



THE REVOLUTIONARY GOVERNMENT OF
ZANZIBAR

ELECTION
ACT NO. 11 OF 1984

THIS VOLUME INCORPORATES
ALL AMENDMENTS MADE UP
TO 2004

IDI PANDU HASSAN
ATTORNEY GENERAL
2010

THE ELECTION ACT NO.11 OF 1984

ARRANGEMENT OF SECTIONS

SECTIONS

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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 PROVISIONS**

Short title and
construction.

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

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

Interpretation.

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

*S. 3 of Act
No. 12/2002.*

"Candidate" means a person who submits himself for election of the President or Member of the House of Representatives or Local Authority Leader;

*S. 2 of Act
No. 3/2004.*

"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;

"Chairman" means the Chairman appointed under section 4 and includes Vice-Chairman or any person for the time being discharging the functions of the Chairman;

"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;

Interp

“Constitution” means the Constitution of Zanzibar 1984 its amendments made thereto;

“Counting Agent” means a person appointed as a counting agent under the provisions of section 77;

“Contested election” means an election in a constituency;

“Dependant” means mother, father, wife, grandparent or child living with a voter;

“Director of Elections” means the person appointed to be 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 and includes by-election;

"Election day" in relation to an election in any constituency means the day appointed under section 51 or any day substituted thereof 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;

"Observer" means local or international election observer so accredited by the Commission;

"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 Permanent Voters' Register prepared and preserved 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 and includes Returning Officer;

"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;

"Sheha" means an officer appointed as such under the provisions of section 15 of the Regional Administration Authority Act, No. 1 of 1998 and includes any person whom he has appointed on his behalf according to section 18 of that Act;

"Special Department" means Special Departments provided in section 121 of the Constitution;

"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.
*S. 4, Act
No. 12/2002.*

3.(1) 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.

(2) No directions, instructions or announcements shall be made under section 3(1) before first obtaining the consent of the Electoral Commission.

Establishment of
Zanzibar Electoral
Commission.
*S.5 of Act
No. 12/2002.*

4. There shall be an Electoral Commission whose composition, members and procedures shall be as prescribed in the Constitution.

Responsibilities of
the Commission.
*S.3 of Act
No.3/2000.*

5. The Commission shall be responsible for -

(a) the over all supervision of the general conduct of all Presidential, Members of the House of Representatives and Local Authorities Leaders election in Zanzibar;

(b) the promotion and co-ordination of voter education.

Polling districts.

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

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

Director of
Elections.
*S.6 of Act
No. 12/2002.*

7.(1) There shall be a Director of Elections who shall be appointed by the President from at least two names recommended by the Commission.

(2) The Director of Elections shall be the Secretary and Chief Executive Officer of the Commission.

(3) The Director of Elections shall perform all duties assigned by the Commission as set out under this Act.

(4) Every Registration Officer, Returning Officer or other person that serves during elections shall effect diligently all instructions issued by the Director of Elections under this Act.

Registration
Officers and
other staff.
*S.7 of Act
No. 12/2002.*

8.(1) The Commission shall appoint Registration Officers in accordance with qualifications that the Commission shall set and every Registration Officer so appointed shall be responsible for the electoral area for which he is appointed.

(2) The Registration Officer appointed for a constituency shall appoint in accordance with qualifications that shall be set 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.

Repealed of
section 9.
Returning Officer
and other staff.
*S.8 of Act
No. 12/2002.*

9. This section is repealed by section 4 of Act, No. 3 of 2000.

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

(2) A Returning Officer and Assistant Returning Officer may be appointed in accordance with qualifications that the Commission shall set.

(3) The Returning Officer may, subject to the directions of the Director of Elections, appoint such staff as may be necessary for the

purpose of conducting election in the constituency.

(4) The Returning Officer may from time to time issue directions to an Assistant Returning Officer to perform and exercise any of the power or duty conferred or imposed on the Returning Officer 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) The Returning Officer may, subject to the directions of the Commission, employ such staff as may be required 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 according to this Act, 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

Qualifications for registration.

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.

Registration agent.

11A.(1) Every political party that intends to have a candidate may nominate one of its members resident of that electoral area to every registration office who will be known as a registration agent to observe registration in the constituency where his political party has a candidate for the purposes of:

*S. 9 of Act
No. 12/2002.*

- (a) detecting personation;
- (b) representing and safeguarding the interest of a candidate at the registration office; and
- (c) co-operating with the Registration Officer, Assistant Registration Officer, Sheha or Assistant Sheha of the Shehia in which the registration office is established to secure the smooth compliance of the laws and regulations pertaining to the conduct of the registration of voters at the registration office.

(2) Every Sheha shall be the Ex-officio Registration Agent of the Commission for the Shehia in which he is a Sheha.

(3) Every Sheha of the Shehia in which the registration office is established shall co-operate with the Registration Officer, Assistant Registration Officer and the Registration Agents to secure the smooth compliance of the laws and regulations pertaining to the conduct of the registration of voters at the registration office.

Disqualification
from registration.
*S.10 of Act
No. 12/2002.*

12.(1) No person shall be registered as a voter unless he:

(a) fulfils the conditions for registration as voter as provided in the provisions of section 7(2) of the Constitution;

(b) produces his Zanzibari identity card issued under Act, No. 7 of 2005.

