission of Elections is chosen by the members of the National Commission of Elections and by civic society organizations legally constituted.
4. The Chairman of the National Commission of Elections is chosen by consensus. In case of no consensus reached, he/she will be chosen by majority of votes from the permanent members by secret ballot.
5. The elected Chairman of the National Commission of Elections is appointed and vested by the President of the Republic.

ARTICLE 6

(Element of the Government)

1. The Government designates a member with permanent seat in the plenary sessions of the National Commission of Elections, who has the right to speak, without voting right.
2. Each Commission of Elections at provincial, districts or local (cities) levels, the Government designates a member with permanent seat in the plenary sessions of the respective commission, with right to speak, without right to vote.

CHAPTER II

Competences

ARTICLE 7

(General competences)

1. It is the competence of the National Commission of Elections to:
 - a) Guarantees that the census and the electoral processes are organized and developed under the necessary ethics, freedom, justice and transparency;
 - b) Insures equality of treatment to all citizens during the electoral process.
 - c) Insures equality of opportunity and treatment to the political parties and coalitions or electing citizens groups 'in the electoral process.
 - d) Insures equality of opportunity and treatment to all the members of the National Commission of Elections and its supporting organs;
 - e) Insures equality of opportunity and treatment for the census electoral agents, official members and candidate's agents.
 - f) Receives and appreciate the regularity of the candidature to the legislative and municipal elections;

- g) Subscribes political parties and coalitions or electing citizens' group;
- h) Promotes through the national Medias and other means of diffusion, the educational and the civic explanation to the electing citizens on issues of electoral interest;
- i) Approves the models of census bulletin, census notebooks, voter's card, voting bulletin, ballot papers, announcements and any other printed papers or materials used in the electoral process.
- j) Approves the terms of curricular evaluation and to promote the public contests for personnel's recruitment;
- k) Approves the adjudication of electoral material, vehicles and other means of transportation and equipment.
- l) Approves the code of conduct for the candidates, political parties, coalitions, citizens' or groups of voters in the elections.
- m) Approves the code of conduct for the law and order agents during the electoral process.
- n) Approves the regulation on the locations and public buildings used by the candidates, political parties, coalitions or competitive electing citizens groups during the elections;
- o) Approves the regulation of the Technical Secretariat of Electoral administration that gives the attributions and competences to the directive boards, departments and offices, as well as the implanted structure at provincial, district and local (cities) level.
- p) Proceeds the draw of the candidates to the legislative and Municipal Elections in order to put them in the voting bulletins.
- q) Approves the regulations, the instructions and the directive orders for the fulfillment of the electoral census, the electoral process are published in the Serial 1 form in the Bulletin of the Republic;
- r) Gives a specific time for the several presidential, legislative and municipal candidates to appear on the public media on equal bases, with no discrimination;

- s) Guarantees that the competent authorities creates the necessary safety conditions to the accomplishment of the census and the electoral process.
 - t) Distributes formally original copies of the ballot paper and the announcements of the final results duly signed and stamped to the agents of each candidate.
 - u) Gives the announcement and the ballot papers copies of the final results duly signed and stamped to the teams of observers and journalists when announcing the electoral results, if requested;
 - v) Guarantees the safety of the production, transportation, reception, and storage of the material distributed in the process of census and voting.
 - w) Guarantees that the budget allocated to the candidates, political parties or coalitions is disbursed before the date marked for the beginning of the electoral campaign.
 - x) Insures that the attending conditions, transportation, storage and distribution of the electoral material, the safety of the census sites, the safety of the rooms where the census and voting process will take place, the distribution of the announcements and the ballot papers for the verification of the final results are being checked in order to observe that their rights (candidates) are not infringed during the electoral process accomplishment.
 - y) Determines the locations and sites where the census positions and voting assemblies will be placed in agreement with proposals of the electoral law organs.
 - z) Insures the elaboration of the maps with the respective codes.
 - aa) Denounce to the Public Prosecution Service any illicit procedure in the electoral process which they are aware of.
2. It is also the competence of the National Commission of Elections the following:

- a) To elaborate the calendar, once the date of the election is set, containing the dates and the indication of the procedures subject to the period indicated.
 - b) To decide on the alteration of the voting period within a period not superior to one day.
 - c) To appreciate the regularity of the electoral bills.
 - d) To elaborate the maps of the centralized data's related to the legislative elections;
 - e) To proceed with the operations to find out the results of the presidential, legislative and municipal elections.
 - f) To elaborate the map with centralized data's related to the presidential elections.
 - g) To decide in seventy two hours on the coming complaints and reclamations relatively to the decisions taken by the supporting organs and agents of the electoral process;
 - h) To elaborate the final report of the electoral process and publish it.
3. It is still the National Commission of Elections competence to carry out other functions attributed by this present Law or for other electoral legislation.

