

THE UNITED REPUBLIC OF TANZANIA



No. 47 OF 1966

I ASSENT,

*Julius K. Nyerere*  
President

6TH OCTOBER, 1966

**An Act to provide for Elections to Local Authorities and for the Nominations of Candidates and the procedures to be followed at such Elections and for purposes connected therewith and incidental thereto**

[8TH OCTOBER, 1966]

ENACTED by the Parliament of the United Republic of Tanzania.

**PART I**

PRELIMINARY

1. This Act may be cited as the Local Government (Elections) Act, short title 1966.

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

"Authority" means where the area is a city the city council, where the area is a municipality the municipal council, where the area is a township the town council and where the area is that of a district council, such council;

"candidate" means a person who submits himself for election to an Authority:

Provided that-

- (a) for the purposes of those provisions of this Act which relate to a time after the primary nomination of candidates it does not include a candidate whose nomination is declared invalid by the Returning Officer or who withdraws his candidature; and
- (b) for the purposes of those provisions of this Act which relate to a time after the final nomination of candidates, it does not include a candidate who has not been approved or selected for the relevant election by or lawfully on behalf of the Party;

- "the Commission" means the Electoral Commission established by the Constitution;
- "constituency" means a constituency for the purposes of elections to the National Assembly;
- "contested election" means an election in a ward at which there are more candidates than vacancies;
- "counting agent" means a person appointed as a counting agent under section 43;
- Cap. 333 "district council" means a district council established under the Local Government Ordinance;
- "elected member" means an elected member of an Authority;
- "election" means an election in a ward of an elected member of an Authority, and includes a by-election for that purpose;
- "election day" in relation to any ward. means the day appointed under section 20 or any day substituted therefor in accordance with the proviso to that section or, in the case of an election in which the candidate is declared elected under subsection (2) of section 24 means the date on which he was so declared elected;
- Acts 1964 No. 11 "expired voting card" Shall have the same meaning as is assigned to that term in the National Assembly (Elections) Act, 1964;
- "Minister" means the Minister for the time being responsible for local government;
- Cap. 105 "municipal council" means a municipal council established under the Municipalities Ordinance and includes the City Council of Dar es Salaam;
- "nomination" means nomination as a candidate for election and references to nomination, except where they are by context or expressed to be references to primary nomination, shall be deemed to be references to final nomination;
- "nomination day" means a day appointed as primary nomination day;
- "the Party" means the party the Constitution of which is for the time being set out in the First Schedule to the Constitution;
- "person" means a natural person;
- "polling agent" means a person appointed under the provisions of section 31;
- "polling assistant" means a person appointed under the provision of paragraph (b) of section 30;
- "polling district" means the area or division of a ward deemed to be a polling district under the provisions of section 5;
- "polling station" means a polling station specified under the provisions of section 21;
- "Prescribed means prescribed by Rules made by the Commission under section 94;

- "presiding officer" means a person appointed under the provisions of paragraph (c) of section 30;
- "qualified" or "qualification" means, when used in relation to a person claiming to be entitled to stand as a candidate for a ward, qualified to be or qualification as a candidate in, that ward in accordance with this Act; and "disqualified" or "disqualification" has the converse meaning;
- "a register" means a register of voters compiled and maintained under the provisions of the National Assembly (Elections) Act, 1964;
- "registration as a voter" means registration as a voter under the provisions of the National Assembly (Elections) Act, 1964;
- "Registration Officer" means a Registration Officer appointed under the provisions of the National Assembly (Elections) Act, 1964, and includes an Assistant Registration Officer appointed under the provisions of the said Act, and "Registration Officer" in relation to a constituency means the Registration Officer appointed for that constituency;
- "Returning Officer" means a Returning Officer appointed under section 6; and includes, insofar as is provided in that section, an Assistant Returning Officer; and "the Returning Officer" in relation to a ward means the Returning Officer appointed for that ward;
- "town council" means a town council established under the Local Government Ordinance;
- "township" means a township established under the Local Government Ordinance;
- "voter" means, except where it is otherwise provided, a person registered as a voter for the purposes of elections to the National Assembly under the provisions of the National Assembly (Elections) Act, 1964;
- "voting card" means the voting card issued to a voter under the provisions of the National Assembly (Elections) Act, 1964;
- "ward" means a division of the area of an Authority, in the case of a municipality, under the Municipalities Ordinance, in the case of a township or a district council, under the Local Government Ordinance, or if there is no such division means the area of the Authority;

(2) For the purposes of this Act, a voting card shall not constitute any authority for the holder to exercise any function or power which, under this Act, may be exercised by a person to whom a voting card has been issued or a person by whom it is presented, unless the particulars relating to the holder are entered therein, the card is signed or marked with a thumb print by the person to whom it is issued, and the card is signed by and marked with the stamp of the person by whom it is issued.



- (b) two supervisory delegates for every ward in which there is a contested election.
- (2) No person shall be appointed a supervisory delegate-
- (a) under paragraph (a) of subsection (1) for a meeting of the District Executive Committee for a district M which he is ordinarily resident; or
- (b) under paragraph (b) of subsection (1), for a ward in which he is ordinarily resident.
- (3) Supervisory delegates shall exercise the functions conferred on them by this Act notwithstanding any vacancy in their number.
- (4) The Central Committee may delegate any or all of its functions under this section to any organ of the Party.

## PART II

### VOTING

#### 8. Every person who-

- (a) is duly registered in any polling district as a voter for the purposes of election to the National Assembly under the provisions of the National Assembly (Elections) Act, 1964, and holds a valid voting card; or
- (b) has not attained the age of twenty-one years but was, immediately prior to the coming into operation of this Act, duly registered in any polling district as a voter for the purposes of election to an Authority under the Local Government Election (Urban Areas) Ordinance or the Local Government Election (Rural Areas) Act, 1962,

Persons  
entitled  
to vote

cap. 379  
cap. 462

shall, on the production of his voting card or on satisfying the presiding officer or the polling assistant that he has not attained the age of twenty-one years and was duly registered as a voter for the purposes of election to an Authority as aforesaid, as the case may be, be entitled to vote at an election in the ward in which the polling district in which he is registered or was registered as aforesaid lies.