(2) No person shall be registered as voter in more than one constituency for elections or in more than one area in a constituency.

(3)(i) Any person who is ordinarily resident of a particular constituency shall be registered as voter of that constituency.

(ii) For the purposes of this section, a person shall be deemed to be an ordinary resident in a particular constituency if:-

(a) he has a permanent residency and has been living in that constituency consecutively for a period of 36 months from coming into force of this Act up to the election day;
or

(b) he resides in that constituency for employment reasons;
or

(c) she is a married woman or a married man and resides in that constituency as long as the husband to that woman or wife to that man as the case may be is an ordinary resident; or

(d) is another person who is a dependant of one or all the persons mentioned in paragraphs (b) and (c); or

(e) is a student who resides in a boarding school recognized by the government within that constituency.

(4) A person with more than one wife shall be free to choose as a permanent residence of any one of his wives.

(5) A person shall deemed to be qualified as an ordinary resident on employment grounds if:-

- (a) he is a police officer who is transferred in the course of employment and includes Tanzania Defence Force, National Security Force, Tanzania Police Force and Special Departments;
- (b) is a civil servant or an employee of an International Organization who is transferred in the course of his employment;
- (c) is a married woman or a man married by a person who has the qualifications of service that has migrated to another area because of the transfer of her husband or his wife;
- (d) is a dependant of an employee who has fulfilled the conditions in paragraphs (a), (b) and (c).

(6) When a person who is registered under this Act becomes disqualified as voter, his name shall be deleted from the register, provided that, name shall not be deleted from the register save as in accordance with the provisions provided in Part III and IV of this Chapter or in accordance with the decision of a Magistrate or Judge that, such person is guilty of an offences which disqualifying him from being registered as a voter or from voting.

(7) A person who, for the purposes of residency qualifications, does not qualify to be registered in his current constituency, may return to his previous constituency and registered as a voter and shall have right to be registered in that constituency notwithstanding the provisions of this section.

(8) The burden to prove that a person is not an ordinary resident in a particular constituency shall rest to the one so asserts, provided that this section does not avail the right to prove to a person applying to be registered before registration officer that he is an ordinary resident of that constituency.

(9) The Commission may from time to time by issuing orders, give directions and procedures that clarify any issue regarding residence that is not so clear provided in this section.

Establishment of
Permanent Voter's
Register.
*S.11 of Act
No. 12/2002.*

13.(1) There shall be a Permanent Voters' Register for the elections of the President, Members of the House of Representatives and Councillors.

(2) The Permanent Voters' Register shall be prepared by the Electoral Commission as early as possible.

(3) The Electoral Commission shall keep in every district a correct copy of the permanent voter's register of voters of every constituency. Every permanent voter's register shall include the names of all Zanzibaris qualified to vote in every constituency.

Regist

(4) The head office of the Electoral Commission Zanzibar and the head office of the Electoral Commission Pemba shall keep the registers of all constituencies into one permanent register of all voters in Zanzibar.

(5) Every permanent voters' register shall contains:

- (i) full name of voter;
- (ii) date of birth;
- (iii) place of residence;
- (iv) registration number;
- (v) sex of voter;
- (vi) electoral area.

(6) There shall be no other person who shall be allowed to vote in a constituency if his name is not listed in the permanent voters' register in that particular constituency.

(7) Any person who has been transferred or is residing in a constituency under subsection 3(ii) (b) up to (e) of section 12 shall have right to vote in that constituency after fulfilled all transfer procedures as prescribed in the regulations made by the Commission for that purpose.

(8) All procedures of keeping permanent voters' registers, number of registers and their uses and the manner of lodging objection shall be as provided in the regulations made by the Commission for that purpose.

Place of and
disqualification
from voting.

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.

(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.

Chang

PART II REGISTRATION

Time for
registration.
*S.3 of Act
No. 3/2004.*

16.(1) The Commission shall arrange for the registration of the voters as it may deem necessary.

(2) Any person who is entitled to be registered as a voter at any polling district and who has not been so registered may present himself at the relevant polling district for registration, as the Commission may direct.

Certificate of
registration.
*S. 9 of Act
No.3/2000.*

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.

(2) The Commission may put photographs of the voters in the certificate of registration if it is necessary so to do.

(3) 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.

Change of
residence.

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:-

(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.

Amendment of particulars.

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.

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.

Declaration relating to lost or destroyed certificate of registration.

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.

Refusal of application.

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.

PART III
OBJECTIONS TO REGISTRATION OR CONTINUED
REGISTRATION

Inspection
of register.

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.

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 26 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.

(5) 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 the register is dead.

Inquiry and
determination by
Registration
Officer.

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.

(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 reasonable cause the Registration Officer may, if he thinks fit, order in writing the objector to pay the person in regard to whom the objection has been made, 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 was 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.

Dissatisfied with the decision of the Registration Officer.

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

Appeal.
*S. 12 of Act
No. 12/2002.*

29.(1) Any person may appeal to a Regional Magistrate from:

- (a) refused to be registered in the register; or
- (b) refused of any application made under any section from section 16 to 22 of this Act; or
- (c) refused to inspect the register; or
- (d) dismissed of an objection that he has made.

