

THE ELECTIONS ACT, 1970

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THE FIRST SCHEDULE

LAWS REPEALED



THE SECOND SCHEDULE



AMENDMENTS TO LAWS

THE UNITED REPUBLIC OF TANZANIA



No. 25 OF 1970

I ASSENT,

Julius K. Nyerere
President

25TH JULY, 1970

An Act to consolidate the Laws relating to the election of President, the elections to the National Assembly and the elections to the Local Authorities, and to provide for matters connected therewith and incidental thereto

[25TH JULY, 1970]

ENACTED by the Parliament of the United Republic of Tanzania.

**CHAPTER I
PRELIMINARY**

1.--(1) This Act may be cited as the Elections Act, 1970.

Short title
and
construction

(2) The provisions of this Act which relate to Presidential Elections and parliamentary elections shall be read as one with the Interim Constitution, 1965 (hereinafter referred to as "the Constitution").

2.--(I) In this Act unless the context otherwise requires-
"candidate" means a person who submits himself for election to the National Assembly or for election to a local authority:

Inter-
pretation

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 on behalf of the Party;

"certificate of registration" means a certificate issued under the provisions of this Act certifying that the person named in such certificate has been registered as a voter;

- "close of poll" means the latest close of poll in a polling station in relation to any election;
- "the Commission" means the Electoral Commission established by the Constitution;
- "constituency" means a constituency for the purposes of elections to the National Assembly;
- "counting agent" means a person appointed as a counting agent under the provision of section 85;
- "contested election" means an election in a constituency or, as the case may be, a ward at which there is more than one candidate;
- "Director of Elections" means the Person appointed to be the Director of Elections in accordance with the provisions of section 7, and includes a person for the time being performing any of the functions of that office;
- "election" means-
- (a) in the case of an election of the President, the Presidential election;
 - (b) in the case of an election to the National Assembly, a parliamentary election;
 - (c) in the case of an election to a local authority, a local authority election,
- and includes a by-election;
- "election day" in relation to an election in any constituency or, as the case may be, a ward, means the day appointed under subsection (1) of section 61 or any day substituted therefor in accordance with the proviso to that subsection, or, in the case of a parliamentary election or a local authority election in which the candidate is declared elected under section 56 or, as the case may be, subsection (5) of section 60, the date on which he is so declared elected;
- "Electoral Conference" means the Electoral Conference of the Party,
- "Local authority election" means the election of a member to a local authority;
- "member" means, in relation to the National Assembly, a constituency member, and in relation to a local authority, an elected member;
- "nomination" means nomination as a candidate for election to the National Assembly or local authority, and references to nomination, except where they are by context or expressed to be references to primary nomination, shall be construed as references to final nomination;
- "nomination day" means a day appointed as primary nomination day;
- "parliamentary election" means the election of a member to the National Assembly;

"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 72;

"polling assistant" means a person appointed under the provisions of section 71;

"polling district" means the area or division of a constituency or, as the case may be, a ward made pursuant to the provisions of section 5;

"polling station" means a polling station specified under the provisions of section 62;

"prescribed" means prescribed by regulations made by the Commission under section 139;

"Presidential election" means the election of the President of the United Republic;

"presiding officer" means a person appointed under the provisions of section 71;

"qualified" or "qualification" means-

- (a) when used in relation to a person claiming to be entitled to be registered as a voter, qualified to be or qualifications as a voter;
- (b) when used in relation to a person claiming to be qualified as a candidate for a parliamentary election, qualified to be or qualification as a candidate for election to the National Assembly for the constituency in question;
- (c) when used in relation to a person claiming to be qualified as a candidate for a local authority election, qualified to be or qualification as a candidate for election to a local authority for the ward in question;

"register" means a register of voters compiled and maintained in accordance with the provisions of this Act;

"Registration Officer" means a Registration Officer appointed under the provisions of section 8 and includes, in so far as is provided for in that section, an Assistant Registration Officer; and the "Registration Officer" in relation to a constituency means the Registration Officer appointed for that constituency, and the "Registration Officer" in relation to a ward or a polling district means the Registration Officer of the constituency within which such ward, or as the case may be, the polling district is situate;

"Returning Officer" means a Returning Officer appointed under section 10, and includes in so far as is provided for in that section an Assistant Returning Officer; and the "Returning Officer" in relation to a constituency means the Returning Officer appointed for that constituency and the Returning Officer in relation to a ward means the Returning Officer appointed for that ward;

"voter" means any person who is for the time being qualified to vote at an election in accordance with the provisions of this Act;

"ward" means a division of the area within the jurisdiction of a local authority declared to be a ward of such local authority under the provisions of section 6, and where the area within the jurisdiction of a local authority has not been divided into wards, means the whole of such area.

(2) References in this Act or in any other written law to a registered voter's number shall be construed as references to the number of such voter's certificate of registration.