#### 9. Notwithstanding the provisions of section 8-

- (a) a person who is registered as voter for the purposes of election to the National Assembly and holds a valid voting card shall not be entitled to vote at any election if circumstances arise in relation to that person that, if he were not so registered, would cause him to be disqualified for registration as a voter;
- (b) a person who is not registered as a voter for the purposes of election to the National Assembly but is under the age of twenty-one years and was, immediately prior to the coming into operation of this Act, registered as a voter under the Local Government Election (Urban Areas) Ordinance or the Local Govern-

Disqualifi-  
cation for  
Voting

ment Election (Rural Areas) Act, 1962, shall not be entitled to vote at any election if circumstances, other than his age, exist in relation to that person that would cause him to be disqualified for registration as a voter.

Place of voting

**10.** Every person entitled to vote under the provisions of section 8 shall vote at a polling station in the polling district in which he is registered as a voter for the purposes of election to the National Assembly or was registered as a voter for the purposes of election to an Authority, as the case may be, but not elsewhere.

### PART III

#### QUALIFICATIONS OF CANDIDATES FOR ELECTION

Qualifications of elected members

**11.** Any citizen of Tanzania who has attained the age of twenty-one years and is a member of the Party shall, if he is ordinarily resident within the area of jurisdiction of the Authority for which the election is held and unless he is disqualified under the following provisions of this Part, be qualified for election as an elected member and no other person shall be so qualified.

Disqualifications for election

**12.**-(1) A person, shall be disqualified for election as an elected member-

- (a) if he is under a declaration of allegiance to some country other than Tanzania;
- (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 under sentence of death imposed on him by any court in Tanzania or a sentence of imprisonment exceeding six months imposed on him by such a court; or
  - (ii) he is detained under an order made under the Preventive Detention Act, 1962, and has been so detained under that order for a period exceeding six months; or
  - (iii) he has been deported, in accordance with the provisions of section 2 of the Deportation Ordinance, under an order made under that section which has been in force for a period exceeding six months, and is still in force;
- (d) if he is an undischarged bankrupt having been adjudged or otherwise declared bankrupt under any law in force in Tanzania;
- (e) if he is a party to, or partner in a firm, or a director or manager of a company or co-Operative society which is a party to any subsisting contract with the Authority to which he seeks election and has not, within one month before the date of the election, published in the Kiswahili and English languages in newspapers circulating within the area of the Authority concerned a notice setting out the nature of such contract and his interest or the interest of any such firm or company or co-operative society, therein;

Cap. 490

Cap. 38

- (f) if he is disqualified from becoming a member of an, Authority by any written law;
  - (g) if he is disqualified from registering as a voter for the purposes of election to the National Assembly, or voting at any such election, under any Act relating to offences connected with elections whether to the National Assembly or otherwise;
  - (h) subject to such exceptions and limitations as the President may, by order published in the *Gazette*, prescribe, if he holds or acts in any office or appointment in the service of the United Republic.
- (2) For the purposes of sub-paragraph (1) of paragraph (c) of sub-section (I)-
- (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.

#### PART IV

##### NOMINATION OF CANDIDATES FOR ELECTION

**13.**-(1) When an election is to be held in the area of an Authority, or when an election is countermanded and the election procedures are to commence afresh, the Commission shall, by notice published in the *Gazette*, appoint a day (hereinafter in this Part referred to as primary nomination day) for the primary nomination of candidates for election.

Primary  
nomination  
day

(2) The Commission may appoint different primary nomination days for different wards, and may revoke the appointment of a primary nomination day and appoint some later day.

(3) The Commission shall give at least seven days notice of a primary nomination day.

**14.** (1) In order to be validly nominated at a primary nomination to stand as a candidate in a ward of an Authority, a person must be nominated in writing by not less than twenty-five voters registered in the ward for which he is a candidate.

Primary  
nomination  
of  
candidates

(2) The writing shall be in the prescribed form, shall be signed by the candidate and by the persons nominating him, and shall contain the following particulars:

- (a) the name, address and particulars of the candidate;
  - (b) the names, addresses and descriptions of the nominators of the candidate; and
  - (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 the candidate's qualifications and that he is not disqualified for election; and

- (b) a certificate in the prescribed form in respect of the nominators, by the Registration Officer in charge of the constituency in which such nominators are registered as voters, certifying that the nominators are so registered.

If such statutory declaration and certificate are not delivered to the Returning Officer with the nomination paper the nomination of the candidate shall be void.

(4) The Returning Officer shall provide nomination papers and shall supply any voter with such number of nomination papers as he may require.

(5) Each 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 primary nomination day.

(6) The Returning Officer shall forthwith cause a copy of the nomination paper to be posted in a conspicuous position outside his office.

(7) No person shall nominate more candidates than there are vacancies in the ward:

Provided that a person shall not be prevented by this subsection from signing a nomination paper by reason only of his having signed that of a candidate who has died or withdrawn his candidature.

(8) A Registration Officer shall, when requested by or on behalf of a candidate to issue a certificate for the purposes of subsection, 3 (b) in respect of a nominator who is registered in the constituency of which he has charge, issue a certificate accordingly.

(9) The fact that, subsequent to primary nomination day, the name of a person who has nominated a candidate is deleted from a register of voters for the constituency shall not invalidate the nomination of the candidate.

Candidate to be nominated for one ward only

**15.** No person may be nominated as a candidate for election in more than one ward.

Objections to and decisions as to validity of nomination papers

**16.-(1)** Objections may be made to a nomination paper on all or any of the following grounds, but on no other grounds, namely-

- (a) that the description of the candidate is 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) 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 (3) of section 14 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 primary nomination day.



(3) The objection may be made by another candidate in, the ward or by the Returning Officer of his own motion and shall be in writing, signed by the objector, and shall specify the grounds 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 grounds of his decision.

(5) The decision of the Returning officer that a nomination paper is valid or invalid shall be subject to review by way of an election petition presented pursuant to the provisions of Part VIII on one or other of the grounds specified therein, but save on such a petition, shall be final and conclusive and shall not be called in question in any court.

**17.-(1)** Where, after the determination of any objection under section 16, the candidates for election in a ward number more than twice the number of vacancies in that ward, a meeting of the Branch Annual Conference of the Party for the ward concerned shall be held as soon as practicable.

(2) The Returning Officer and the supervisory delegates shall be entitled to attend the proceedings of a meeting of the Branch Annual Conference held for the purposes of this section.

(3) At a meeting of a Branch Annual Conference held for the purposes of this section-

- (a) the Returning Officer shall read to the meeting the names and particulars of the candidates as specified in their respective nomination papers; and
- (b) after each candidate has been given a fair and equal opportunity to answer questions by the members of the Branch Annual Conference then present, the meeting shall proceed without further discussion to vote by secret ballot on the candidates for each ward for which the meeting is held and, on such a ballot, each member of the Conference present at the meeting shall cast a preference for the candidate of his choice in each ward, and in any case where more than one member is to be elected to represent a ward, each of the said members shall cast preferences for as many candidates as there are vacancies in such ward.