(2) Every appeal under this section shall be heard and determined in a period of not more than fourteen days from the date upon which the appeal was filled and where the applicant becomes dissatisfied, may further appeal to the High Court. The decision of the High Court shall be final.

(3) No person shall claim costs or compensation in these appeals.

Removal or addition of name in the register.

30. When a name of any person:-

- (a) ordered by the Court to be entered in the register; or

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- (b) ordered by the Court to be removed from the register, the Registration Officer, after being served with the order from the Court or from the Commission, shall take steps to enter or as the case may be to remove that name from the register.

CHAPTER III PRESIDENTIAL ELECTIONS

PART I NOMINATION OF PRESIDENTIAL CANDIDATES

Nomination for
Presidential
candidate.

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.

Number of
nominators.
*S.3 of Act
No. 3/2004.*

32.(1) 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.

(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 address of the nominators of the candidate;
- (c) a certificate of the candidate that he is willing and otherwise qualified to stand for election.

Particulars of
nomination.
*S.5 of Act
No. 3/2004.*

33.(1) Every Presidential candidate shall deliver in such manner and such place as the Commission may direct before exceeding four o'clock on nomination day, two copies of each nomination paper and each shall contain the following particulars:

- (a) the names and addresses of the nominators;
- (b) the numbers of certificates of registration of the nominators.

(2) Every nomination paper shall be accompanied by:

- (a) a statutory declaration in the prescribed form, made and signed by the candidate before a Judge and declaring candidate's qualifications and that he is not disqualified for election;
- (b) a certificate in the prescribed form by the Returning

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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 passport size photographs of the candidate as the Commission may deem necessary, taken not earlier than three months preceding the nomination day;
- (d) such biographical information relating to the candidate as may be required to be given by regulations in such form as may be prescribed.

(3) Where in any case, a nomination paper is not accompanied by the documents specified in subsection (2) of this section, the nomination of the candidate shall be deemed to be void.

(4) Every candidate or his agent shall deliver his nomination paper (together with one copy thereof) signed as herein before provided as the office of the Commission not later than four o'clock in the afternoon of the nomination day.

(5) The Director of Elections shall forthwith cause a copy of the nomination paper to be posted in a conspicuous place outside his office.

Deposit.

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

Depos

(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.

Withdraw of candidate.

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 candidate.

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.

Objection as to validity of the nomination paper.
S. 6 of Act No. 3/2004.

37A.(1) Objection may be made against a nomination paper on all or any of the following grounds, but no other grounds, namely:

- (a) that the particulars given in respect of the candidate are insufficient to identify him;
- (b) that the nomination paper does not comply with or was not delivered in accordance with the provisions of this Part;
- (c) for the purpose of this Part, "nomination day" means a day nominated by the Commission to be the last day of receiving the names of Presidential candidates.

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

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

(4) The Commission shall, with the least possible delay, hear and decide on the validity of every objection, and inform the candidate

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concerned of his decision.

PART II ELECTION PROCEDURE

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.

Persons entitled to vote at a Presidential election.

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

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

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

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

S.10 of Act No. 3/2000 and

S.13 of Act No. 12/2002.

42.(1) After counting all votes in a Presidential election from all polling district in the constituency (and if required recounted), the Returning Officer shall submit to the Commission and to candidate or agent of the candidate in such manner as the Commission shall direct:-

- (a) the total number of votes cast for the Presidential election in that constituency;
- (b) the total number of votes which are in favour of each Presidential candidates;
- (c) in the case of a sole Presidential candidate, the total number of such votes which are in favour of the Presidential candidate;

then, the Commission shall add together the respective total number of certified votes for each Presidential candidate 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 total votes certified by each Returning Officer in accordance with subsection (1), declare the result of the Presidential election.

(4) A Presidential candidate shall be declared as a winner, only if he got a majority of valid votes cast more than the other contestants.

(5) Any person or institution which shall make declaration of the Presidential election result before it is declared by the Commission shall be guilty of an offence and upon conviction be liable to a fine of five hundred thousand shillings or to imprisonment for a term of five years or to both such fine and imprisonment.

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(6) The Presidential election results shall be declared within three days after election day except when there are election problems in some polling stations, three days after such problems have been resolved.

Second Ballot.
*S.14 of Act
No. 12/2002.*

43.(1) If in the Presidential elections, contestants with the most votes tie, the Presidential election shall be repeated.

(2) The Electoral Commission shall, by notice published in the Official Gazette announce another suitable date which shall not be more than 40 days from the election date, for the purpose of nomination of Presidential candidates and the voting processes forthwith shall start afresh.

CHAPTER IV THE HOUSE OF REPRESENTATIVES ELECTIONS

PART I QUALIFICATION OF CANDIDATES

Qualification of
House of
Representatives
candidate.

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.
*S.12 of Act
No. 3/2001.*

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 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 four months and not more than 25 months after the occurrence of the even by reason of which the by-election is to take place.

