

THE UNITED REPUBLIC OF TANZANIA



No. 44 OF 1965

I ASSENT,

Julius K. Nyerere
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President

8TH JULY, 1965

An Act to make Provision for Presidential Elections

[9TH JULY, 1965]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Presidential Elections Act, 1965, shall be read as one with the Interim Constitution of Tanzania, 1965 and shall come into operation on the commencement of that Constitution.
Short title, construction and commencement

2.—(1) In this Act, unless the context otherwise requires—

Interpretation

“Parliamentary election” means an election in a constituency of a constituency member of the National Assembly, and a “contested Parliamentary election” means such an election where two candidates are finally nominated;

“Presidential election” means an election for a President and, in relation to a constituency, means the ballot in the constituency in such election;

“Presidential election day” means the day appointed Presidential election day for the purpose of a Presidential election in a constituency.

(2) Subject to the provisions of this Act and of the Constitution, the expressions in this Act relating to Parliamentary Elections shall be interpreted in accordance with the provisions of the National Assembly (Elections) Act, 1964 and where functions, powers or duties are conferred by this Act upon any person by office such functions, powers and duties may be performed and shall be exercised by the persons holding the like offices under the National Assembly (Elections) Act:
Acts, 1964 No. 11

Provided that this subsection shall have effect in relation to Zanzibar subject to sections 15, 16, 17 and 18 of this Act.

Voters at Presidential Elections

Voters

3.—(1) Application for registration as a voter in accordance with the National Assembly (Elections) Act shall be deemed to be (and in the case of an application made before the commencement of this Act, shall be deemed to have been) an application for registration as a voter at elections by the People, and registration as a voter in accordance with that Act shall constitute registration as a voter for the purposes of both Parliamentary elections and Presidential elections.

(2) Subject to subsection (3), the provisions of the National Assembly (Elections) Act relating to any disqualification for registration as a voter or for voting at Parliamentary elections, and to the times and places for registration and (subject to any necessary modification) voting, shall apply to the registration of voters for, and voting at, a Presidential election.

(3) Notwithstanding subsection (2) of this section or anything contained in the National Assembly (Elections) Act, where, at a Presidential election held on a dissolution of Parliament, Presidential election day in a constituency is the same as election day for a contested Parliamentary election in that constituency, a registered voter who is a candidate in such contested Parliamentary election may vote at the Presidential election in that constituency whether or not he is registered as a voter in any polling district therein.

(4) No separate registration shall be required or permitted for the purposes of Presidential elections.

Presidential Elections

Meeting of
Electoral
Conference

4. Where a Presidential election is held on a dissolution of Parliament, the meeting of the Electoral Conference of the Party for the nomination of the sole Presidential candidate shall, so far as is practicable and subject to the provisions of the Constitution, be held at the time of, or immediately before or immediately after, a meeting of the National Executive Committee of the Party held for the final nomination of candidates for Parliamentary elections.

Presidential
election day

5.—(1) Whenever an Electoral Conference of the Party, in the exercise of the functions conferred on it by section 7 of the Constitution, nominates a sole Presidential candidate, it shall forthwith certify the same to the Electoral Commission and the Electoral 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 a President.

(2) Subject to the provisions of this section, the Electoral 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) Where a Presidential election is held on a dissolution of Parliament (other than an election held in the circumstances provided for in paragraph (b) of subsection (4) of section 7 of the Constitution) the Electoral Commission shall appoint as Presidential election day—

- (a) for each constituency in which there is a contested Parliamentary election, the day appointed as election day for such contested election; and
- (b) for every other constituency, a day not less than forty days and not more than fifty-five days after the day on which the nomination of the sole Presidential candidate is certified to the Commission,

and, for the purposes of this subsection, a constituency in which a Parliamentary election is countermanded or in which the election procedure for a Parliamentary election is to be commenced afresh, shall be deemed not to be a constituency in which there is a contested Parliamentary election.

(4) Where a Presidential election is held in any circumstances other than those for which provision is made by subsection (3), the Electoral Commission shall appoint as Presidential election day, a day not less than forty days and not more than fifty days after the day on which the nomination of the sole Presidential candidate is certified to the Commission by the Electoral Conference.

6. The provisions of section 35 of the National Assembly (Elections) Act shall apply, with the necessary modifications, to the ballot in a constituency in a Presidential election: Polling day

Provided that where such ballot takes place in a constituency to which paragraph (a) of subsection (3) of section 5 of this Act applies, polling day for the ballot in the Presidential election shall be the same day as polling day for the Parliamentary election.