(4) The Returning officer shall certify the number of preferences accorded to each candidate and shall forthwith send such certificate together with the nomination papers of the candidates to the District Executive Committee of the Party for the district in which the ward is situate.

(5) The supervisory delegates shall report to the District Executive Committee any failure to accord a fair and equal opportunity to candidates, any non-compliance with the provisions of this section or with any rules of the Party not inconsistent therewith, or any other irregularity, at the meeting of the Branch Annual Conference held for the purpose of this section, or, if it be the case, shall report that there were no such irregularities.

Proceedings  
when more  
candidates  
than  
vacancies  
and final  
nominations

(6) Upon receipt of the nomination papers of the candidates, the certificates of the preferences accorded by the Branch Annual Conference and the report of the supervisory delegates, the District Executive Committee shall meet as soon as may be practicable and shall select candidates twice the number of vacancies in the ward for the purposes of the election, and such candidates shall, subject to the provisions of section 19, be deemed to have been finally nominated:

Provided that in making any selection under this subsection the District Executive Committee shall not be bound by the order of preference indicated by the votes of the members of the meeting of the Annual Branch Conference.

(7) The District Executive Committee shall, after making its selection and unless otherwise directed by the Commission, forward all the papers declarations, certificates, reports and other documents relevant to the nomination of the candidates, together with a certificate of the selections made by it, to the Commission.

Proceedings where number of candidates does not exceed twice the number of vacancies

**18.**(1) Where after the determination of any objections under section 16, the number of candidates does not exceed twice the number of vacancies in any ward, the Returning Officer shall declare and shall reduce his declaration to writing that, subject to the provisions of section 19, the candidates shall be deemed to have been finally nominated as candidates for the relevant election and ward.

(2) In every case to which subsection (1) applies the Returning Officer shall unless otherwise directed by the Commission, forthwith and by the quickest practical means, forward the nomination papers of the candidates, and copy of the declaration referred to in that subsection to the Commission.

Right to intervene of Central Committee

**19.**-(1) Upon the receipt by the Commission of any papers, declarations, reports or other documents forwarded to it under the provisions of section 17 or 18, the Commission shall, as soon as is practicable, submit the same to a meeting of the Central Committee of the Party, and the Central Committee may, if it deems fit, intervene in relation to nominations for any ward.

(2) Where the Central Committee of the Party intervenes in accordance with subsection (1), such Committee may-

- (a) if it is satisfied that the election procedure has not been properly complied with, request the Commission to take action under section 24;
- (b) in its discretion overrule the final nomination by the District Executive Committee under section 17 and select by secret ballot candidates, twice the number of vacancies, to contest the election in any ward; or
- (c) disallow the final nomination of any candidate or candidates.

(3) Where the Central Committee in exercise of the power conferred upon it by paragraph (b) of subsection (2), selects candidates for an election, the Secretary-General of the Party shall forthwith certify the results of the selection to the Commission and the relevant Returning Officer and every candidate so selected shall be deemed to be finally nominated for the relevant election and ward.

(4) The Chairman of the Commission shall be entitled to be present at meetings of the Central Committee of the Party held for the purpose of this section.

(5) The Central Committee may, by resolution, appoint any organ of the Party to exercise on its behalf the functions imposed on it by this section.

**20.** Where in an election for a ward more candidates are finally nominated than there are vacancies, the Returning Officer shall, with the approval of the Commission, appoint a day not less than forty and not more than fifty days after the day on which they are deemed to have been finally nominated to be election day in the ward: Election day

Provided that-

- (a) the Returning Officer, if he has been appointed in respect of more than one ward, may appoint different election days for different wards; and
- (b) the Returning Officer may revoke the appointment of an election day and appoint some other day within such period aforesaid to be election day.

**21.** (1) Where there is a contested election, the Returning Officer shall, on or before the eighth day before election day, give notice in the ward in such manner as he may think fit, as to the following matters: Notice of election

- (a) the day or days and (subject to the provisions of subsection (4)) the time or times of commencement and close of the poll;
- (b) the address of the polling station or stations;
- (c) the full names, addresses, occupations and representative symbols 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 for any other polling district in the same ward:

Provided that-

- (a) election day for a ward shall be the polling day for at least one polling district in that ward; and
- (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 ward shall be not later than such time after election day for that ward as the Returning Officer 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 the public interest so to do, give notice in the ward 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), the time of commencement of the poll shall be eight o'clock in the morning and the time of close of poll shall be six o'clock in the evening or such earlier time as may be specified in the notice.

Withdrawal  
of  
candidature

**22.** A candidate may withdraw his candidature by notice in writing signed and delivered by him to the Returning Officer not later than the time when he is finally nominated.

Death of  
candidates

**23.**-(1) Where, after four o'clock in the afternoon on primary nomination day and before the close of the poll in an election, a candidate in a ward dies, the Returning Officer shall, upon being satisfied of the fact of death, countermand the election in the ward.

(2) In any case where the Returning Officer countermands an election pursuant to the provisions of subsection (1) the Returning Officer shall, with the approval of the Commission, appoint some other day, not later than thirty days after the countermand, for the primary nomination of candidates for election in that ward and the electoral procedure in that ward shall be commenced afresh:

Provided that no new primary nomination shall be required in respect of a candidate who at the time of the countermand of the election had been validly nominated at the primary nomination.

Where no  
candidates  
or where the  
number of  
candidates  
finally  
nominated  
equals  
the number  
of  
vacancies

**24.**-(1) If-

- (a) the Central Committee of the Party so requests pursuant to the provisions of paragraph (a) of subsection (2) of section 19; or
- (b) the Central Committee of the Party in exercise of the powers conferred on it by paragraph (c) of subsection, (2) of section 19, disallows the final nomination of any candidate or candidates, and there are therefore no candidates in a ward, or fewer candidates than there are vacancies in, the ward; or
- (c) after primary nomination day there are for any reason, no candidates in a ward, or fewer candidates than are vacancies in that ward,

the Commission shall countermand the election and appoint some other day, not later than thirty days after such countermand, for the primary nomination of candidates for election to the vacancy or vacancies in the ward and the electoral procedure in that ward shall be commenced afresh.