Save that for any reasonable cause, the House of Representatives may, by resolution passed on a motion to be moved by a Minister, set a period earlier than 24 months within which the Commission may appoint a nomination day for the relevant by-election or by-elections; and such

earlier period shall be specified in the resolution.

(2) The Speaker shall in writing notify the Chairman of the Commission the period which has been set by the House of Representatives for that purpose.

(3) There shall be no by-election in the last twelve months of the life of the House of Representatives.

(4) 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 subsection (1).

(5) 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.

Nomination of
candidates.
*S.12 of Act
No.3/2000.*

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 of his party registered in the polling districts within the constituency for which he is a candidate.

(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 preceding the nomination day;
- (d) such biographical information relating to the candidate as may be required to be given by regulations in such form as may be prescribed.

(4) Where, in any case, a nomination paper is not accompanied by the documents specified in subsection (3) the nomination of the candidate shall be deemed to be void.

Provided that the Commission may, in any particular case, if it thinks reasonable so to do, direct that the nomination paper 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) A nominator may subject to the provisions of subsection (8), nominate one candidate each for Presidential, House of Representatives and local authority election.

(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 valid 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, the Returning Officer shall, as soon as is reasonably practicable after the declaration of the result of the election, returned to him or paid to his personal legal representative.

Candidate to be nominated for one seat only.

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.

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Objection and decision as to validity of nomination paper.

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

Object

- (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 day.
*S.15 of Act
No. 12/2002.*

51.(1) The Commission shall publish a notice in the Gazette which signifies the day on which elections shall be held not less than 60 days and not more than 90 days from the date of nomination of candidates.

(2) All Presidential elections in Zanzibar, House of Representatives and Councillors shall be held on the same day except where there is a reasonable reason accepted by the Commission, elections in a particular constituency or constituencies may be postponed by the Commission by making announcement in the media to the following day or any other day as appointed by the Commission.

(3) Where the candidates nominated for by-election in a constituency, the Commission shall by notice published in the Gazette, appoint a day not more than thirty days after the day on which they have been nominated for election in the constituency.

(4) Notwithstanding the provisions of subsections (1) and (2), the Commission may for a reasonable ground or upon the occurrence of an event preventing an election not to be held, revoke the election day previously appointed and appoint another election day, being a day within the period specified under subsection (1) or (2) as the case may be, after the revocation or occurrence of the event, 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) of 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

Withdrawal of candidature.

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 proceeding nomination day and if that day is not a working day, a day preceding that other day.

Death of candidate.

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.

(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 published 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.
S.14 of Act No. 3/2000 and S.16 of Act No.12/2002.

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

(2) An agent or party, as the case may be, shall furnish to the Commission a schedule and a copy to the District Commissioner, indicating the proposed programme for his campaign for public rally specifying times and places of those meetings.

(3) Any agent or political party preparering campaign on behalf or consent of the candidate, 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 party and policy, provided that the notices for that meetings are sent to the Commission and copies thereof to the District Commissioner.

(4) No person shall conduct election campaign at a place of worship or learning institution, and any person who conducts the election campaign at such places shall be guilty of an offence and upon conviction be liable to a fine of five hundred thousand shillings or to imprisonment

Death
candid

for a term of not exceeding six months or both such fine and imprisonment.

(5) For the purposes of this section, the Electoral Commission shall include Returning Officers of the concerned district.

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

Qualifications for election for Local Authority.

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.

(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.

Disqualifications for election for Local Authority.
S.15 of Act No. 3/2000.

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

- (a) if he is 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 serving a sentence of imprisonment exceeding six

months for a criminal offence; 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.

(2) For the purpose of sub-paragraph (1) 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 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.
S.8 of Act No. 3/2004.

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.

(4) The provision of Chapter VI of this Act relating to election, voting and counting procedure shall, mutatis mutandis, apply to elections in respect of the members of the Local Authority, except that reference to constituency shall be construed as ward.

CHAPTER VI ELECTION AND VOTING PROCEDURE

PART I ELECTION PROCEDURE

Polling days
and times.

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.

Arrangements
for contested
elections.

63. The Returning Officer shall, by following the directives and guidelines of the Commission, perform the following:

*S.17 of Act
No. 12/2002.*

- (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 act and thing as he may be directed to do by the Commission.

Polling agent.
***S.18 of Act
 No.12/2002.***

64.(1) Every Polling Agent shall be a resident of the polling district to which the polling station is situated.

(2) Every political party which has a candidate in each constituency shall appoint one of its members to be known as a polling agent for every polling station in the constituency in which that party has 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.

(3) 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.

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

(5) 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.
*S.9 of Act
No.3/2004.*

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.

Form of ballot
paper.
*S.17 of Act
No. 3/2000.*

66. Every ballot paper shall:

(a) contain the full names, addresses and occupations of the candidates as shown in their respective nomination papers arranged in the order in which they appear in the notice placed in accordance with section 46 and their photographs;

(b) capable of being folded up;

(c) have a serial number printed thereon;

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

(e) contain party symbol.

Prohibition of
disclosure of
vote.

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

Except that this section shall not apply in any legal proceedings in which the question whether a Presiding Officer acting under the provisions of paragraph (h) or (i) of section 68 acted bona fide as in issue.