ARTICLE 8

(Resource)

Any deliberations from the National Commission of Elections are material to be placed under the decision of the Constitutional Council.

ARTICLE 9

(The Chairman competences)

1. Competences of the Chairman of the National Commission of Elections are as follows:

- a) To represent the National commission of Elections.
 - b) To summon, propose the calendar and to preside the sessions of the National commission of Elections;
 - c) To coordinate the activities of the organ;
 - d) Lead the public, the national and international community through interviews and press conferences;
 - e) To appoint the chairman's and the members of the provincial commissions of elections.
 - f) To execute the deliberations of the National Commission of elections
 - g) To dispatch with the Director-general of the Technical Secretariat of Electoral Administration all the documentation regarding to the responsibility of the organ.
2. It is the duty of the National Commission of Elections Chairman to have regular meetings with the coordinators of the commissions, the representatives of the civil society, state leaders, political parties, coalitions or with other entities.

CHAPTER III

Members

ARTICLE 10

(Mandate)

1. The mandate of the members of the National Commission of Elections is a term of five years.
2. The members of the National Commission of Elections are designated up to sixty days after the beginning of each legislature.

ARTICLE 11
(Investiture and mandate ceasing)

1. The members of the National Commission of Elections are vested before the president of the Republic.
2. The mandate of the National Commission of Elections members ceases after the investiture of new members.

ARTICLE 12
(Vacancies)

The vacancies in the National Commission of Elections are filled out in agreement with the article 5 of the present Law, in the next session after the occurrence of the vacancy.

ARTICLE 13
(Incompatibilities)

The mandate of members of the National Commission of Elections is incompatible with the exercise of the functions of the following personalities

- a) President of the republic.
- b) Member of the Government.
- c) Deputy of the House of the Assembly (Parliament).
- d) Judicial Magistrate and Public Prosecution Service Magistrate
- e) Candidates for elections in the Sovereignty or Municipal organs.
- f) Member of the military forces or militarized and active safety forces.
- g) Member of Superior Council of the National Medias.
- h) Member of Constitutional Council.
- i) Diplomats in activity
- j) University Chancellor

- k) Municipal Mayor
- l) Members of Municipal organs.
- m) Authority members appointed or vested by the President of the Republic or Prime minister.
- n) Members of a directive body and autonomous institutes, state companies, public companies and exclusive enterprises with major public shareholders.
- o) Responsible of a directive board of a political party central organ or coalitions
- p) Provincial Governor.
- q) National Director.
- r) A district Administrator.
- s) Provincial Director;
- t) Village or city officials
- u) Post officials
- v) Local Officials

ARTICLE 14

(Prohibition of political activities)

The members of the National Commission of Elections may not exercise any function in the political parties or associations connected with them, nor develop political- parties activities in public.

ARTICLE 15

(Independence and replacement)

The members of the National Commission of Elections are Independent and may not be replaced before the end of the mandate for which they were designated, except in cases foreseen in this present Law.

ARTICLE 16

(Ceasing of functions)

1. The members of the National Commission of Elections cease their functions before the end of their mandate when it is verified as follows:
 - a) Death or permanent incapacity;
 - b) Renouncement;
 - c) Acceptance of the place or practice of acts legally incompatible with the exercise of their functions.
2. The renouncement is declared to the Chairman of the National Commission of Elections in writing and its effectiveness does not depend on the acceptance of this organ.
3. It is the competence of the National Commission of Elections to verify the occurrence of any of the situations foreseen in the paragraphs a), b), and c) of n.º 1, the permanent incapacity must be proved by the National Committee of Health.
4. The ceasing of functions stated in the number 1 is object of declaration which the Chairman of the National Commission of Elections publishes in the Serial 1 of the Bulletin of the Republic.

ARTICLE 17

(Rights and privileges)

The members of the National Commission of Elections are entitled to have privileges to be defined in a proper regulation to be approved by the Ministry Council under proposal of the National Commission of Elections.

ARTICLE 18

(Duties of the members)

The member of the National Commission of Elections accomplishes the following duties, besides those consecrated in the Republic Constitution and in other laws:

- a) Exercises the function for which he/she was chosen.
- b) To observe the order and discipline instituted on the regiment and on the present Law;
- c) To contribute for the increase of the effectiveness, prestige and credibility of the National Commission of Elections.