(3) References in this Act to an election in a constituency shall be construed as references to a parliamentary election in that constituency and references to a candidate to a constituency shall be construed as reference to a candidate for parliamentary election in that constituency.

(4) Reference in this Act to an election in a ward shall be construed as reference to the local authority election in that ward, and reference to a candidate for a ward shall be construed as reference to candidate for the local authority election in that ward.

Regulations,
directions
and notices

3. All regulations, directions and notices which the Commission empowered to make, issue or give, shall be deemed to have been validly made, issued or given, if they are made, issued or given under the signature of the Chairman of the Commission or the Director of Elections.

Acts of
Party

4. Where this Act requires any matter or thing to be done by an organ of the Party, that matter or thing shall be done, subject to the Constitution and this Act, in accordance with the constitution of the Party and any rules of the Party applicable thereto which are not inconsistent with the Constitution or this Act:

Provided that where any member of an organ of the Party is a candidate in respect of whom that organ has a function under the Constitution or this Act, he shall not take part in the proceedings of that organ in the exercise of such functions in relation to himself.

Polling
districts

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

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

(3) Where as a consequence of the establishment, or variation in the boundaries, of a constituency, an area which hitherto constituted a polling district in one constituency lies wholly within another constituency, the Commission may declare that such area shall cease to be a polling district within the one such constituency and shall constitute a polling district within the other such constituency.

(4) Every polling district shall be so established or varied as to lie wholly within a ward.

Wards

6--(1) The Commission may, by notice published in the *Gazette*, divide the area within the jurisdiction of a local authority into such number of wards as the Commission may consider necessary or desirable.

(2) Where the boundaries of the area within the jurisdiction of a local authority are varied, or in any other circumstances in which the Commission thinks it appropriate so to do, the Commission may alter the number and the area of wards within the area of the jurisdiction of the local authority; and upon such alteration being made it shall publish in the *Gazette* a notice specifying the alteration.

(3) Where as consequence of a variation in the boundaries of the area of jurisdiction of a local authority, an area which hitherto constituted a ward of one local authority lies wholly within the jurisdiction of another local authority, the Commission may declare that such ward shall cease to be a ward of the one such local authority and shall constitute a ward of the other such local authority.

(4) Every ward shall be so established or varied that its area wholly coincides with the area of a polling district or the areas of two or more contiguous polling districts.

(1) The Commission shall appoint a Director of Elections and may make such appointment by name or by reference to an office. Director of Elections

(2) The Director of Elections shall, subject to the direction of the Commission-

- (a) ensure that every Registration Officer and every Returning Officer performs the functions and duties of his office in compliance in every respect with the provisions of this Act, the regulations and the directions of the Commission, and for that purpose may give to any such officer such directions and instructions as he may deem necessary or expedient;
- (b) exercise and perform all such functions and duties as are conferred upon him by this Act, the regulations or directions of the Commission.

(1) The Commission shall appoint by office a Registration Officer for each constituency, and every such Registration Officer shall be in charge of every polling district within the constituency for which he is appointed. Registration officer and staff

(2) The Registration Officer appointed for a constituency shall appoint by office such number of Assistant Registration Officers as he may think fit.

(3) Subject to such directions as the Registration Officer may from time to time issue, an Assistant Registration Officer may exercise and perform all the powers and duties conferred or imposed on a Registration Officer other than those conferred or imposed by the foregoing provisions of this section, and any reference in this Act to the Registration Officer, or the Registration Officer in charge of a polling district shall, save as aforesaid, be deemed to include a reference to an Assistant Registration Officer.

(4) Registration Officer may, subject to the directions of the Commission, employ such staff as they may require to carry out their functions under the provisions of this Act.

Ex-officio
Assistant
Registration
Officers

9. Every Town Clerk and every Executive Officer of a local authority shall, by virtue of such office and without further or other appointment under this Act, be an Assistant Registration Officer.

Returning
Officers and
staff

10.--(1) The Commission shall appoint by office a Returning Officer for each constituency and for each ward.

(2) Each Returning Officer shall appoint by office such number of Assistant Returning Officers as he may think fit.

(3) Subject to such directions as the Returning Officer may from time to time issue, an Assistant Returning Officer may exercise and perform all the powers and duties conferred or imposed on a Returning Officer other than those conferred by the foregoing provisions of this section, and any reference in this Act to the Returning Officer shall, save as aforesaid, be deemed to include a reference to an Assistant Returning Officer.

(4) Returning Officers may, subject to the directions of the Commission, employ such staff as they may require to carry out their functions under the provisions of this Act.

(5) Every Returning Officer and Assistant Returning Officer shall, upon his appointment, take and subscribe an oath of secrecy in the prescribed form before a magistrate.

Registration
Officers of
wards

11. A Registration Officer of a constituency shall be ex-officio the Registration Officer of all the wards within that constituency.

