

TANGANYIKA



No. 40 OF 1962

I ASSENT,

A handwritten signature in black ink, appearing to be 'R. J. M. M. M.', written over a horizontal line.

*Governor-General*

11 TH JULY, 1962

**An Act to make provision for the Election of a President Designate**

[13TH JULY, 1962]

WHEREAS it is intended that Tanganyika shall become a Sovereign Republic, and, accordingly, it is necessary that provision be made for the election of a President Designate who shall become the first President of Tanganyika:

BE IT THEREFORE ENACTED by the Parliament of Tanganyika:

**1.** This Act may be cited as the President Designate (Election) Act, 1962. Short title

**PART I**

PRELIMINARY

- 2.**-(1) In this Act, unless the context otherwise requires-
- "candidate" means a candidate for election as President Designate;
  - "the Commission" means the Electoral Commission established by the Constitution;
  - "constituency" "national register" "period of first registration" and "polling district" bear the meanings respectively assigned to those expressions in the Registration Act;
  - "election" means the election of a President Designate provided for in this Act;
  - "Elections Regulations" means the Legislative Council Elections Regulations, 1960; Interpretation  
G.N 1960  
No 55
  - "Registration Act" means the Registration of Voters (National Elections) Act, 1962; Act 1962  
No 41
  - "Registration Officer" means a Registration Officer appointed, or whose appointment has effect as if it were made, by the Commission under the Registration Act;
  - "Returning Officer" and "Assistant Returning Officer" mean respectively a Returning Officer and an Assistant Returning Officer appointed under the Elections Regulations.
- (2) It is hereby declared for the avoidance of doubts that the power of appointment of Returning Officers under the Elections Regulations is vested in the Commission.

- Election to be held for President Designate Electoral Commission
- 3.** An election shall be held in accordance with the provisions of this Act for a President Designate who shall, on Tanganyika becoming a Sovereign Republic, become the first President of Tanganyika.
- 4.**-(1) The conduct of the election shall be subject to the direction and supervision of the Commission.
- (2) Directions given and notices issued over the signature of the Chairman or a member of the Commission, on of a secretary, to the Commission, shall be deemed to be the directions and notices of the Commission.

## PART II

### QUALIFICATIONS AND NOMINATION OF CANDIDATES

- Qualifications
- 5.** Any citizen of Tanganyika who-
- (a) is or is deemed to be registered or is entitled to be registered as a voter under the Registration Act; and
  - (b) has attained the age of thirty years; and
  - (c) is nominated in accordance with the provisions of this Act by not less than one thousand persons registered or deemed to be registered on the national register,
- shall be qualified for election as President Designate.
- Nomination day
- 6.**-(1) The Commission shall, by notice in the *Gazette*, appoint a day (hereinafter referred to as nomination day) after the period of first registration, before noon on which nominations in respect of candidates for election shall be delivered to the Commission at its offices in Dar es Salaam.
- (2) In appointing a day under this section, the Commission shall have regard to the necessity, in the event of a contested election, for the holding of a national poll in accordance with the provisions of Part 1.11 of this Act, and of enabling the election to be determined before the ninth day of November, 1962.
- (3) The Commission shall give at least four weeks' notice of nomination day.
- Nomination
- 7.** (1) A candidate for election shall deliver to the Commission before noon on nomination day two copies of a nomination paper, in a form to be obtained from the Commission, which shall contain the following particulars: —
- (a) the names, address and description of the candidate;
  - (b) the names, addresses and polling districts of the nominators of the candidate, and the serial numbers of their respective accepted application forms under the Registration Act;
  - (c) a certificate by the candidate that he is willing to stand for election;
- and in addition at least one of the copies of the nomination paper shall contain the signatures or marks of all the nominators of the candidate.
- (2) Every nomination paper shall be accompanied by--
- (a) a statutory declaration, made and subscribed before a magistrate, by the candidate that he is a citizen of Tanganyika and that he has the qualifications prescribed in paragraphs (a) and (b) of section 5; and

(b) a certificate in respect of each nominator by the Registration Officer in charge of the polling district in which such nominator is registered or deemed to be registered on the national register, identifying the nominator by his name, address and the serial numbers of his accepted application form under the Registration Act, and certifying that he is so registered or deemed to be registered:

Provided that where more than one nominator is registered or deemed to be registered in any polling district a Registration Officer may give one certificate in respect of all or any two or more such nominators, and where a Registration Officer issues a certificate in respect of more than one nominator, the production of such certificate to the Commission shall be deemed to be a compliance with the provisions of this paragraph in respect of all the nominators included therein.