ARTICLE 19

(Work Stability)

1. The members of the National Commission of Elections should not be prejudiced in their career, on their jobs and other rights due to the positions occupied during this electoral process.
2. After finishing the mandate, these citizens should automatically return to the positions they were occupying before the vesting, these positions should be filled up internally.
3. The members of the National Commission of Elections who during the vesting date have a contract or position in the public sector will automatically have the respective contract suspended during the period within which he/she will be under the service of the National Commission of Elections.
4. During this period the members of the National Commission of elections will not lose antiquity in their jobs and nor will they be prejudiced in the promotions they have gained.
5. It is applicable that the members of the National Commission of Elections are Civil servants designated.

CHAPTER IV

Operation

ARTICLE 20

(Operation)

1. The National Commission of Elections works permanently.
2. The National Commission of Elections works in plenary session and in commissions, being able to adopt other forms of operations.
3. The members of the National Commission of Elections work in an exclusive regime.

ARTICLE 21

(Quorum and source of decisions)

1. The plenary session of the National Commission of Elections can only meet if present, at least, a third of its members.
2. The National Commission of Elections can only deliberate if presents more than a half of its members.
3. The National Commission of Elections makes its decisions by consensus.
4. If consensus is not reached, the deliberations are taken for majority of votes from its members.

ARTICLE 22

(Secretariat)

1. The National Commission of Elections has a secretariat which assures its technical, administrative, logistic are support and its protocol.
2. The composition, organization and operation are defined in a regulation to be approved by the plenary of the National Commission of Elections.

ARTICLE 23

(Provision)

The provision of the Secretariat of the National Commission of Elections personnel is under the responsibility of the Chairman of the National Commission of Elections.

ARTICLE 24
(Work commissions)

1. The National Commission of Elections has the following working commissions:
 - a) Organizational and electoral operational Commission ;
 - b) Legal subjects and legal deontology Commission.
 - c) Training and civic educational Commission.
 - d) Administrative and finances Departments Commission
 - e) Internal and external relationships Commission.
2. It is on the plenary session of the National Commission of Elections where it's settled the attributions and competences of the working commissions.
3. The National Commission of Elections can also creates other working commissions.

ARTICLE 25
(Supporting Organs of the National Commission of Elections)

1. The supporting Organs of the National Elections Commissions are as follows:
 - a) Provincial Elections Commissions;
 - b) Districts and local Commissions
2. The districts and local Commissions of Elections are designated for the census and electoral procedure.
3. The Provincial Elections Commissions commences its operation sixty days before the starting date of the census and the electoral procedures and terminates thirty days after the divulgation of the electoral results after presenting to the National Elections Commission a final report of its activities.

4. The Districts and local Elections Commissions commence its operation thirty days before the date of the census and the electoral procedures and terminate fifteen days after the divulgation of the electoral results by presentation of an activities report to the National Commission of Elections.

ARTICLE 26

(Composition)

1. The Provincial Elections Commission is composed by eleven members, the chairman and ten other members.
2. The district and local commissions of elections is composed by eleven members, the chairman and ten members.
3. To be member of the supporting organs of the National commission of Elections its required the observance of the law n.º 2, article 4 of the present Law.

ARTICLE 27

(Designation and ownership)

1. The members of the provincial, district or cities Commissions are under the article 26 of the present Law and they are designated as follows:
 - a) Five members to be presented by the political parties or coalition with a seat in the Parliament in accordance with the representatives in the parliament.
 - b) Six members to be co-opted by the members referred in the paragraph a) of the present article, chosen among personalities presented by the organizations of the civic society legally constituted.
2. The Chairman's of the provincial, district and local Commission are chosen by the members of the respective commissions, among personalities presented by organizations of the civic society, legally constituted.
3. The chairman's of the provincial, district or local commissions (cities) is chosen by consensus. If consensus is not reached he/she will be elected by a secret ballot voting.

4. The members of the Provincial Commission of elections are vested before the Chairman of the National Commission of Elections or by his representative.
5. The Chairman's of the Provincial Commissions of Elections are vested before the President of the National Commission of Elections or by his representative.
6. The members of the commissions of elections of the districts or of cities are vested before the Chairman of the Provincial Commission of Elections or by his representative.
7. The Chairman of the District commissions of elections or of the city is vested before the Chairman of the Provincial Commission of Elections or by his representative..
8. The proposals for candidatures for the election of the provincial chairman commissions of elections, district or a city are presented by the civic society organizations legally constituted to the respective commissions, within a period of seven days counted from the date of the publication of the announcement in the national Medias.
9. The verification of the requirements for chairman candidature at provincial, districts or local level is made by the members of the respective commissions.