(2) Where the number of candidates finally nominated for any ward is equal to the number of vacancies in that ward and the Central Committee has not intervened in respect of the nomination of any of such candidates the Returning Officer shall declare the candidates to have been elected.

**PART V**

## THE ELECTION CAMPAIGN

**25.**-(1) Where there is a contested election in a ward-

- (a) the Branch Executive Committee of the Party for the area in which the ward is situated shall organize the election campaign on behalf of both or all the candidates as the case may be and shall present them to the electorate at meetings convened for the purpose;
- (b) no candidate at such election, nor any person acting on his behalf (whether or not such person is acting with the approval or consent of the candidate), shall convene or address any public meeting in the ward for the purpose of furthering the candidate's election other than a meeting held by or under the auspices of the Branch Executive Committee or undertake any public or door to door canvassing save as may be permitted by the Branch Executive Committee.

Campaign  
to be  
organized  
by the  
Party

(2) The Branch Executive Committee shall, in consultation with the supervisory delegates for the ward and with the candidates, draw up a programme of meetings for each ward situated within its district in which there is a contested election. and shall specify in such programmes the time and place of each meeting, the person who shall take the chair thereat and the order of speaking (to be altered equitably) of the candidates. The programme shall not be altered without the approval of the supervisory delegates.

(3) In the organization and conduct of the election campaign the members of the Branch Executive Committee shall afford a fair and equal opportunity to every candidate.

**26.**-(1) The organization and conduct of an electoral campaign in a ward shall be subject to the supervision of supervisory delegates appointed for the ward and such delegates shall be entitled to attend every meeting of the Branch Executive Committee at which the business of the electoral campaign is conducted and every meeting convened for the purpose of the campaign.

Supervision  
of  
campaign

(2) The supervisory delegates appointed for a ward shall bring to the notice of the District Executive Committee any failure to afford a fair and equal opportunity to candidates, any non-compliance with the provisions of this Part or with any of the rules of the Party made for the purposes of this Part, and any other irregularity during the election campaign, and shall, unless they are satisfied that any such failure, non-compliance or irregularity is not of such a nature as to affect significantly the conduct of the campaign and that steps are being taken to prevent its repetition, report the same to the Commission.

**27.**-(1) For the purpose of enabling a candidate to assist voters to identify him when voting, a candidate shall be entitled to associate himself while electioneering with a symbol allotted to him by the District Executive Committee of the Party, and no candidate shall, while electioneering, associate himself with any other symbol.

Symbols

(2) The display of a symbol during the election campaign shall be subject to the control of the District Executive Committee of the Party.

Payments  
by  
candidates

28 (1) Every candidate shall be responsible for his personal expenses during an election.

(2) A candidate in a contested election may remunerate, at such rates as the Commission may prescribe, one counting agent.

(3) Any payment to a person as a counting agent in excess of the rates prescribed by the Commission, any payment by or on behalf of a candidate to any other person who assists a candidate at an election on account of such assistance, and any payment by or on behalf of a candidate for and on account of the transportation of voters to or from the poll, shall be deemed to be treating within the meaning of this Act.

(4) Save as provided in subsection (1) or (2) of this section, no candidate shall expend any sum in furtherance of his campaign for election.

## PART VI

### ELECTION PROCEDURE

Polling  
days and  
times

**29.** In a contested election polling shall take place in each polling district in the manner hereinafter provided on the day appointed for polling in that polling district pursuant to the provisions of section, 21.

Affange-  
ments for  
contested  
elections

**30.** The Returning Officer shall-

- (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 subsection (1) of section 21;
- (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 each 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 full names in alphabetical order of surnames, or in such other order as the Commission may direct, addresses, occupations and representative symbols, if any, of the candidates and stating the number of candidates for whom the voter may vote;
- (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 with which the voters can mark the ballot papers and with instruments for making official marks;
- (i) do such other acts and things as may be necessary for conducting the election in the manner provided in this Act.

**31.**-(1) The District Executive Committee of the Party may appoint one person to be known as a polling agent to attend at each polling station within the ward for the purpose of detecting personation. Polling agent

(2) Notice in writing of the appointment, stating the names and addresses of the polling agents, together with the polling stations to which they have been assigned, shall be given to the Returning Officer not later than seven days before election day.

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

**32.**-(1) Every ballot box shall be so constructed that the ballot papers can be put therein by the voter but cannot by him be withdrawn. Ballot boxes

(2) Immediately before the commencement of the voting, the presiding officer at each polling station shall show the ballot box empty to such persons as may lawfully be 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.

**33.** Every ballot paper shall-

- (a) contain the full names, addresses and descriptions of the candidates in the ward, as shown in their respective nomination papers, arranged in the order in which they appear in the notice placed in accordance with paragraph (e) of section 30, and, where applicable, their symbols;
- (b) be capable of being folded up;
- (c) have a serial number printed thereon;
- (d) be attached to a counterfoil bearing the same serial number as that printed on the ballot paper.

Form of  
ballot  
paper

**34.** No person who has voted at the election shall, in any legal proceeding to question the election or return, be required to state for of whom he voted.

Prohibition  
disclosure  
of vote

Method of  
voting

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

- (a) every voter desiring to record his vote shall present himself at a Polling station in the polling district in which he is entitled to vote and shall present his voting card to the presiding officer or a polling assistant and such officer or assistant, after satisfying himself that such voter is the person described in the voting card, shall deliver to him a ballot paper;
- (b) immediately before the presiding officer or a polling assistant delivers a ballot paper to any person-
  - (i) the ballot paper shall be perforated or stamped with an official mark;
  - (ii) the particulars of the voter as stated in his voting card shall be called out;
  - (iii) the number of the voter on his voting card shall be marked on the counterfoil; and
  - (iv) the presiding officer or his assistant shall stamp the voter's voting card with an official stamp;
- (c) subject to the provisions of paragraph (b), a voter on receiving a ballot paper shall go immediately into one of the screened compartments in the polling station, and shall there secretly record his vote in the manner provided in paragraph (d), 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 disclose the official mark, and put the folded ballot paper into the ballot box;
- (d) a voter shall record his vote by putting a mark against the name of the candidate or candidates for whom he wishes to vote;
- (e) a voter shall not vote for more candidates than the number of vacancies required to be filled in the ward concerned nor record more than one vote in favour of any candidate;
- (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, he may call the presiding officer aside, and shall tell him, no other person being present or within hearing, the name of the candidate or candidates for whom he wishes to vote, and the presiding officer shall mark the ballot paper accordingly and shall, in the presence of the voter, place the ballot paper in the ballot box;
- (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) 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 spoilt 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) a voter who has accidentally dealt with a ballot paper in such manner that it cannot conveniently be used as a 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 spoiled by accident, obtain another ballot paper in the place of the paper so delivered up, and the spoiled ballot paper and its counterfoil shall be immediately marked as cancelled.