Supervisory
delegates

12. (1) The Commission shall, as occasion requires, appoint from among persons nominated for the purpose by the National Executive Committee or the Central Committee of the Party-

(a) three supervisory delegates for every meeting of an Annual District Conference held for the purposes of section 53;

(b) three supervisory delegates for every constituency in which there is a contested election.

(2) The Commission shall, as occasion requires, appoint from among persons nominated for the purpose by the Central Committee of the Party-

(a) two supervisory delegates for every meeting of a District Executive Committee held for the purposes of the performance of the functions conferred upon it by section 59;

(b) two supervisory delegates for every ward in which there is a contested election.

(3) No person shall be appointed a supervisory delegate-

(a) under paragraph (a) of subsection (1), for a meeting of Annual District Conference for a district in which he is ordinarily resident; or

- (b) under paragraph (b) of subsection (1), for a constituency in which he is ordinarily resident.
 - (c) under paragraph (a) of subsection (2) for a meeting of the District Executive Committee for a district in which he is ordinarily resident; or
 - (d) under paragraph (b) of subsection (2) for a ward in which he is ordinarily resident.
- (4) Supervisory delegates shall exercise the functions conferred upon them by this Act notwithstanding any vacancy in their number.
- (5) The Central Committee may delegate any or all of its functions under subsection (2) to any organ of the Party.

CHAPTER II

REGISTRATION OF VOTERS

PART I

QUALIFICATIONS AND DISQUALIFICATIONS FOR REGISTERING AS VOTERS AND VOTING

13. Every citizen of Tanzania who has attained the age of eighteen years shall, unless he is disqualified by this or any other Act, be entitled to be registered under and in accordance with the provisions of this Act as a voter. Qualifications for registration
- 14.(1) No person shall be qualified for registration as a voter or shall be registered under this Act— Disqualifications for registration
- (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 or is detained as a criminal lunatic or during the pleasure of the President;
 - (c) if he is under sentence of death imposed on him by any court in Tanzania or a sentence of imprisonment (by whatever name called) exceeding six months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court;
 - (d) if he is disqualified from registering as a voter under the provisions of this or any other law in force relating to offences connected with any election.
- (2) For the purposes of paragraph (c) of subsection (1)-
- (a) two or more sentences that are required to be served consecutively shall be regarded as separate sentences if none of them exceeds six months but if any one 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.
- (3) Where any person registered under this Act ceases to be qualified for registration as a voter his name shall be deleted from the register:

Provided, that no name shall be deleted from a register, save in accordance with the provisions of Parts 3 and, 4 of this Chapter or on the report of a court that such person has been guilty of a practice which disqualifies him from registering or voting.

No person shall be registered in more than one constituency or polling district
Register of voters

15. No person shall be registered as a voter in more than one constituency, or in more, than one polling district in a constituency.

16.(1) The Director of Elections shall make and maintain a register of voters for each and every polling district.

(2) Every register of voters shall consist of the names of all persons who are registered as voters in the polling district in question grouped alphabetically, With the names included in each group arranged alphabetical order to the extent of the first two letters of the name.

(3) The register shall show, relative to every voter named therein, the number of the certificate of registration issued to such voter, the sex of the voter and the address at which the voter ordinarily resides.

(4) Such number of copies of every register of voters shall be kept and maintained as the Director of Elections may think fit.

Place of and disqualification for voting

17. (1) Subject to the provisions of this Act, a person who is registered as a voter in any polling district shall be entitled to, vote at any election in that polling district, and every such person shall be entitled so to vote only at the polling station allocated to him in such polling district, and not elsewhere.

(2) Notwithstanding the provisions of subsection (1) a presiding officer or polling assistant at any polling station shall not permit any person to vote at that polling station unless such person satisfies the presiding, officer or, as the case may be, the polling assistant, that he is the voter he claims to be by producing to him the certificate of registration issued to such person or such other proof of his identity as the Director of Elections may for the time being direct to be a sufficient proof of identity of the person claiming to be entitled to vote.

(3) Notwithstanding that a person is registered as a voter under this Act he shall not be entitled to vote in any election if any circumstances arise in relation to him which, if he were not so registered, would cause him to be disqualified for registration under this Act.

(4) Notwithstanding any other provision of this Act, the Director of Elections or any person authorized in that behalf by the Director may, by a certificate under his hand, authorize a registered voter who is a candidate at an election in a constituency or a ward to vote at the

election in that constituency or, as the case may be, ward, at the polling station specified in such certificate whether or not such candidate is registered as a voter in any polling district in that constituency or ward.

(5) Notwithstanding any other provision of this Act, where a voter registered as such in any polling district is employed as a Returning Officer, presiding officer, police officer or in any other official capacity at a polling station in such polling district other than at the polling station allocated to him, the Director of Elections or any person authorized in that behalf by the Director, may by a certificate under his hand, authorize the voter to vote at any other polling station in such polling district, and that polling station shall, for the purposes of this Act, be deemed to be the polling station allotted to such voter.