ARTICLE 28

(Competences)

1. It competes to the provincial, districts or local Commissions the following duties:
 - a) To supervise at its level, the electoral process and to assure the observance of the Constitution and the dispositions of the present Law during the realization of the electoral census and the voting.
 - b) To denounce to the Public prosecution service any illicit procedure in the electoral process which they becomes aware of.
 - c) To make the counting of votes and register the results at its level.

- d) To receive electoral complaints and to decide in the extent of its competences.
 - e) To allocate immediately the resources interposed to the National commission of Elections.
 - f) To send to the National Commission of Elections the ballot papers and the announcements of the electoral results.
 - g) To assure the distribution of the original copies of the announcement and ballot papers duly signed and stamped in the Polling Stations before the police officers and candidates agents.
 - h) To distribute original copies of the provincial announcement, district and local (city) duly signed and stamped to the candidates agents, political parties or coalitions.
 - i) To give original copies of the announcement to the observers' and journalists, duly signed and stamped, when requested;
 - j) To send the nominal candidates list to the provincial, districts or cities Commissions for public knowledge announcements.
 - k) To exhibit immediately partial announcements results.
2. It is the competence of the Provincial, districts and cities Commissions to execute the directive instructions given by the National Commission of Elections.

Technical Secretariat of the Electoral Administration

Article 29 (Definition)

1. Technical Secretariat of the Electoral Administration is a Public Service Staffed Department with a provincial, district and local (cities) representation.

2. The Technical Secretariat of Electoral Administration is the organ which organizes, executes and insures technical and administrative activities during the census and the electoral process.
3. The Technical Secretariat of Electoral Administration is headed by a Director General.
4. The Technical Secretariat of Electoral Administration has a permanent seat on the plenary sessions of the National Commission of the Elections with the right to speak but with no voting right.

Article 30 (Subordination Extension)

1. The Technical Secretariat of the Electoral Administration is permanently subordinated to the National Commission of Elections.
2. For the effect of this present law, subordinate means to be subject and depend on the orientations and decisions taken by the national Commission of Elections.
3. It is the responsibility of the Director General of the Technical Secretariat of Electoral Administration to prepare the dossiers and to submit it, according to the law, to the plenary of the National Commission of Elections and also zeal for the accomplishment of the decisions taken by this organ under the exercise of the competences related to the organization, coordination, execution and the fulfillment of the census and the electoral procedures.
4. The Director General of the Technical Secretariat of Electoral Administration has to dispatch regularly the documents to the Chairman of the National Commission of Elections.

Article 31 (Directive Board)

The general Director of the Technical Secretariat of the Electoral Administration is recruited and selected under curricular evaluation on a public bidding board, lead and proposed by the National Commission of Elections and nominated by the prime minister.

Article 32

(Personnel board)

1. The Technical Secretariat of the Electoral Administration is constituted by a permanent board, common and private, whose personnel is originated from a public bidding board of curricular evaluation and approved by the National commission of the Elections under proposal of the Director General of the Technical Secretariat of the Electoral Administration.
2. Within the period of the census and elections the personnel board of the Technical Secretariat of Electoral Administration integrates elements technically skilled, recruited on the bases of public bidding and curricular evaluation.

Article 33

(Attributions)

To the Technical Secretariat of the Electoral Administration is attributed the following tasks:

- a) To accomplish the electoral census.
- b) To assure the transportation and distribution of whole material of the census and voting within the right time;
- c) To follow the regulations, instructions and orders of the National Commission of Elections;
- d) To train electoral agents.
- e) To organize and execute the electoral processes.
- f) To inform and to emit opinions on the electoral affairs.
- g) To assure the elaboration of the statistical studies on electoral processes and the respective publication.
- h) To elaborate its operative regulation to be approved by the National Commission of Elections;
- i) To carry out the other functions within the sphere of its competence which are determined by the law.

ARTICLE 34

(Competences of the General Director)

The responsibilities of the Director General are as follows:

- a) To represent the Technical Secretariat of the Electoral Administration
- b) To nominate and vest the Directorates directors, department leaders and its supporting services.
- c) To superintend the activities of the different directorates of the Technical Secretariat of Electoral Administration.
- d) To insure the relationships of the Technical Secretariat of Electoral administration with other national and international public and private services and being capable to relate with the judicial and administrative authorities.
- e) To exercise general administrative powers.
- f) To superintend the administration personnel.
- g) To dispatch all affairs under the competences of the Technical Secretariat of Electoral Administration.
- h) To give regularly information to the Chairman of the National Commission of Elections.
- i) To submit to the approval of the National Commission of Elections the internal operative regulations of the Technical Secretariat of Electoral Administration.
- j) To submit to the approval of the National Commission of Elections the personnel's board of the Technical Secretariat of Electoral administration.