(3) No person shall nominate more than one candidate, and where a Registration Officer has issued a certificate under paragraph (b) of subsection (2) in respect of a person's nomination of one candidate he shall refuse to issue a certificate in respect of that person's nomination of another candidate.

(4) Every statutory declaration and certificate under subsection (2) shall be in a form to be obtained from the Commission, and a Registration Officer shall, save in the case provided for in subsection (3), when requested by or on behalf of a candidate to issue a certificate in respect of a nominator registered or deemed to be registered in a polling district of which he has charge, issue a certificate accordingly.

(5) The Commission shall reject a nomination unless it is made in the manner, and accompanied by the statutory declaration and a certificate or certificates in respect of all the nominators, prescribed] in this section: and every nomination so rejected shall cease to be valid.

(6) The fact that subsequent to noon on nomination day the name of a person who has nominated a candidate is not included in a register or is struck out of a register of voters under the provisions of Part V of the Registration Act shall not invalidate the nomination of the candidate.

**8.** A candidate may withdraw his candidature by notice in writing signed and delivered to the Commission by him not later than noon on nomination day, but not otherwise; and upon such delivery such candidate's nomination shall cease to be valid.

Withdrawal  
of  
candidate

**9.** Forthwith after noon on nomination day, the Commission shall publish at its offices, and in such other manner as it thinks fit, a copy of the nomination paper of every candidate who has been nominated other than a candidate who has withdrawn his candidature or whose nomination has been rejected under subsection (5) of section 7-

Publication  
of nomina-  
tion

Provided that the publication of a nomination paper under this section shall not prevent the Commission, after it has had an opportunity of examining and verifying the nomination paper and the statutory declaration and certificates which accompany it and before noon on the day following nomination day, from rejecting the nomination under subsection (5) of section 7.

Objections  
as to  
validity of  
nominations

**10.**-(1) Objection may be made to a nomination paper on the grounds that—

- (a) the description of the candidate is insufficient to identify him;
- (b) it is apparent from the contents of the nomination paper or otherwise that the candidate is not qualified to stand for election by reason of his not being a citizen of Tanganyika or of his not complying with the provisions of paragraph (a), or (b) of section 5;
- (c) the nomination paper discloses an insufficient number of qualified nominators;
- (d) the nomination paper was not delivered to the Commission in the manner prescribed by this Act or was not accompanied by a statutory declaration or a certificate or certificates under paragraph (b) of subsection (2) of section 7 in respect of all the nominators,

but on no other grounds.

(2) Every objection shall —

- (a) be in writing signed by some other candidate validly nominated at the time of making the same;
- (b) specify the grounds of objection;
- (c) be made to the Commission before noon on the day following nomination day,

and unless so made shall not be received.

(3) The Commission shall with the least possible delay decide on the validity of every objection and shall inform the candidate concerned of its decision, and, if the objection is allowed, of the grounds thereof. Where the Commission allows an objection, the nomination of the candidate in respect of whom it was made shall cease to be valid.

(4) The decision of the Commission under the foregoing provisions of this Part rejecting a nomination paper, or that a nomination or a nomination paper is valid or invalid, shall be final and conclusive and shall not be called in question in any court.

Unopposed  
candidates

**11.**-(1) Where, after noon on the day following nomination day and after all objections made under section 10, have been determined, there is only one qualified candidate, that candidate shall be deemed to have been elected as President Designate and the Commission shall forthwith publicly declare such candidate to have been elected.

(2) A declaration of the Commission under this section shall be final and conclusive and shall not be called in question in any court.

More than  
one  
candidate

**12.**-(1) Where, after noon on the day following nomination day and after all objections made under section 10 have been determined, there are two or more qualified candidates, the election shall be determined by a poll held in every polling district in Tanganyika and the Commission shall, by notice in the *Gazette*, appoint a day or days not earlier than six weeks or later than ten weeks after nomination day on which polling shall take place.

(2) The Commission shall give at least four weeks notice of polling days.

13.-(1) Where —

- (a) at any time after noon on nomination day and before the ninth day of December, 1962, an unopposed candidate or a candidate elected as President Designate dies; or
- (b) at any time after noon on nomination day and after all objections made under section 10 have been determined, and before the election of a President Designate—
  - (i) a qualified candidate dies, or
  - (ii) there is no qualified candidate,

Death or  
lack of  
candidates

the Commission shall forthwith, in the case provided for in paragraph (a), appoint a nomination day for a new election, and in the case provided for in paragraph (b), appoint a further nomination day and, where it has already appointed a polling day or days, revoke such appointment.