(6) A person who is serving a sentence of imprisonment may, subject to the provisions of this Act, be registered as a voter, or vote at an election, only if permitted to do so by the written law governing his imprisonment:

provided that nothing in this subsection shall be construed as authorizing any such person to vote at any polling station other than the polling station allotted to him.

18. A person registered as a voter whose name has been changed consequent upon marriage or otherwise since being so registered shall, if not disqualified from voting under section 17, be entitled to vote under the name in which she or he is so registered.

Change of
name

PART 2

REGISTRATION

19. (1) Where an election is to take place in any constituency or ward, the Commission may, at any time within six months before the date of such election, direct the Registration Officer in charge of such constituency or the constituency within which such ward is situated to make available at each and every polling district within the constituency or, as the case may be, the ward, facilities for the registration of voters.

Times for
registration

(2) Subject to the provisions of subsection (1) every Registration Officer shall, during office hours on not less than one day in each month, make available at the headquarters of the district in which the polling district in his charge is situated, facilities for the registration of voters.

(3) Any person entitled to be registered as a voter at any polling district and who has not been so registered may present himself-

- (a) in cases where under the provisions of subsection (1) facilities for registration are made available at polling districts, at the relevant polling district;

(b) in any other case, at the headquarters,

and shall, upon so Presenting himself and upon satisfying the officer in charge of the polling district or, as the case may be, the headquarters, that he is entitled to be registered as a voter, be registered as a voter in accordance with the provisions of this Act.

(4) Notwithstanding any provision of this section to the contrary, it shall be lawful for the Commission to direct that the registration of voters in all or any polling district in the constituency or ward specified in such direction shall be suspended for such period as the Commission may direct if, in the opinion of the Commission, it is desirable to suspend the registration of voters in view of the fact that an election is likely to take place in such constituency or, as the case may be, ward in the near future or for any other reason whatsoever.

(5) Where a direction under subsection (4) has been issued in respect of any polling district, no registration of voters shall take place in such polling district during the period specified in such direction.

Certificate of registration

20--(I) Where a person makes an application for registration as a voter in accordance with the provisions of section 19, he shall, if he satisfies the Registration Officer or any other officer for the time being responsible for the registration of voters, that he is qualified to be registered as a voter at a polling district within the jurisdiction of such Registration Officer or such other officer, be registered as a voter for such polling district and upon being so registered shall be issued with a certificate of registration in the prescribed form.

(2) The Commission may by regulations made under section 139 require any person applying for registration as a voter, to fill in such forms as may be prescribed.

Changes of residence

21.-(1) Where any voter who is registered in one polling district becomes ordinarily resident in some other polling district, he may apply in person in accordance with the provisions of section 19 to the Registration Officer for the polling district in which he is ordinarily resident; and the Registration Officer shall-

(a) if he is satisfied that the applicant-

(i) is qualified for registration; and

(ii) is ordinarily resident in the polling district in respect of which he makes the application; and

(b) on the surrender by the applicant of his certificate of registration, or on the applicant's satisfying the Registration Officer that is lost or destroyed,

forthwith register the applicant in the register for the polling district and issue to him a new certificate of registration for that polling district,

(2) Where a Registration Officer registers an applicant under this section, he shall forthwith-

- (a) cancel the certificate of registration surrendered by the applicant and forward it to the Director of Elections; or
- (b) if he is satisfied that the applicant's certificate of registration is lost or destroyed, give notice to the Director of Elections of the issue by him of a new certificate of registration,

and on receipt of such certificate of registration or notice, the Director of Elections shall amend the register accordingly.

(3) Notwithstanding the provisions of subsection (1) of section 17, or subsection (1) of this section, where by reason of-

- (a) any change of name of a constituency or a ward; or
- (b) any adjustment in the number of constituencies or wards; or
- (c) any adjustment in the boundaries or areas of one or more constituencies or wards,

a constituency becomes part of another constituency or a ward becomes part of another ward or a polling district of one constituency or a ward becomes a polling district or part of a polling district of another constituency or ward or of the same constituency or ward with a new name, it shall not be necessary for a voter whose name is on any register affected by such adjustment, to apply for the transfer of his name to the appropriate register, but the Director of Elections shall, as soon as possible, effect such amendments or transfers as may be necessary to give effect to such adjustment as if an application for transfer had been made by the voters concerned pursuant to the provisions of this section.

22.- (1) Where a certificate of registration issued to any person is lost, defaced or destroyed, the person to whom such certificate was issued may apply in person to the Registration Officer for the issue of a new certificate of registration.

Certificate of registration lost, defaced or destroyed

(2) On any such application, the Registration Officer shall, if satisfied at the application is properly made and that the applicant remains qualified for registration, issue the applicant with a new certificate of registration upon the applicant paying the prescribed fee, if any, and where the application is made in respect of a defaced certificate of registration, upon the applicant surrendering such defaced certificate of registration.