PART II VOTING AND COUNTING PROCEDURE

Methods
of voting.
*S.19 of Act
No. 12/2002.*

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

(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) there shall be no number, mark or name be written on top of the ballot paper that may identify a voter; 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 subparagraphs (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 spoiled ballot paper;

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

(k) 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") that the companion-

(i) is a qualified person in accordance with the provisions of this paragraph; 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) is a 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 voters 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 any 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.

Voting by
Polling agent.
**S.18 of Act
No. 3/2000.**

69.(1) Notwithstanding the provisions of section 68, a person appointed as a Polling Agent, Returning Officer, Assistant Returning Officer, Presiding Officer and his Assistants and Member of the Commission for the purpose of 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 voting for the candidate of his choice on the special ballot paper and sending it to the Returning Officer for that constituency in a sealed envelop marked "Ballot".

(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) The 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.

Admission to
polling station.
**S.19 of Act
No. 3/2000 and
S.20 of Act
No. 12/2002.**

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 is a voter.

(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 68;
- (f) Observer duly authorized in writing by the Commission;
- (g) candidate;
- (h) Member of the Commission;
- (i) Director of Elections;
- (j) a police officer and any other police when it is necessary for the purposes of maintaining security at a polling station.

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

(4) Where any person within the polling station misbehaves or fails to obey the lawful orders of the Presiding Officer, the Presiding Officer may, immediately, order such person to be removed by a police officer responsible for the security of the polling station or from nearby polling 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.
S.20 of Act No.3/2000.

71.(1) Where the Presiding Officer at any polling station has reason to believe, or where a candidate or a 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 at that polling station; 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 73 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 subsection (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.

Repealed of section 72.

72. This section is repealed by section 21 of Act No. 12 of 2002.

Declaration by voters.

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.

(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 it 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.
*S.22 of Act
No.12/2002.*

75. Where at the time of the closing of the poll at any polling station there are some voters who have not casted their votes, the polling shall continue for sufficient time to enable them to vote, provided that the Presiding Officer shall order the police officer present at the polling station to stand behind the last voters present at the time of closure of the poll, so that to prevent voters who may come after the closure time, from voting

Procedure on
closing of poll.
*S.10 of Act
No.3/2004.*

76.(1) Before the closing of the polling station and 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 subsection (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 candidates in attendance and of the polling agent if any, make 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 in attendance and who 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.

Counting agent.

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

(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.

Counting of
votes.
*S.21 of Act
No.3/2000.*

78.(1) The Presiding Officer of each polling station assisted by the Polling Assistants assigned to the polling station, shall soon after the closing of the poll, in the presence of the persons referred to in section 79 if present, proceed continuously with the counting of votes in accordance with the methods and the procedures provided in this Part until the counting is completed.

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

(3) Each complaint made which can be resolved or settled, shall be resolved or settled at the stage at which it is made and the Presiding Officer shall prepare an account in the prescribed form, relating to that complaint and how it was resolved.

(4) Every statement recorded by the Presiding Officer in accordance with this section shall be confirmed by the Polling Agent, Presiding Officer and the Polling Assistant, signed and submitted to the Returning Officer.

Person who may
be present at
counting station.

79.(1) No person other than the following shall be allowed to present at the counting of votes:

*S.22 of Act
No.3/2000
and
S.23 of Act
No.12/2002.*

- (a) the Presiding Officer or Assistant Presiding Officer;
- (b) an enumerator;
- (c) a Polling Agent;
- (d) a candidate;
- (e) a Police Officer and any other type of Police if necessary for the purpose of maintaining security in the counting of votes;
- (f) a Returning Officer or Assistant Returning Officer;
- (g) Member of the Commission or an electoral officer;
- (h) an Observer duly authorised in writing by the Commission.

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

(3) No person other than those referred to in subsection (1) shall be allowed to be within the radius of 200 metres of the place where votes are being counted.

Method of
counting votes.
*S.11 of Act
No. 3/2004.*

80.(1) Before the Presiding Officer or Polling Assistants proceed to count the votes, they shall, in the presence of the persons referred to in section 79(1), if present:

- (a) count and record the number of all votes received at the polling station;
- (b) ascertain and record the number of all persons who voted at the polling station;
- (c) count and record the number of all the unused ballot papers;
- (d) count and record the number of rejected votes;
- (e) ascertain that there is a proportion of count of ballot papers, the number of voters voted in the polling station and the number of ballot papers used;
- (f) inspect the seal and to ascertain whether it has been opened or tampered with;
- (g) unseal the seal; and
- (h) open the ballot box.

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

(3) For the purpose of Part II of Chapter VI of this Act, the word seal includes a padlock and any other procedure, machinery or thing which is approved by the Commission for securing integrity of the contents of a ballot box, and the words seal, open, close or unseal, with their grammatical variations and cognate expressions shall, when used in relation to a seal or a ballot box, have a corresponding meaning.

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

- (a) the Presiding Officer shall unfold each ballot paper, display it for viewing by those present and announce a loud the candidate for which the vote has been cast or whether the ballot paper is blank, spoiled or otherwise invalid;
- (b) the ballot papers which have been announced shall be arranged and displayed in separate lots facing upwards, according to the candidate for which they are cast or as blank or invalid votes;
- (c) the Presiding Officer shall count a loud and record the votes in each lot and verify their total with the total of all the ballot papers which were found in the ballot box and the number of voters who cast their votes at the polling station.