Election Procedure

7.—(1) The conduct of a Presidential election shall be subject to the direction and supervision of the Electoral Commission. Supervision
by Electoral
Commission

(2) Directions given and notices issued over the signature of the Chairman or a member of the Commission, or of a secretary to the Commission, shall be deemed to be the directions and notices of the Commission.

8.—(1) The ballot for the election of a President in each constituency shall be held and conducted in the like manner as the ballot in a contested Parliamentary election and, subject to any necessary modifications and to the provisions of this section and sections 9 and 10 of this Act, the provisions of Part IV of the National Assembly (Elections) Act (other than those of sections 53, 61, 62 (2), 64, 65, 68 or 69) shall apply for the regulation thereof and for such other matters as are provided for in that Part of that Act. Presidential
election to
be conducted
in
manner
similar
to Parlia-
mentary
elections

(2) In addition to any other necessary modifications, the said provisions of Part IV of the National Assembly (Elections) Act shall have effect—

- (a) with the substitution of references to a ballot for or against the sole Presidential candidate for references to a contest between two candidates; and

- (b) as if the power to appoint a counting agent were conferred upon the Chairman of the Annual District Conference of the Party for the district in which the constituency is situated instead of upon a candidate.

Presidential
and
Parliamentary
elections
conducted
simulta-
neously

9. Where polling day for a Presidential election in any polling district is the same day as polling day for a contested Parliamentary election:

- (a) polling in the two elections shall be conducted simultaneously and at the same polling stations;
- (b) the Returning Officer shall provide separate and distinctive ballot boxes for each election and each presiding officer shall so place the boxes and so organize and conduct his polling station as to avoid any confusion which might arise by reason of the two elections being held simultaneously;
- (c) the ballot papers for each election shall be of different colours;
- (d) if a voter leaves a polling station having voted in one only of the elections he shall not be re-admitted thereto for the purpose of voting in the other;
- (e) it shall not be necessary to call out the particulars of the voter, to stamp his voting card, or to mark his hand (as required by subparagraphs (b) (ii) and (iv) of section 46 of the National Assembly (Elections) Act) twice by reason of his voting in both elections, but if such requirements are complied with immediately before the voter is issued with a ballot paper for the first election in which he votes, they may be dispensed with on the second election;
- (f) a person registered as a voter in a polling district who is a supervisory delegate for the purpose of a Parliamentary election in some other constituency, may vote in the polling district for the purpose of the Presidential election in the like manner as he may vote therein for the purpose of the Parliamentary election;
- (g) the counting of the votes in each election shall be conducted separately.

Certification
of votes and
declaration
of results

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

- (a) the total number of votes cast in the constituency (other than votes which shall not be counted);
- (b) the total number of such votes which are in favour of the Presidential candidate;
- (c) the total number of such votes which are not in favour of the Presidential candidate;

and the Commission shall add together the respective totals certified to it from all the constituencies.

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

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

Election Offences

11. Every person who—

- (a) being registered as a voter in accordance with the National Assembly (Elections) Act, attempts to obtain any second registration under that Act for the purpose of voting at a Presidential election; or
 - (b) having applied to be registered as a voter in accordance with that Act, such application not having been determined or withdrawn, applies to be registered a second time thereunder for the purpose of voting at a Presidential election,
- shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

Attempting to obtain a separate registration for the purpose of Presidential elections

12.—(1) Every person who, in a Presidential election—

- (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 10;

Offences relating to ballot papers, etc., and voting

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) not being qualified so to do, votes in a Presidential election; or
- (b) casts more than one vote in a Presidential 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.

(3) Any person who wilfully furnishes false evidence or makes a false statement in any declaration mentioned in section 49 of the National Assembly (Elections) Act, as it applies for the purposes of this Act, 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 to both such fine and imprisonment.

(4) In any prosecution for an offence in relation to 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 Electoral Commission.

Provisions relating to secrecy, bribery, etc.

13.—(1) Subject to the provisions of this section, the provisions of sections 74 to 80 (inclusive) and 81 and 82 of the National Assembly (Elections) Act shall apply, with the necessary modifications, to a Presidential election, and persons may be proceeded against, convicted and punished accordingly.