23. Where any of the particulars on a certificate of registration or a register requires amendment by reason of a change of name, or of any other alteration in the circumstances affecting the person to whom it was issued, other than a change of residence from one polling district to another, the person to whom such certificate of registration was issued may apply in person to the Registration Officer for the issue of a new certificate of registration, and the Registration Officer shall upon such application being made to him and upon being satisfied that the application is properly made and that the applicant remains qualified for registration, issue to the applicant a new certificate of registration, and shall advise the Director of Elections to make any necessary amendments to the register.

Amendment of particulars

Provided that no new certificate of registration shall be issued under this section unless the applicant surrenders his certificate of registration or satisfies the Registration Officer that it is lost or destroyed and Pays the Prescribed fee, if any.

Declaration relating lost or destroyed certificates of registration

24. Where, under the foregoing provisions of this Part, an application is made to a Registration Officer by a person who claims he has lost his certificate of registration issued to him or that such certificate of registration has been destroyed, the Registration Officer shall require the applicant, to make a declaration in the prescribed form relating to such loss or destruction, and without prejudice to his power to refuse the application on other grounds, may refuse the application unless, the applicant makes such a declaration.

Refusal of application

25. Where a Registration Officer refuses an application under the foregoing provisions of this Part, he shall, if so required by the applicant, give to the applicant a written statement in the prescribed form setting out the grounds of his refusal, and any applicant aggrieved by such refusal may, within twenty-one days after receipt by him of such statement, appeal against such refusal to a resident magistrate.

PART 3

OBJECTIONS TO REGISTRATION OR CONTINUED REGISTRATION

inspection of register

26. Any person may, on application made in that behalf to the Registration officer or to the Director of Elections, inspect the register of any polling district on such day and at such time as the Registration, Officer or, as the case may be, the Director of Elections, may appoint.

Inclusion of name in register

27.-(1) Where any person who has been registered as a voter and holds a valid certificate of registration in respect of a polling district discovers, pursuant to an inspection made in accordance with the provisions, of section 26 that his name does not appear in the register of the polling district, he may apply to the Director of Elections or the Registration Officer for inclusion of his name in the register, and the Director of Election or, as the case may be, the Registration Officer, shall, if satisfied that the name of such person should have been included in the register of the polling district, amend or cause to be amended the register by inclusion of the name of such person.

(2) Where the Director of Elections or the Registration Officer refuses to amend or cause to be amended the register to include the name of any person, the person aggrieved by such refusal may object to such refusal.

Objections

(1) Any person whose name appears in the register for any polling district may object to the retention in that register of his own, name or the name of any other person on the ground that he or such other person is not qualified or is no longer qualified to be registered therein or that such other person is dead.

(2) The Director of Elections or the Registration Officer may object to the retention of any name in the register of any polling district on any such ground aforesaid.

(3) Any person who makes an objection under this section or under "on 27 shall. hereinafter be referred to as the objector.

29.-(1) Except in the case of an objection made by a Registration officer every objection shall be made in duplicate in the prescribed form and shall be made to and shall be made to the Registration its may be prescribed.

Procedure
for making
objections

(2) Every objection, other than an objection made by the Director of Elections or a Registration Officer, shall be accompanied by the sum of five shillings as a deposit

(3) Only such objections as are made in accordance with the provisions of this section shall be received by the Registration Officer.

(4) The Registration Officer shall, as soon as practicable after receiving an objection made in accordance with this Part or, in the case of an objection made by himself, within such period as may be prescribed, send a notice of such objection to the person in regard to whom such objection has been made:

Provided that a Registration Officer shall not be required to send a notice when an objection is made on the ground that a person whose name appears in a register is dead.

30. (1) The Registration Officer shall as soon as, practicable, hold a public inquiry into all objections which have been duly made, giving not less than fourteen clear days' written notice of the date on which and the time and place at which such inquiry will commence to each objector, and person in regard to whom the objection has been made. At any such public inquiry any person appearing to the Registration Officer to be interested in or affected by the *subject* matter of the inquiry may appear and be heard either personally or *by any* other person duly authorized by him in writing in that behalf.

Inquiry and
determina-
tion by
Registration
Officer

(2) Where an objection is made to the retention or non-inclusion of any name in the register, the Registration Officer shall call upon the objector, or any person authorized in writing in that behalf by the objector, to give *prima facie* proof of the ground of, the objection.

(3) If in the opinion of the Registration Officer, such *prima facie* proof as aforesaid is given, the Registration Officer shall require proof of the present qualification for registration of the person in regard to whom the objection has been made, and-

- (a) if such person's qualification is not proved to the Registration Officers satisfaction, he, shall delete or cause to be deleted sure person's name from the register;
- (b) if such person's qualification is so proved, he shall retain, or as the case may be, include. or cause to be retained or included. such person's name in the register.