Powers of the Commission regarding valid vote.
S.24 of Act No.3/ 2000.

80A.(1) Notwithstanding the provisions of section 68 of this Act, the Commission may by regulations, give directions specifying, valid and invalid votes

(2) Any regulations made under this section shall be published in the Gazette.

Method of declaration of result.
S.12 of Act No.3/ 2004.

80B.(1) Upon the conclusion of the counting of the votes in accordance with section 80, the Presiding Officer shall:

- (a) seal up in separate packets the valid, the disputed and the rejected, ballot papers;
- (b) prepare a separate report of the results of each Member of the House of Representatives and Presidential elections in the manner and form as the Commission may direct, which shall be signed by the Presiding Officer and the polling agents, if present;

- (c) require the polling agent or if present a candidate to state in the prescribed form any complaint or to confirm satisfaction with the counting of votes;
- (d) affix in some conspicuous place a copy of the report of the partial results of the elections at the polling station;
- (e) give each polling agent a copy of the report of results;
- (f) lock up and seal in the ballot box, all the packets of ballot papers; and
- (g) accompanied by such number of polling agents present as the Commission shall direct, transmit and hand over to the Returning Officer concerned, the ballot box together with the report of the partial results of the elections at the polling station.

(2) Where the candidate or his agent refuses to sign the prescribed form under this section the Presiding Officer or polling assistant shall require such candidate or agent to give reasons in writing for refusal.

(3) Where a candidate or his agent refuses to comply with the provisions of subsection (2) of this section he shall be stopped from raising any complaint regarding the voting and the counting procedure in that particular station.

Votes which are invalid to be counted as ballot papers.

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.

(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.

Endorsements by Returning

82.(1) The Returning Officer or an Assistant Returning Officer shall endorse the word 'rejected' on any ballot paper which, under the

Officer. provisions of section 83 is not counted.

(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.

Rejected ballot papers.

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

- (a) want of official mark;
- (b) vote casted 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;
- (c) put or written a mark which may identify voter; and
- (d) unmarked or void for uncertainty and shall on request allow any counting agent to copy the statement.

Addition of votes.
S.13 of Act No.3/2004.

83A.(1) No other person than the following shall be authorized to be present at the addition of votes:

- (a) Returning Officer;
- (b) Assistant Returning Officer;
- (c) a member of the Commission;
- (d) the Director of Elections or an electoral officer of the Commission;
- (e) a candidate;
- (f) a counting agent;
- (g) a police officer or such other person responsible for security if necessary at the place of counting;
- (h) Observers duly authorized in writing by the Commission.

(2) After all the reports of the results and ballot boxes containing ballot papers relating to the Parliamentary election have been received from the polling stations in the constituency, the Returning Officer shall, after determining the validity of any disputed votes and before the addition of the votes, announce aloud the results of each polling station in the constituency seriatim.

(3) The candidate or polling agent may request the Returning Officer to check on any part of the addition to ascertain its accuracy but shall not

be entitled to request a recount of all the votes or all the ballot papers from any polling station, unless the accuracy of the report of the results from that polling station, were disputed by the polling agent or candidate present at the polling station.

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

(5) Addition of the Presidential and Members of the House of Representatives votes shall be done separately.

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 procedures for such vacancy shall be commenced afresh.

Candidate or counting agent 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.

Duties of Returning Officer after conclusion of counting of votes.

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 spoilt papers in his possession and the tendered voters list and shall re-seal each packet after examination.

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

(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.

Declaration
of result.
*S.14 of Act
No. 3/2004.*

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

- (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.

Custody of
documents.

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

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

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

Power of Polling
Assistants.

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.

Candidate has power of his polling or counting agent.

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.

Access and obligation of public media.
S.25 of Act No.3/ 2000.

91A.(1) Every candidate for the office of the President of Zanzibar and political parties participating in an election shall have the right to use the state radio and television broadcasting service during the official period of election campaign.

(2) For the purpose of giving effect to this section the Commission may in writing issue binding directives to any Government owned media.

Non attendance of agents shall not invalidate election procedures.

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 that purpose, shall not, if the act or thing is otherwise properly done, invalidate the act or things done.

Where two or more elections held simultaneously.

93. Where in the polling district the same day is appointed as the election day for the Presidential election and 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 elections;

- (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

Offences relating to registration.

*S.26 of Act
No.3/2000.*

95.(1) Any person who:

- (a) for the purposes of procuring the registration of himself or of any other person, or of procuring a certificate of registration from a Registration Officer or from any other person having any duty in relation to the application for registration or for the issue of certificates of registration, gives any false statement material to any application on his own behalf or on behalf of such other person for registration or for the issue of a certificate of registration; or
- (b) knowing or having reason to believe that he is registered in a polling district, applied to be registered otherwise than in accordance with section 18, and without disclosing to the Returning Officer his previous registration in another polling district; or
- (c) applies to be registered in a polling district after he has applied to be registered in another polling district and the earlier application has not, been determined pending any investigation into the applicant's qualifications or withdrawal; or
- (d) having been issued with a certificate of registration, applies for the issue to himself of new certificate of registration, otherwise than in the circumstances set out in sections 18, 19 or 20 and without disclosing to the Returning Officer the circumstances in which the application is made; or
- (e) knowingly makes any declaration provided for in section 21 which is false, or which he does not believe to be true in material particular;

shall be guilty of an offence and upon conviction be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not less than six months and not more than one year 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 upon conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not less than three months or to both such fine and imprisonment.