36.(1) No person shall be admitted to vote at any polling station except at a polling station in a polling district in which he is registered as a voter.

Admittance  
to  
polling  
station

(2) The presiding officer shall regulate the admission of voters to the polling station and shall exclude all other persons except candidates, the polling agent, if any, polling assistants, police officers on duty, and any other person who in his opinion has lawful reason to be admitted.

(3) If any person misconducts himself in the polling station or fails to obey the lawful orders of the presiding officer, he may immediately, by order of the presiding officer, be removed from the polling station by any police officer in or near that station or by any other person authorized 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.

(4) 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 having an opportunity of voting at such station.

37.-(I) Where the presiding officer at any polling station has reason to believe, or it is alleged by a candidate present at the polling station or by the polling agent that-

Allegations  
of  
irregularities

- (a) the voting card presented by any person wishing to vote is an expired voting card; or

(b) a person wishing to vote is not entitled to vote, the presiding officer shall warn the person wishing to vote that any person who is not registered or entitled to vote is guilty of an offence if he votes, or, as the case may be, that any person presenting an expired voting card is guilty of an offence and may, on issuing a receipt therefor, impound a voting card presented by such person; but, if notwithstanding such warning, such person persists in his wish to vote, the presiding officer shall deliver a ballot paper to such person in accordance with the provisions of this Act and shall take note of the name of such person and if such be the case, of his having voted:

Provided that nothing in this subsection shall require the presiding officer to deliver a ballot paper to a person if-

- (a) the card presented by such person is marked by an official stamp for the relevant election; or
- (b) such person refuses to make any declaration under section 38.

(2) The presiding officer shall deliver every voting card impounded under this section and a copy of every note made hereunder to the Registration Officer, who shall make or cause to be made such investigations as the circumstances require.

(3) The Registration Officer may retain any voting card delivered to him under this section for such, reasonable time as shall enable him to pursue such investigations and may retain and cancel any expired voting card.

Declaration  
by voters

**38.**-(1) The Presiding officer at any Rolling station may, in his discretion, and shall, on the request of a candidate present at the polling station or of 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 voting card 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 such declaration, the presiding officer May refuse to give him a ballot paper.

Voting by  
supervisory  
delegates, etc.

**39.**-(1) Notwithstanding the provisions of section 35, a person appointed a supervisory delegate, a Returning officer, presiding officer, police officer, or appointed in any other official capacity in any polling district other than the polling district in which he is entitled to vote, may vote in the ward in which he is registered as a voter by writing the name of the candidate of his choice on a special ballot paper, and sending it to the Returning Officer for that ward in a sealed envelope marked "Ballot".

(2) Ballot papers for the purposes of this section shall be provided by the Commission and may be obtained by persons entitled to vote in the manner specified in subsection (1) from the Returning Officer in the ward for which they are appointed. Before issuing a special ballot paper to such person, a Returning Officer shall stamp such person's voting card with his official stamp and shall certify on the ballot paper that he has done so.

(3) Where a Returning Officer receives a special ballot paper from a person entitled to vote in the manner specified in subsection (1) who is registered as a voter in his ward, he shall on election day in his ward, if the paper is certified in accordance with subsection (2), detach the certificate and deliver it to the presiding officer and, in the presence of the presiding officer, place the ballot paper in a ballot box.

(4) A Returning Officer shall account to the Commission for every special ballot paper issued by him under this section and shall return to the Commission any such papers received by him but not issued.

**40.**-(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.

Adjournment  
of poll in  
case of riot

(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 the poll shall be construed accordingly.

**41.** If at the hour of the closing of 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.

Closing  
of the  
poll

**42.**-(1) The presiding officer of each polling station, as soon as practicable after the closing of the poll, shall, in the presence of such of the candidates as attend and in the presence of the polling agent, if any, make up into separate packets, sealed with his own seal and the seal of the candidates if they desire to affix their seals-

Procedure on  
closing of  
poll

(a) the unused and spoilt ballot papers placed together;

(b) every voting card impounded and note made under section 37; and

(c) the counterfoils of the used ballot papers.

(2) The packets shall be accompanied by a statement, to be called the ballot papers account, prepared by the presiding officer in the prescribed form.

(3) 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, as attend and desire to affix their seals, in such manner that the boxes cannot be opened and nothing can be inserted therein without the seals being broken.

(4) The presiding officer shall dispatch each such packet and the ballot boxes in safe custody to the Returning Officer.

**43.**-(1) Each candidate may appoint one person, to be known as counting agent, to attend at the counting of the votes.

Counting  
Agents

(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	<p><b>44.</b>-(1) The Returning Officer shall make arrangements for counting the votes in the presence of the counting agents as soon as practicable after the close of the poll in the ward and shall, so far as practicable, proceed continuously with the counting, allowing only reasonable time for refreshment, until it is complete.</p> <p>(2) The Returning Officer shall appoint such number of persons as he shall consider necessary to assist him in counting the votes, and such persons shall be known as enumerators.</p>
Persons who may be present	<p><b>45.</b> Except with the consent of the Returning Officer, no person other than the Returning Officer, Assistant Returning Officers, the enumerators, the candidates and their counting agents may be present at the counting of votes.</p>
Method of counting votes	<p><b>46.</b> Before the Returning Officer and Assistant Returning Officers proceed to count the votes, they shall, in the presence of the counting agents, if any, open each ballot box and, taking out the ballot papers, shall count and record the total number thereof, and then mix together the whole of the papers contained in the ballot boxes.</p>
Handling of ballot papers	<p><b>47.</b> The Returning Officer and Assistant Returning Officers, while counting and recording the number of ballot papers and counting the votes, shall keep the ballot papers with their faces upwards.</p>
Votes which are not to be counted	<p><b>48.</b> Any ballot paper-</p> <p>(a) which does not bear an official mark; or</p> <p>(b) on which votes are recorded otherwise than as provided in paragraph (d) of section 35 or which is to be treated as spoilt under the provisions of paragraph (j) of that section; or</p> <p>(c) on which anything is written or marked by which a voter can be identified otherwise than by the printed number thereon; or</p> <p>(d) which is unmarked or void for uncertainty; or</p> <p>(e) on which the voter has voted for a number of candidates exceeding the vacancies in the wards,</p> <p>shall not be counted.</p>
Endorsements by Returning Officer	<p><b>49.</b>-(1) The Returning Officer or an Assistant Returning Officer shall endorse the word "rejected" on any ballot paper which, under the provisions of section 48, is not to be counted.</p> <p>(2) The Returning Officer or an Assistant Returning Officer shall add to the endorsement the words "rejection objected to" if an objection to his decision is made by any counting agent.</p>
Rejected ballot papers	<p><b>50.</b> The Returning Officer shall prepare a statement showing the number of ballot papers rejected under the following heads: -</p> <p>(a) want of official mark;</p> <p>(b) voting recorded otherwise than as provided in paragraph (d) of section 35 or to be treated as spoilt under the provisions of paragraph (j) of that section;</p>