(4) If, on the date fixed for inquiry into any objection, the objector or any person authorized in writing in that behalf by the objector fails to appear, or appears but fails to give such *prima facie* proof as aforesaid to the satisfaction of the Registration Officer, the Registration Officer shall retain or cause to be retained the name of the person in regard to whom the objection is made in the register or, as the case may be, take no steps for the amendment of the register so as to obtain inclusion in the register of the name of the person objecting against the non-inclusion of his name in the register.

(5) If an objection made by any person other than the Registration Officer or the Director of Elections is disallowed by the Registration Officer and, in his opinion, the objection was made without reasonable cause, the Registration Officer may, if he thinks fit, order in writing the objector to pay the person in regard to whom the objection has been made such sum, not exceeding one hundred shillings, as the Registration Officer considers reasonable compensation for any loss incurred by such person in consequence of the objection.

(6) Any sum awarded as compensation under this section shall be recoverable as though the order of the Registration Officer were a decree of a district court for the recovery of the money.

(7) If an objection is disallowed by the Registration Officer and he is of opinion that the objection was made without reasonable cause, the deposit of five shillings shall be liable to be forfeited to the Government by order of the Registration Officer, but otherwise such deposit shall be refunded.

(8) The validity of any proceedings under this section shall not be questioned by reason only of the Registration Officer hearing and determining an objection made by himself, and in any such case the procedure at an inquiry under this section shall be commenced at the stage at which the Registration Officer requires proof of the present qualification of the person in regard to whom the objection is made.

Objector or
person
objected to
may appeal

31. If any objector or person in regard to whom objection has been made is dissatisfied with the decision of the Registration Officer under section 30 he may, within twenty days from the date of such decision appeal therefrom to a resident magistrate.

PART 4

APPEAL AND ADDITION TO OR DELETIONS FROM THE REGISTER

Appeals to
resident
magistrates

32-(1) Every appeal under section 25 or 31 shall state shortly the grounds of appeal, and shall be accompanied by the sum of twenty shillings as a deposit.

(2) The resident magistrate shall hear every such appeal in public giving notice of the time, date and place of the hearing of the appeal to the parties concerned. It shall be in his discretion whether to hear or not to hear any evidence. His determination of the appeal shall be final and conclusive and shall not be called in question in any court.

(3) When the resident magistrate has determined the appeals which have been lodged with respect to any register or the issue of certificates of registration, he shall forward to the Registration Officer a statement under his hand containing the names which he has decided shall be inserted or retained in the register and those which he has decided shall be deleted from the register, and a statement of the names of the persons to whom certificates of registration shall be issued, and the Registration Officer shall amend or cause to be amended the register and issue such certificates of registration accordingly:

Provided that-

- (a) the resident magistrate shall not require a Registration Officer to issue a certificate of registration to any person who claims he has lost a certificate of registration issued to him and relevant to the proceedings, or that any such certificate of registration has been destroyed, unless such person shall have made the declaration provided for in section 24; and
- (b) in any case to which section 22, 23 or 24 applies and no declaration has been made in accordance with section 24, the Registration Officer may refuse to issue a new certificate of registration until the previous certificate of registration issued to the person concerned has been surrendered.

(4) if an appeal is dismissed and the resident magistrate is of opinion that the appeal was made without reasonable cause, he may order that the deposit of twenty shillings shall be forfeited to the Government, but otherwise the deposit shall be refunded.

(5) No party to an appeal shall be entitled to any costs or compensation:

Provided that if an appeal is made and is not allowed by the resident magistrate and in his opinion the appeal was made without reasonable cause, the resident magistrate may, if he thinks fit, order the appellant to pay compensation of such amount, not exceeding one hundred shillings, as he considers reasonable. Any sum so awarded shall be recoverable as though the order was a decree of a district court for the recovery of money.

(6) Where an appeal has been made under this section, the resident magistrate may, whether he allows or dismisses the appeal, order that any deposit forfeited or to be forfeited or any sum of money paid or to be paid by way of compensation in accordance with an order of the Registration Officer made under section 30 (or so much of such deposit or such sum as the resident magistrate may specify) shall not be paid or forfeited, or shall be returned to the objector, as the case may be, and any sum ordered to be returned shall be recoverable as though the order was a decree of a district court for the recovery of money.

(7) Witnesses may be summoned and sworn at the hearing of an appeal under the provisions of this section in the same manner as nearly as circumstances admit as in a trial by a district court in the exercise of its criminal jurisdiction and shall, without prejudice to the provisions of any other law, be subjected to the same penalties for the giving of false evidence or for non-attendance.

(8) Any person entitled to appear as a party at an appeal brought under the provisions of this section may appear either in person or by advocate.