(2) Where a new appointment is made under this section, the appropriate procedures shall be commenced *de novo*, save that—

- (a) the provisions of subsection (2) of section 6 shall not apply; and
- (b) in the case provided for in sub-paragraph (i) of paragraph (a) of subsection (1) of this section, no new nomination shall be required in the case of a surviving qualified candidate.

### PART III

#### CONTESTED ELECTIONS

14.-(1) Where there is a contested election under this Act, every person who is registered or deemed to be registered on the national register shall, unless disqualified from voting under section 15, be entitled to vote at such election in accordance with the provisions of this Act in the polling district in which he is registered or deemed to be registered, and no person other than such a person shall be entitled so to vote.

Voters at  
a contested  
election

(2) A person registered or deemed to be registered on the national register whose name has been changed consequent upon marriage or otherwise since being so registered or being deemed to be so registered shall, if not disqualified from voting under section 15, be entitled to vote under the name in which she or he is so registered or deemed to be registered.

(3) A person entitled to vote under this Act shall have one vote.

15. No person being registered or deemed to be registered on the national register shall be entitled to vote at a contested election under this Act if any circumstances arise in relation to that person that if he were not so registered or deemed to be registered would cause him to be disqualified for registration under section 7 of the Registration Act.

Disqualifica-  
tion from  
voting

16. (1) The Commission shall provide every Returning Officer with a sufficient number of ballot papers for his constituency in sufficient time to enable the Returning Officer to distribute the same to polling stations.

Electoral  
Commission  
to provide  
ballot  
papers

(2) Ballot papers shall contain the names of the candidates and shall be in the like form as ballot papers used in elections to, the National Assembly.

Notice of  
election

**17.**-(1) Every Returning Officer shall, not later than eight days before the first polling day in his constituency, give notice in his constituency in such manner as he shall think fit of the following matters in respect of every polling district in his constituency:—

- (a) the day (being one of the days appointed by the Commission) of polling in that district and the time of the opening and closing of the poll;
- (b) the address of the polling station or polling stations;
- (c) where there is more than one polling station in a polling district, the voters assigned to each station.

(2) Every notice under subsection (1) shall contain a list in alphabetical order of the full names, addresses and descriptions of the candidates qualified for election.

(3) Where the Returning Officer has appointed a polling day for a polling district he may, where it appears to him to be in the public interest so to do, give notice in the constituency in such manner as he may think fit altering the polling day appointed for such polling district to some other day, being one of the days appointed by the Commission.

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

Election  
procedure

**18.** (1) The provisions of the following regulations of the Elections Regulations, that is to say-

regulations 40, 41, 42, 44 to 49A (inclusive), 51 to 59 (inclusive), 61, 63, 66, 67 and 68,

shall apply *mutatis mutandis* to an election under this Act, and as if—

- (a) references to candidates for a seat in the constituency were references to, qualified candidates under this Act;
- (b) references to the Supervisor of Elections were references to the Commission;
- (c) references to voters were references to persons entitled to vote under section 14 and references to registers of voters included references to duplicate copies of accepted application forms under the Registration Act;
- (d) for the provisions requiring tendered ballot papers to be of a different colour from that of ordinary ballot papers there were substituted a provision requiring tendered ballot papers to be marked in accordance with the directions of the Commission;
- (e) regulation 51 provided that the certificates issued under regulation 47 were to be included in the package of the marked duplicate copies of accepted application forms under the Registration Act, and that the declarations provided for in regulation 46 and the oaths and affirmations provided for in regulation 48 were to be included in the package of tendered ballot papers;
- (f) references to the close of the poll in the constituency were references to the latest close of the poll in a polling district in the constituency.

(2) If at the hour of closing the poll at any polling station there are voters present who have not had an opportunity to vote, the poll shall be kept open a sufficient time to enable them to vote; but no one who is not in fact present at the polling station at the hour of closing the poll shall be permitted to vote under this subsection.

19. After all the votes from all the polling districts in his constituency have been counted (and if required re-counted), the Returning Officer shall certify to the Commission, in such manner as the Commission shall direct, the total number of votes (other than votes which shall not be counted) cast in the constituency for each candidate, and the Commission shall add together all the votes so certified cast for each candidate in every constituency.

Certification  
of votes

20. (1) Where, after the Commission has added together all the votes certified to it, an equality of votes is found to exist between the candidates so that an addition of a vote would entitle any of them to be declared elected, the Commission shall order a re-count of the votes cast and every Returning Officer shall forthwith proceed to re-count the votes in his constituency and certify the result to the Commission.