- (c) writing or mark by which the voter could be identified;
- (d) unmarked or void for uncertainty; and
- (e) voting for more candidates than those for whom a voter is entitled to vote under paragraph (e) of section 35,

and shall on request allow any counting agent to copy the statement.

**51.**-(1) Where an equality of votes is found to exist between any candidates contesting any ward so that an addition of a vote would entitle any of them to be declared elected, the Returning Officer shall make a re-count of the votes cast.

Equality of votes and re-count

(2) If there is again an equality of votes, as ascertained by such a re-count, the Returning Officer shall 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 election day, for the nomination of candidates for the ward and the electoral procedure for such vacancy or vacancies shall be commenced afresh.

**52.**-(1) A candidate or his counting agent may, if present when the counting or any re-count of the votes is completed, require the Returning Officer to have the votes re-counted or again re-counted, but the Returning Officer may refuse to do so if in his opinion the request is unreasonable.

Candidates or counting agent may require re-count

(2) No step shall be taken on the completion of the counting or any re-count 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).

**53.** 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 Part VIII of this Act.

Returning Officer's decision final

**54.** (1) Upon the conclusion of the counting of the votes, the Returning Officer, with the assistance of the Assistant Returning Officers, shall seal up in separate packets the counted and rejected ballot papers.

Returning Officer's duties at conclusion of counting

(2) The Returning Officer shall not open the sealed packet containing the counterfoils 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 sections 51 and 52 and the unused and spoilt papers in his possession 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.

Declaration Of result	<p><b>55-</b> When the result of an election has been ascertained the Returning Officer shall-</p> <p>(a) forthwith declare to be elected the candidate or candidates for whom the majority of votes has been cast;</p> <p>(b) cause a full report to be displayed at the office of the Authority setting out the names of the successful candidates; and</p> <p>(c) report the results of the election to the Commission which shall cause such results, together with the number of votes recorded for each candidate in each ward, to be published in the <i>Gazette</i>.</p>
Custody of documents	<p><b>56.</b>-(1) The Returning Officer shall ensure the safe custody of all documents relating to the conduct of the election Other than the documents which the Returning Officer is required under sections 17 and 18 to forward to the Commission, for the safe custody of which documents the Commission shall be responsible.</p> <p>(2) The Returning Officer shall cause all such documents to be destroyed after the expiration of six months from election day unless otherwise directed by an Order of the High Court arising from Proceedings relating to the election.</p> <p><b>57.</b> A Polling assistant may be authorized by the Presiding officer to do any act 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.</p>
Candidate has power of his agent	<p><b>58.</b> A candidate may do any act or thing which the counting agent may be authorized or required to do, and may assist the counting agent in the doing of any such act or thing,</p>
Non- attendance of agents not to invalidate proceedings	<p><b>59.</b>- Where in this Act, any act or thing is required or authorized to be done in the presence of the 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 the Purpose shall not, if any act or thing is Otherwise properly done. invalidate the act or thing done.</p>

## PART VII

### OFFENCES

Official discourage- ment of persons from seeking nomination, etc.	<p><b>60.</b>-(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 statement or does any act with intent 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 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.</p>
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(2) No Proceedings shall be instituted against any person for an offence contrary to this section without the prior consent of the Director of Public Prosecutions.

(3) In this section, official office and official capacity include not only an office in the service of the United Republic or a capacity in respect of the United Republic, but also any other office or capacity of or in the Party, any trade union, or any co-operative society and any other office or capacity the holder of which thereby occupies a position of influence in relation to the particular candidate or prospective candidate.

**61.**-(1) Every person who-

- (a) forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to a Returning Officer any nomination ballot 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 box or packet of ballot papers then in use for the purposes of the election,

Offences in relation to nomination papers or ballot papers

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, for the purpose 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 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 two thousand shillings or to imprisonment for a term not exceeding one year 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 Returning Officer for such election.

**62.** Any person who-

- (a) wilfully furnishes false evidence or makes a false statement in a declaration made under section 38; or
- (b) contravenes the provisions of paragraph (b) of subsection (1) of section 25 or of subsection (1) of section 27,

Miscellaneous Offences

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.

Maintenance  
of secretary  
at elections

**63.**-(1) Every officer, clerk, interpreter, candidate and agent authorized to attend at a polling station or at the counting of the votes, shall, unless he has taken an oath of secrecy under the foregoing provisions of this Act, before so attending, take 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 the 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, or as to the number on the ballot paper given to any person at such station.

(5) Every officer, clerk, interpreter, candidate and agent in attendance at the counting of the votes shall maintain, and aid in maintaining, the secrecy of the voting and shall not ascertain or communicate any information obtained at such counting as to 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 two thousand shillings or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

Penalty for  
bribery,  
treating,  
etc.

**64.** Every 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 ten thousand shillings, or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

Penalty for  
personation

**65.** Every 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 five thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.



66.--(1) Every 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 by period of ten years from the date of his conviction from being registered as a voter or of voting at any election under this Act or any other law.

Disqualifi-  
cations  
entailed  
by conviction  
for corrupt  
or illegal  
practice

(2) Every person who is convicted of an illegal practice and Whose conviction is not set aside by 9 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 of voting at any election under this Act or any other law.

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

Persons  
to be  
deemed quailty  
of bribery

- (a) every 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 person on behalf of 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 voted or refrained from voting at any election;
- (b) every person who 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 any voter having voted or refrained from voting at any election;
- (c) every person who directly or indirectly, by himself or by any other person on his behalf, makes any 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 an elected member or the vote of any voter at any election;
- (d) every person who, upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or engages, promises or endeavours to procure the election of any person as an elected member or the vote of any voter at any election;
- (e) every person who advances or pays, or causes 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, or who knowingly pays, or causes to be paid, any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election;

- (<sup>c</sup>) every 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
- (9) 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 at any election:

Provided always that the provisions of this section shall not "tend or 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.