Offences in
relation to
nomination
papers or ballot
papers.
*S.27 of Act
No.3/ 2000.*

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 counterfeits or fraudulently destroys any ballot paper or the official mark on any ballot paper; or
- (c) without due authority supplies any ballot paper to any person;
or
- (d) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorized by law to put in; or
- (e) without due authority takes out of any polling station any ballot paper or is found in possession of any ballot paper outside a polling station; or
- (f) without due authority, destroys, takes, opens or otherwise interferes with any ballot papers other than in use for the purpose of an election; or
- (g) knowingly nominates more than one Presidential candidate; or
- (h) being a Returning Officer or a Presiding Officer knowingly or negligently fails to put a correct authentication mark on a ballot paper; or
- (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 one hundred thousand shillings or to imprisonment for a term not less than six months 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 fifty thousand shillings or to imprisonment for a term not less than three 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.

Official discouragement of person from seeking nomination etc.

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

(2) No proceedings shall be instituted against any person for an offence contrary to this section without 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.

Offences in relation to registers and certificates of registration.
S.28 of Act No. 3/2000.

98.(1) Every person who:

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

shall be guilty of an offence and shall be liable on conviction to fine not exceeding one hundred thousand shillings or to imprisonment for a term not less than six months 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 fifty thousand shillings or to imprisonment for a term not less than three months or to both such fine and imprisonment.

PART II OTHER ELECTIONS OFFENCES

Miscellaneous offences.

*S.29 of Act
No.3/2000.*

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 fifty thousand shillings or to imprisonment for a term not less than three months or to both such fine and imprisonment.

Maintenance of secrecy at election.

*S.30 of Act
No. 3/2000.*

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 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 one hundred thousand shillings or to imprisonment for a term not less than six months or to both such fine and imprisonment.

Penalty for bribery, treating etc.

S.31 of Act No.3/2000.

101. Any 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 fifty thousand shillings or to imprisonment for a term not less than six months or to both such fine and imprisonment.

Penalty for personation.

S.32 of Act No.3/2000.

102. Any 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 one hundred thousand shillings or to imprisonment for a term not less than six months or to both such fine and imprisonment.

Disqualification entitled by conviction for corrupt or illegal practice.

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

(2) Any 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 an election under this Act.

Person to be deemed guilty of bribery.

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

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

- (b) any person directly or indirectly by himself or by any other person on his behalf, gives or procures or agrees to give or procure or to endeavour to procure, any office, place or employment to or for any voter or to or for any person on behalf of any voter, or to or for any other person, in order to induce such voter to vote or refrain from voting or corruptly does any such act as aforesaid on account of such voter having voted or refrained from voting at any election;
- (c) any 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) any 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) any 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 expends in bribery at any election;
- (f) any voter who, before or during any election, directly or indirectly, by himself or by any other person on his behalf, receives, agrees to receive or contracts for any money, gift, loan or valuable consideration, office, place or employment for himself or for any other person, for voting or agreeing to vote or for refraining or agreeing to refrain from voting at any election; and
- (g) every person who, after any election, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting, or having induced any other person to vote or refrain from voting at any election.

Provided always that the 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 bona fide incurred at or concerning any election.

Person to be deemed guilty of treating.

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

- (a) any 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 or 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) any person who corruptly accepts or takes any such food, drink, entertainment or provision.

Person to be deemed guilty of undue influence.

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 refrain from giving his vote at any election shall be guilty of undue influence within the meaning of this Act.

Bribery treating and undue influence in relation to members of an organ or party.
S.33 of Act No.3/2000.

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 a political party or an organ which is charged with the organisation and conduct of the relevant election campaign, 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 described on account of discriminating of having discriminated in favour of one or other of the candidates, he shall be deemed, according to the circumstances of the case to be guilty of bribery, treating or undue influence within the meaning of this Act.

(2) For the purposes of this section, section 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.

Person to be deemed guilty of personation.

108. Any person who at any election:

- (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.
S.34 of Act No.3/2000.

109.(1) Any 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 on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not less than six months or to both such fine and imprisonment.

Interference with lawful public meeting to and illegal practice.
S.35 of Act No.3/2000.

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 fifty thousand shillings or to imprisonment for a term not less than three or to both such fine and imprisonment.

Display of emblems in vicinity or place of voting prohibited.
S.36 of Act No.3/2000.

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 candidate in the election.

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

Defacement of notice.
S.37 of Act No.3/2000.

112. Any 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 fifty thousand shillings.

Documents to bear name and address of printer and publisher.
S.38 of Act No.3/2000.

113.(1) A person shall not:-

- (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

Qualif
candid

(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 fifty thousand shillings or to imprisonment for a term not less than three 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.