(9) The procedure and practice of hearing of appeals under this section shall be regulated in such manner as the resident magistrate shall decide, and without prejudice to the generality of the foregoing a resident magistrate may, if satisfied that two or more appeals involve the same question, declare that the decision given in any appeal heard previously shall be binding on the parties to such of the other appeal or appeals as he shall specify.

Provisions consequential to additions to or detentions from register under this Part

33.(1) Where the name of any person has been added to a register under section 32, or any certificate of registration has been issued to any person in pursuance of that section, the Registration Officer shall take such steps, in relation thereto as if he had not refused the application to which, the appeal relates.

1 (2) Where the name of any person has been deleted from a register under section 30 or 32, the Registration Officer shall require such person either-

- (a) to surrender any certificate of registration issued to such person under this Act; or
- (b) to make and deliver to the Registration Officer the declaration provided for in section 24,

within such period (not being less than ten days) as the Registration Officer shall specify; and the Registration Officer shall cancel any certificate, of registration so surrendered.

CHAPTER III

PRESIDENTIAL ELECTIONS

PART 1 - GENERAL

Meetings of Electoral Conference

34. 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

35.-(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) The Electoral Commission shall appoint as Presidential election day-

- (a) in the case of a Presidential election held by reason of the dissolution of Parliament (other than in the circumstances Provided for by paragraph (b) of sections (4) of section 7 of the Constitution)-
 - (i) for each constituency in which there is a contested parliamentary election, the day appointed as election day for that contested election;
 - (ii) for every other constituency, 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 shall have been certified to the Commission.
- (b) in the case of a Presidential election to which paragraph (a) of this subsection does not apply, for every constituency a day not less than forty days and not more than fifty days after the nomination of the sole presidential candidate shall have been certified to the Commission.

(4) Different days May be appointed under sub-paragraph (ii) of paragraph (a) or paragraph (b) of subsection (3) for different constituencies

(5) For the purposes of subsection (3) a constituency for which a parliamentary , election is countermanded or in which the election procedure for a Parliamentary election is commenced afresh, shall be deemed to be a constituency in which there is no contested parliamentary election.

36. Where pursuant to section 57 or section 65 the parliamentary election for any constituency has been countermanded, the Electoral Commission-

- (a) shall countermand the presidential election day if any, appointed by it for that constituency under section 35; and
- (b) shall appoint under and in accordance with section 35 a fresh Presidential election day for that constituency having regard to the election day for the parliamentary election for that constituency.

when
entitled to
vote at
Presidential
elections

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

- (2) Such person may so vote-
 - (a) on the Presidential election day appointed for the constituency for which he is registered as a voter; and
 - (b) at polling station allotted to him in the polling district for which he is so registered and not elsewhere:

persons
entitled to
vote at
Presidential
elections

Provided that where in any polling district in any constituency or a ward a Presidential election day is also election day for a contested parliamentary election or a contested local authority election, a person who is a candidate for that constituency or ward in that contested parliamentary election, or as the case may be local authority election, may, subject to the provisions of subsection (i) of section 17, vote for the Presidential election at the polling station in that constituency or ward at which he is authorized to vote in accordance with the provisions of that subsection.

PART 2

ELECTION PROCEDURE

Supervision
by electoral
Commission

38. The conduct of a Presidential election shall be subject to the direction and supervision of the Commission.

Presidential
election to
be conducted
in manner
similar to
parliamentary
election

39.- The ballot for the election of a President in each constituency shall be held in the like manner as the ballot in a contested Parliamentary election and, subject to any necessary modification and the provisions of this section and sections 40 and 101 the provisions of Chapter V of this Act other than the provisions of sections 85, 92, 93 (2), 95, 96, 99 and 100, shall apply for the regulation thereof and for such other matters as are provided for in Chapter V of this Act.

(2) In addition to any other necessary modifications, the said provisions of Chapter V of this Act shall have effect in relation to the election of a President-

- (a) as if references in that Chapter to a contest between two candidates were references to ballot for or against the sole Presidential candidate; 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.

Certification
of votes and
declaration
of results

40-(I) 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 for the Presidential election 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 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.

PART 3

SPECIAL PROVISIONS RELATING TO THE HOLDING OF PRESIDENTIAL ELECTIONS IN ZANZIBAR

41. The provisions of this Chapter shall apply in relation to the holding and conduct of a Presidential election in Zanzibar in the same manner and, subject to the provisions of this Part, to the same extent as they apply in relation to the holding and conduct of Presidential election in Tanganyika.

Special provision for Zanzibar

43. The Electoral Commission shall appoint a person who, at the time of his appointment is 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.

Supervisor of Elections

43 (I) 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 this 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 this Act.

Constituencies Registration and Returning Officers

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

44. Voters for the purposes of Presidential elections in Zanzibar shall be registered in accordance with Chapter II and the provisions of that Chapter and of Part 1 of Chapter VI shall apply for the purposes of such registrations:

Votes to be registered

Provided that in relation to Zanzibar the jurisdiction conferred upon a resident magistrate by any of those provisions and the jurisdiction to try any person for any offence shall vest in the High Court.