Persons to  
be deemed  
guilty of  
treating

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

- (a) every Person who corruptly, by himself or by any other person, either before, during. or after an election, directly or indirectly gives, or Provides, or Pays, wholly or in Part, the expense of giving or Providing food, drinks entertainment, or provision 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) every Person, who corruptly accepts or takes any Such food, drink, entertainment or provision.

Persons to  
be deemed  
guilty of  
undue  
influence

**69.** Every person who directly or indirectly, by himself or by any other person on his behalf, makes use of, or threatens to make use of, any force, violence or restraint, or inflicts or threatens to inflict by himself or any other person, any temporal or spiritual injury, damage, harm, Or loss, upon or a t any voter. in order to induce or compel such voter to vote or refrain from voting, or on account of such 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 or thereby compels, induces, or prevails upon 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 the  
Branch  
Executive  
Committee

**70.**-(1) Where any Person does any such act as is described in sections 67, 68 or 69 to or in respect of a member of the Branch Executive Committee which is charged with the organization and conduct of the relevant election campaign, or a supervisory delegate appointed for the ward, 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 so described on account of discriminating or 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, sections 67, 68 and 69 shall be read as if references to votes and to voting were references to such members and delegates and to 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.

71. Every person who at any election-

- (a) applies for a ballot paper in the name of another person or 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 purpose of procuring the issue to himself of a ballot paper knowingly tenders a voting card issued to some other person,

Persons  
to be  
deemed  
quality of  
personation

shall be guilty of personation within the meaning of this Act.

72.,-(1) Every 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 that election or at any illegal other election to an Authority;
- (b) for the purpose of procuring the issue of any ballot paper to any other person or to himself, delivers any voting card issued to himself or to some third person to such other person, or induces or procures some third person to deliver such third person's voting card to himself or such other person,

Penalty for  
persons  
certain  
corrupt  
illegal  
practices

shall be guilty of a corrupt practice 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) 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 or is prohibited, under or by this Act or any other law, from voting at such election; or
- (b) for the purpose of procuring the issue to himself of a ballot paper knowingly tenders an expired voting card; or
- (c) before or during an election, knowingly publishes any false statement of the withdrawal of a candidate at such election 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 one thousand shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Interference with lawful public meeting to be an illegal practice

**73.** 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 Published, 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 guilty of an illegal practice 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.

Display of emblems in vicinity of place of voting prohibited

**74.**-(1) No shall within any building where voting in an election is in progress, or on any public way within a distance of fifty Yards of any entrance to 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 two hundred shillings.

(3) For the purposes of this section "public Way" has the same meaning as in section 5 of the Penal Code.

Cap. 16

Defacement of notices

**75.** Every 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 one thousand shillings.

Documents to bear name and address of printer and publisher

**76.**-(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
- (b) post or cause to be posted any such bin, 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 is authorized by the Branch Executive Committee or the District Executive Committee of the Party and bears upon the face thereof the name and address of the printer and publisher.

(2) For the purposes of this section, any process for multiplying copies of a 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 provisions of subsection (1) 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 two months or to both such fine and imprisonment.

(4) Nothing in this section applies to any bill, placard, poster or document published by or on behalf of the Commission or the Returning Officer.

...

77.-(1) Where a court convicts a person of a Corrupt or illegal practice under this Act, it shall report the conviction to the Registration Officer for any constituency in which it has reason to believe such person is registered.

Personal -  
convicted of  
corrupt and  
illegal  
practices to  
be removed  
from  
register

(2) Where a Registration Officer receives a report under this section in respect of a person registered in a polling district of which he has charge, he shall forthwith delete such person's name from the register and take such further steps as a Registration Officer is required to take under the provisions of section 25 of the National Assembly (Elections) Act, 1964, where a person's name is deleted from the register under Part H of that Act.

### PART VIII

#### AVOIDANCE OF ELECTIONS AND ELECTION PETITIONS

78.--(1) The election of a candidate as a member shall not be questioned save on, an election petition.

Avoidance  
of election  
on election  
petition

(2) The proceedings of a meeting of a Branch Annual Conference, Branch Executive Committee, a District Executive Committee or the Central Committee or any other organ of the Party which is held for the purposes of this Act shall not be subject to review in any court, either by way of an election petition or otherwise.

(3) The election of a candidate as an elected member shall be declared void on any of the following grounds which are proved to the satisfaction of the court, namely-

- (a) that by reason of corrupt or illegal Practices committed in connection with the election. or other misconduct, or other circumstances whether similar to those before enumerated or not, the majority of voters were or may have been Prevented from electing the candidate whom they preferred;
- (b) that, during the election campaign, statements have been 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 or, where the candidates are not of the same sex, with intent to exploit such difference:

provided that no petition may be presented on the grounds set out in this paragraph without the consent in writing of not less than one of the supervisory delegates appointed for the relevant election;

- (c) non-compliance with the provisions of this Act relating to elections, if it appears that the election was not conducted in accordance with the principles laid down in such provisions and that such non-compliance affected the result of the election',
- (d) that a corrupt or illegal practice was committed in connection with the election by or with the knowledge and consent or approval of the candidate or by or with the knowledge and consent or approval of any Of his agents; or

(e) that the candidate was at the time of his election a person not qualified for election, as a member.

(4) Notwithstanding the Provisions of subsection (3) where, upon the trial of an election petition respecting an election under this Act, the court finds that a corrupt or illegal practice in connection with the election has been committed by or with the knowledge and consent or approval of any of a candidate's agents, and the court further finds, after giving the Attorney-General an opportunity of being heard, that the candidate has proved to the court: -

(a) that no corrupt Or illegal Practice was committed by the candidate himself or with the knowledge and consent or approval of such candidate or his agent; and

(b) that the candidate took all reasonable means for preventing the commission of corrupt Or illegal Practices at such election; and

(c) that in all other respects the election was free from any corrupt or illegal practice on the part of the candidate and of 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 may hold certain acts or omissions to be exempt

**79.** 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 by reason of the 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 the said act or omission,

the High Court may make an order allowing the act or omission to be an exception from those provisions of this Act which would otherwise make the act or omission 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.

Petitions triable by High Court

**80.-(1)** Every election petition shall be tried by the High Court.

(2) Witnesses shall. be subpoenaed and sworn in the same manner as nearly as circumstances admit as in a trial by the High Court in the exercise Of its Original civil jurisdiction and shall. without prejudice to the provisions of any other law, be subject to the same penalties for giving of 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 person in court, although such witness is not called and examined by 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 or respondent, or both of them.