ARTICLE 35

(Requirements)

To be part of the technical board of the Secretariat of Electoral Administration is required to be a Mozambican citizen, over twenty-five years of age with a recognized moral and professional merit to exercise this functions with suitability, independent, impartiality, competence and devotion.

ARTICLE 36

(Incompatibilities)

The incompatibilities fixed are extensive to all the personnel and leaders of the National Commission of Elections or to its supporting organs.

ARTICLE 37

(The structure of the Technical Secretariat of the Electoral Administration)

1. The Technical Secretariat of Electoral Administration has the following structure, at central level:
 - a) General Directorate
 - b) Organizational and Electoral Operations Directorate;
 - c) Training and Civic Educational Directorate
 - d) Administration and Finances Directorate;
 - e) Juridical Office.
2. The Technical Secretariat of Electoral Administration has the following structure, at provincial level:
 - a) Provincial Directorate;
 - b) Organizational and Electoral Operations Department
 - c) Training and Civic Educational Department
 - d) Administration and Finances Department
 - e) Press office
3. The Technical Secretariat of Electoral Administration has the following structure, at district or local (level) city:
 - a) District Directorate
 - b) Organizational and electoral operations Sector
 - c) Training and Civic Educational Sector
 - d) Administration and Finances Sector

Within the exercise of its competence the Technical Secretariat of Electoral Administration can create other structures with the approval of the National Commission of Elections.

CHAPTER VI **(Operability)**

Article 38 **(Organizational chart of the Technical Secretariat of the Electoral Administration)**

1. The Advisory Board of the Technical Secretariat of Electoral Administration is headed by the Director General who has the responsibility of programming and executing the periodic balance of the activities and the management of the Technical Secretariat of the Electoral Administration.
2. The advisory Board has the following chart:
 - a) Director General
 - b) Areas Directors
 - c) Offices Chiefs
3. According to his statutes the Director General has the authority to invite other skilled personnel.
4. The Technical Secretariat of the Electoral Administration has diversified working teams with the responsibilities of analyzing and expressing their view points concerning to the activities of each area or the entire system.
5. The areas are oriented by the persons in charge of the respective areas or by the person who the Director General of Technical Secretariat of Electoral Administration will delegate.

Article 39 **(The budget)**

The organizational and operative expenses of the National Commission of Elections are covered by the State Budget.

Article 40

(The right to subsidies)

The members of the Provincial, districts and local (cities) Commissions as well as designated members will have direct subsidies covered by the State Budget.

Article 41

(Installations)

It is the competence of the government to provide installations for the operations of the electoral organs.

Article 42

(The right for collaboration)

The Public administration organs and agents, political parties, coalitions and private entities are to provide to the National Commission of Election with collaboration and the necessary support in order for it to respond readily to its operations and competences.

Article 43

(Symbols of the National Commission of Elections)

1. The Symbols of the national commission of Elections are:
 - a) The flag
 - b) The emblem
2. CNE is the acronym of the National Commission of Elections.
3. It is the competence of the National commission of Elections to approve the respective symbols and the mottos relatively to its procedures within its jurisdictions.

Article 44 (Headquarters)

The headquarters of the National Commission of Elections is situated in the capital of the country and has the authority to assemble its organ in any point of the country.

CHAPTER VII

Article 45

(Final disposition and transitories)

the possession of the national Commission of Elections is constituted in the terms of the present law and lasts up to sixty days after the elections, and its mandate terminates with the actual legislature.

Article 46

(Divuligation through the national Medias)

The acts of deliberation of the National Commission of Elections are divulgated for free through the national Medias.

Article 47 (Ademption)

The repeal act of law n.º 20/ 2002, October 10 and other legislation which may contradict the present law.

Article 48 (Enforcement of the law)

The present law is enforced from the date of the publication of this document. Approved by the House of the Assembly (Parliament) on 20 of December 2006.

The Speaker of the House of the Assembly, the honorable, Mr. *Eduardo Joaquim Mulembwe*.

Promulgated by ARMANDO EMILIO GUEBUZA, President of the Republic.

Law n.º 8/2007