(2) In addition to any other necessary modifications, the said provisions shall have effect—

- (a) with the substitution of references to the election of, and voting in favour of, a Presidential candidate, for references to the election of a member of the National Assembly and voting in favour of a candidate therefor;
- (b) as if the references to a candidate in subsection (1) of section 74 were omitted;
- (c) as if persons who have taken an oath of secrecy under subsection (1) of section 74 in respect of a Parliamentary election were deemed to have taken a corresponding oath for the purposes of a Presidential election in a constituency which is held simultaneously with such Parliamentary election.

Special Provisions relating to the Holding of Presidential Elections in Zanzibar

Special provision for Zanzibar

14. The provisions of sections 15, 16, 17 and 18 of this Act shall apply in relation to the holding and conduct of a Presidential election in Zanzibar until the National Assembly (Elections) Act is extended to Zanzibar otherwise than to the extent it is so extended by this Act.

Supervisor of Elections

15. The Electoral Commission shall appoint a person who, at the time of his appointment is, or immediately before the twenty-sixth day of April, 1964, was ordinarily resident in Zanzibar, to be the Supervisor of Elections in Zanzibar; and the registration of voters and the conduct of a ballot in Zanzibar for the purposes of Presidential elections shall, subject to the direction and supervision of the Electoral Commission, be conducted under the charge of such Supervisor of Elections.

Constituencies, Registration and Returning Officers

16.—(1) Subject to the provisions of this section, the Supervisor of Elections shall divide Zanzibar into constituencies and polling districts for the purposes of Presidential elections and shall exercise the powers, conferred on the Electoral Commission by the National Assembly (Elections) Act, of appointing Registration Officers and Returning Officers; and Registration and Returning Officers so appointed may exercise the respective powers conferred on a Registration Officer and a Returning Officer by sections 6 and 7 of that Act and all other powers conferred on a Registration Officer or, as the case may be, a Returning Officer by the provisions of this Act and by such of the provisions of the National Assembly (Elections) Act as are applied for the purposes of this Act.

(2) Save to the extent that the Supervisor of Elections orders otherwise, Zanzibar shall be deemed to have been divided into the constituencies and polling districts into which it was divided immediately before the eleventh day of January, 1964.

17. Voters for the purposes of Presidential elections in Zanzibar shall be registered in accordance with Part II of the National Assembly (Elections) Act, and the provisions of that Part and of sections 70 and 71 of that Act shall apply to Zanzibar for the purposes of such registration. ^{Voters to be registered}

18. Presidential election day in Zanzibar shall be a day not less than forty days and not more than fifty-five days after the day on which the nomination of the sole Presidential candidate is certified to the Electoral Commission by the Electoral Conference and the powers of the Commission to appoint and alter such day may be exercised for Zanzibar, on the advice of the Commission, by the Supervisor of Elections: ^{Presidential election day in Zanzibar}

Provided that the day or days so appointed shall be a day or days appointed Presidential election day in Tanganyika.

Miscellaneous

19.—(1) Any act or thing done before the commencement of this Act, by or under the authority of the Electoral Commission or of the Executive for Zanzibar, for the purposes of the registration as voters of persons entitled to be so registered under section 4 of the Constitution and Part II of the National Assembly (Elections) Act, shall, if the same was done in substantial compliance with those provisions, be deemed to have been done in pursuance of the powers contained in this Act, and no objection shall be entertained to any registration or refusal to register, or to the right of any person so registered to vote, on account of any such act or thing having been effected before the commencement of this Act, or on account of any lack of formality not effecting a matter of substance or of any lack of authority of a person acting in accordance with the instructions of the Executive for Zanzibar prior to the commencement of this Act. ^{Saving of things done prior to the commencement of this Act for registration of voters in Zanzibar}

(2) A person who prior to the commencement of this Act does any act specified in section 70 of the National Assembly (Elections) Act, with the appropriate intent, if any, as set out therein, shall be guilty of an offence and may be convicted and punished accordingly after the commencement of this Act as if this section had come into force in Zanzibar for the purposes of this Act on the date on which the Bill for this Act was first published in the *Gazette*.

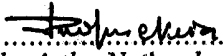
20. The Presidential Elections Act, 1962 is hereby repealed.

^{Repeal of C.A. Act 3}

Application
to Zanzibar

21. This Act (and the provisions of the National Assembly (Elections) Act which are hereby applied for the purpose of this Act) shall extend to Zanzibar as well as to Tanganyika.

Passed in the National Assembly on the fifth day of July, 1965.


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Clerk of the National Assembly