**81.** An election petition may be presented by any one or more of the following Persons, namely-

Who may present petitions

- (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 a right to be nominated Or elected at such election;
- (c) a person alleging himself to have been a candidate at such election.

**82.** All or any of the following reliefs to which the petitioner May be entitled may be claimed in an election petition, namely-

Relief which may be claimed

- (a) a declaration that the elections void;
- (b) a declaration that the nomination of the person elected was undue;
- (c) a declaration that any candidate was duly elected;
- (d) where the seat is claimed for an unsuccessful candidate on the ground that he had a majority of lawful votes, a scrutiny.

**83.** At the conclusion of the trial of an election petition, the Court shall determine whether the member whose nomination or election is of 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 Commission. 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.

Certificate court as to validity of election

**84.**-(1) At the conclusion of the trial of an election petition, the court shall also report in writing to the Commission-

Report of court as to corrupt or illegal practice

- (a) whether any corrupt or illegal practice has or 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 names and descriptions of all persons, if any, who have been proved at the trial to have been guilty of any such practice.

(2) Before any person, not being a party to an election petition nor a candidate on behalf of whom the seat is claimed by an election petition, is reported by the court under this section, the court shall give such person an opportunity of being heard and of giving and calling evidence to show why he should not be so reported.

(3) When the court reports that a corrupt or illegal practice has been committed by any person, that person shall be subject to the same disqualifications as if at the date of the said report he had been convicted of that practice or offence.

(4) When the court reports that a corrupt or illegal practice has been committed by any person with the knowledge and consent or approval of a candidate, the candidate shall be subject to the same disqualifications as if at the date of the said report he had been convicted of that practice.

(5) The Commission shall cause a copy of such report to be published in the *Gazette*, and it shall be the duty of all Registration Officers forthwith to peruse the report and forthwith to delete from any register of voters in their charge the name of every person appearing from the report to be disqualified from voting at an election.

Time for presentation of election petition

**85.**-(1) Every election petition shall be presented within one month of the date of publication in the *Gazette* of the result of the election:

Provided that an election petition questioning the election upon the ground of a corrupt practice and specifically alleging a payment of money or other act to have been made or done since the date aforesaid by or with the knowledge and consent or approval of the member whose election is questioned or by or with the knowledge and consent or approval of an agent of the member, in pursuance or in furtherance of such corrupt practice, may be presented at any time within twenty-eight days after the date of such payment or act.

(2) Without prejudice to the provisions of any rules of court made under section 87, an election petition presented in due time may, for the purpose of questioning the election upon an allegation of a corrupt or illegal practice, be amended with the leave of the court within the time within which an election petition questioning the return or the election upon that ground may be presented.

Votes to be struck off at a scrutiny

**86.**-(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 whose name was not on 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 vote of any person proved to have voted more than once at such election;
- (e) the vote of any person who, by reason of a 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 the election.



(2) 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 being qualified to have his name entered on the register of voters.

**87.** 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. Rules of court

**88.**(1) The Chief Justice may by order-

- (a) invest any Resident Magistrate with jurisdiction to try any election petition or application under this Part which, but for the provisions of this section, would ordinarily be tried by the High Court and may specify the area within which such Resident Magistrate may exercise such jurisdiction; or Jurisdiction of Resident Magistrates
- (b) invest any Resident Magistrate with jurisdiction to try all election petitions and applications under this Part within such area as may be specified in the order,

and such Resident Magistrate shall, by virtue of such order, have power in respect of the applications and petitions specified therein, to make any order which could lawfully be made by the High Court.

(2) The High Court may transfer any election petition or application pending before it for trial to any Resident Magistrate and such Resident Magistrate shall, upon such transfer, have power in respect of the petition or application transferred to him to make any order which could lawfully be made by the High Court.

(3) Every order made by a Resident Magistrate in respect of any election petition or application under this Part pursuant to jurisdiction conferred upon him either by subsection (1) or subsection (2) of this section shall be subject to confirmation by the High Court.

(4) The High Court may, in confirmation, confirm, vary or set aside any order made by a Resident Magistrate or make any other order which the High Court may think fit.

(5) Proceedings before a Resident Magistrate shall be governed, as far as may be practicable, by rules relating to, such proceedings before the High Court.

## PART IX

### FINANCIAL AND MISCELLANEOUS

**89.** No misnomer or inaccurate description of any person or place named or described in any notice or other document whatsoever prepared or issued under or for the purposes of this Act shall in any wise affect 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. inaccurate descriptions

**90.-(1)** In the exercise of their respective duties under this Act, Registration Officers and Returning Officers shall at all times have power to demand from any person any information necessary to ascertain what persons are qualified to vote at elections and what persons are qualified to stand as candidates, and to identify any person or 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), 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 five hundred shillings.

Remuneration  
of staff

91. Returning Officers and any staff employed under the provisions of subsection (4) of section 6 and supervisory delegates shall, if not holding an office of emolument in the service of the Republic, receive such reasonable remuneration for their services as the Commission may, after consultation with the Minister, see fit to authorize.

Expenses to  
be charged  
on general  
revenue

92. All expenses incurred-

- (a) by the Returning Officers and Assistant Returning Officers in the conduct of an election;
- (b) in the remuneration of the officers specified in section 91; and
- (c) by any public officer in connection with any official matter connected with or arising- out of an election,

shall be a charge on the general revenue of the Authority in respect of which the election is held.

Service of  
notices

93. A notice under this Act shall be deemed to have been served on or given to any person-

- (a) if served on him personally; or
- (b) if left for him at his last known address; or
- (c) if sent by registered post addressed to him at his last known address.

Forms

94.(1) The Commission may make rules prescribing forms and declarations to be used for the purposes of this Act.

(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

95. 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.

Disposal  
of forms  
and records

96. The Commission may, subject to the provisions of this Act, from time to time issue directions with regard to the disposal (including destruction) of any forms, records or other papers or things relating to any matter for which provision is made in this Act.

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**PART X**

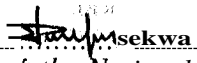
REPEALS

**97.** The Local Government Elections (Urban Areas) Ordinance and the Local Government Elections (Rural Areas) Act are hereby repealed.

Local  
Government  
election  
laws  
repealed

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Passed in the National Assembly on the twenty-ninth day of September, 1966.

  
.....  
*Clerk of the National Assembly*