Equality  
of votes  
and  
re-count

(2) If there is again an equality of votes, as ascertained by such a re-count, the Commission shall appoint some other convenient day or days for a new poll and the procedure prescribed in this Part shall be commenced *de novo*.

21.-(1) After the Commission has added together all the votes certified in accordance with section 19 as cast for each candidate in of result every constituency, it shall, save in the event of there being such an equality as is mentioned in section 20, forthwith publicly declare the candidate for whom the greatest number of votes has been cast to be elected President Designate.

Declaration  
of result

(2) A declaration by the Commission under this section shall be final and conclusive and shall not be called in question in any court.

22. The decision of a Returning Officer as to any question arising in respect of any ballot paper shall, in so far as it affects the results of the election, be final and conclusive and shall not be questioned in any court.

Decisions  
of Returning  
officers

23.(1) The Returning Officer shall ensure the safe custody of all documents relating to the conduct of the election in his constituency.

Custody of  
documents

(2) The Returning Officer shall cause all such documents to be destroyed after the expiration of six months from the close of the poll in his constituency unless otherwise directed by an order of a court arising from proceedings relating to the election:

Provided that nothing in this section shall require or authorize the destruction of duplicate copies of accepted application forms under the Registration Act.

## PART IV

### ELECTION OFFENCES

24.-(1) Every person who-

(a) forges or fraudulently defaces or fraudulently destroys a nomination paper, or delivers a nomination paper to the Commission knowing the same to be forged; or

Offences  
in relation  
to nomina-  
tion papers,  
ballot  
papers,  
etc

(b) not being registered or deemed to be registered under the Registration Act, signs or puts his mark, as a nominator to a nomination paper; or

(c) for the purpose of procuring nomination for himself or for any other person, knowingly makes any false statement material to such nomination in a nomination paper or statutory declaration delivered to the Commission,

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

(2) Every person who-

(a) forges or counterfeits or fraudulently destroys any ballot paper or the official mark on any ballot paper; or

(b) without due authority, supplies any ballot paper to any person; or

(c) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorized by law to put in; or

(d) 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

(e) without due authority, destroys, takes, opens, or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election; or

(f) gives a false certificate under section 7 or section 19,

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

Miscellaneous offences

25.(1) Any person who--

(a) not being qualified so to do, votes in the election; or

(b) casts more than one vote in the election,

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

(2) Any person who-

(a) wilfully furnishes false evidence or makes a false statement in any declaration mentioned in regulation 46 of the Elections Regulations; or

(b) after any demand made under section 27 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 one thousand shillings or to imprisonment for a term not exceeding six months or both such fine and imprisonment,



**26.** The provisions of the following regulations of the Elections Regulations, that is to say-

regulations 71, 72, 73 and 75 to 81 (inclusive), shall apply *mutatis mutandis* to an election under this Act, and as if-

- (a) the offence of voting in an election by a person who knows that he is prohibited from so doing, as set forth in paragraph (a) of regulation 79, were omitted;
- (b) references to registers of voters included references to duplicate copies Of accepted application forms under the Registration Act;
- (c) references to election as a member were references to election as President Designate;
- (d) references to "these Regulations" included references to this Act and the Registration Act,

and Persons may be proceeded against, convicted and punished accordingly.

Provisions relating to secrecy, bribery, ect

## PART V

### GENERAL

**27.** In the performance of their respective duties under this Act, the Commission and every Returning Officer shall have power to demand from any person any information necessary to ascertain-

- (a) in the case of the Commission, what persons are qualified to stand or disqualified from standing as candidates; and
- (b) in the case of the Commission or a Returning Officer, what persons are qualified to vote or disqualified from voting at the election, or to identify or ascertain the place of abode of any person.

**28.** Returning Officers may, subject to the directions of the Commission, appoint and employ such staff as they may require to carry out their functions under this Act.

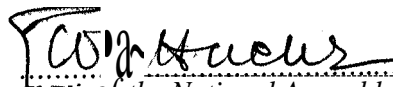
**29.** The expenses incurred by the Commission and by Returning Officers and Assistant Returning Officers in the conduct of the election and in the remuneration of staff appointed under section 28, shall be paid out of moneys provided by Parliament.

Power of Commission and Returning Officers to demand information

Returning officers may appoint and pay staff pay staff Expenses

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Passed in the National Assembly on the third day (if. July, 1962.

  
Clerk of the National Assembly