Person convicted of corrupt or illegal practice to be removed from register.
S.39 of Act No.3/2000.

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:-

(a) shall delete the name of such person from the register of voters in which he is registered; and

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

(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 section 30(2) 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 fifty thousand shillings or to imprisonment for a term not less than three months or to both such fine and imprisonment.

Offences
in relation to
nomination
papers etc.
*S.40 of Act
No.3/2000.*

114A.(1) Any person who:-

- (a) forges or fraudulently defaces or fraudulently destroys any nomination paper, or ballot paper or delivers to a Returning Officer any nomination paper knowing the same to be forged;
- (b) knowingly nominates more than one Presidential candidate;
- (c) forges or counterfeits or fraudulently destroys any ballot paper or the official mark on any ballot paper;
- (d) being a Returning Officer or Presiding Officer knowingly or negligently fails to put an official mark on a ballot paper;
- (e) being a Returning Officer or Presiding Officer knowingly or negligently authorises the use of a tendered ballot paper in a manner which contravenes the provisions of this Act;
- (f) being a Returning Officer or Presiding Officer performs his duties negligently;
- (g) without due authority supplies any ballot paper to any person;
- (h) fraudulently puts into any paper other than the ballot paper which he is authorized by law to put in;
- (i) 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;
- (j) without due authority destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers in

use for the purpose of an election.

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding three hundred thousand and not less than one hundred thousand shillings or to imprisonment for a term not less than three months or to both such fine and imprisonment.

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

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

False publication
of withdrawal
of candidate.
*S.41 of Act
No.3/2000.*

114B. Any person who knows to be false by utterance, print or broadcasting, publishes any statement of the withdrawal of any candidate for the purposes of promoting the election of another candidate, is guilty of an illegal practice and shall be liable on conviction to a fine not exceeding two hundred thousand or to imprisonment for a term not less than three months and not more than six months.

Corrupt
inducement of
withdrawal of
candidate.
*S.42 of Act
No.3/2000.*

114C. Any person who corruptly induces or procures another person to withdraw from being a candidate to an election in consideration of payment or promise of payment and any person who withdraws in pursuance of such inducement or procurement, is guilty of corrupt practice and shall be liable on conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not less than three months and not more than six months.

CHAPTER VIII PROCEDURE AND JURISDICTION OF COURT.

Petition triable
by High Court.

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

(2) Witness shall be summoned and sworn in the same manner as the 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.

Who may
present petition
and deposit of
security for
costs.
**S.43 of Act
No.3/2000.**

116.(1) An election petition may be presented by any one or more of the following persons, namely:-

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

(2) The Registrar shall not fix a date for the hearing of any election petition unless the petitioner has paid into the Court as security for costs a sum of three hundred thousand shillings for Members of House of Representative and one hundred thousand shillings for Councillor in respect of the proposed election petition.

(3) The provisions of subsection (2) requiring a petitioner to give security for costs shall not apply to the Attorney General in any case in which the Attorney General is the petitioner or one of the petitioners.

Reliefs in
Election Petition

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

- (a) a declaration that the election is void;
- (b) a declaration that the nomination of the person elected was invalid;
- (c) a declaration that any candidate was duly elected;

- (d) to order an enquiry to be made where the seat is claimed for an unsuccessful candidate on the ground that he had a majority of lawful votes.

Certificate of a court as to validity of election.

118. At the conclusion of the trial of an election petition the Court shall order 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 or a candidate on behalf of whom the seat is claimed by an election not certified by the High Court under this section, the Court shall give such an opportunity of being heard and of giving and calling evidence to show why he should not be so certified.

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

Time for presentation and determination of election petition.

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.

(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.

Votes to be struck off at a scrutiny.

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

- (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 in 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.

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

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

- (a) that any act or omission of a candidate at any election or of his agent or another person which but for this section would be an illegal practice, has been done or made in good faith through inadvertence or accidental miscalculation or some other reasonable cause of a like nature; and
- (b) that upon taking into account all the relevant circumstances it would be just that the candidate or his agent or another person, or any of them, should not be subject to any of the consequences under this Act of such act or omission, the High Court may make an order allowing the act or commission to be an exception from those provisions of this Act which would otherwise make 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

Inaccurate descriptions.

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.

Powers of Director of election, Registration and

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

Returning Officers to demand information

the place of abode of any person, and to ascertain whether any person has become disqualified from voting or standing as a candidate.

(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.

Remuneration of staff.
S. 24 of Act No.12/ 2002.

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

Expenses to be charged on Consolidated Fund.

128. All expenses incurred:

- (a) in the preparation of the registers, the issue of certificates of registration and in doing such other matters or things as may be required to be done for expenses to be charged on the Consolidated Fund for the purpose of carrying out the provisions of this Act, and
- (b) by the Commission, 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 of his last known address.

Regulations.
S. 25 of Act No.12/ 2002.

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;
- (c) to set procedures for registration and objections to the permanent voters' register.

(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 this Act.

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

Allowances of Members of Commission.
S.26 of Act No.12/2002.

133. Members of the Commission shall be paid salaries, allowances and other benefits as shall be decided by the President from the Consolidated Fund.