45. Presidential election day in Zanzibar shall be a day not less than forty, 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 as Presidential election day in Tanganyika.

CHAPTER IV
PARLIAMENTARY AND LOCAL AUTHORITY ELECTIONS

PART I
QUALIFICATION OF CANDIDATES

- | | |
|---|--|
| Qualification of candidates for parliamentary elections | 46. No person shall be qualified to be elected as a constituency member unless he is qualified to be so elected by and in accordance with the provisions of the Constitution. |
| Qualification of candidates for local authority elections | 47. Any citizen of the United Republic 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 local authority for which the election is to be held and unless he is disqualified under section 48, be qualified for election as a member of the local authority, and no other person shall be so qualified. |
| Disqualification for election to a local authority | 48.-(I) A person shall be disqualified for election as a member of a local authority- |
| Cap. 490 | (a) if he is under a declaration of allegiance to some country other than the United Republic; |
| Cap. 38 | (b) if under any law in force in Tanganyika 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 Tanganyika or a sentence of imprisonment exceeding six months imposed on him by such court; or |
| | (ii) he is detained under an order made under the Preventive Detention Act, 1962 and has so been detained under the order for a period exceeding six months; or |
| | (iii) he has been deported, in accordance with the provisions of the Deportation Ordinance, under an order made under that Ordinance which has been in force for a period exceeding six months, and is still in force; |
| | (d) if he is an undischarged bankrupt having been adjudged or declared bankrupt under any written law; |
| | (e) if he is a party to, or a partner in a firm, or a director or manager of a company or a co-operative society, which is a party to any subsisting contract with the local authority to which he seeks election and has not, within one month before the date of election, published in the Kiswahili and English language news. Papers circulating within the area of the local 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; |
| | (f) if he is disqualified from becoming a member of a local authority by or under any written law; |

- (g) if he is disqualified from registering as a voter under this Art or disqualified from voting at any election under this or under any written law relating to offences connected with any election-;
 - (h) subject to such exceptions and limitations as the President may by order published in the *Gazette*, prescribe, if he holds or acts any office or appointment in the service of the United Republic or a local authority;
 - (i) if he or his spouse is the beneficial owner of any share in any company incorporated or established in the United Republic or elsewhere or of any interest in any such share;
 - (j) if he or his spouse holds the office of a director in any company incorporated established in the United Republic or elsewhere otherwise than as a nominee of the Government or a local authority or of any statutory corporation or of any company of which the majority of ordinary shares are held by the Government, a local authority or a statutory corporation;
 - (k) if he or his spouse is the beneficial owner of any house or other building or of any interest in a house or other building which or any portion of which, is in the exclusive occupation of some other Person III consideration of payment of rent, fee or other valuable consideration whatsoever, other than lawful deductions from the wages payable to a domestic servant in respect of occupation by him of any portion of such house or of any quarters attached thereto;
 - (l) if he or his spouse is in receipt of two or more salaries; or
 - (m) if he or his spouse being a Person engaged in any trade' business' profession or vocation, employs any workman for the purposes of or in connection with, such trade, business, Profession or vocation.
- (2) For the purposes of sub-paragraph of paragraph (c) of subsection (1)
- (a) two or more sentences that are required to be served consecutively shall be regarded as separate sentences if none of them exceeds six months but if any of them exceeds six months they shall be regarded as one sentence-; and
 - (b) no account shall be taken of a sentence of imprisonment imposed as an alternative to, or in default of, the payment of a fine.
- (.3) For the purpose of paragraph (i) of subsection (1) of this section "share" includes stock, debenture and Other interest whatsoever'
- (4) For the purposes of paragraph (i) and (k) of subsection (1) of this section-
- (a) a person shall not be deemed to be a beneficial owner of a share in a company or of a house or other building, if such person's interest therein is as a beneficiary under a trust or wakf relating to such share, house or other building or interest in a share, house or other building and if-

- (i) he himself is not the settlor of the trust or wakf; and
 - (ii) he was not, at any time during the five years immediately preceding the settlement of the trust or wakf, the beneficial owner of the share, house or building, or of any interest in the share, house or building;
- (b) a person shall not be in contravention of the Provisions of Paragraph (i) or (k) where any share, house or building or any interest in a share, house or building, becomes vested in him by inheritance or by operation of law if-
- (b) where such share, house or building or interest in a share, house or building becomes so vested in him within the three months immediately preceding the date appointed for the Primary nomination, such person lodges with the Electoral Commission an undertaking in the prescribed form to dispose Of such share, house or building or interest in a share, house or building within three months of the Primary nomination; or
 - (ii) where such share, house or building or interest m a share, house or building becomes so vested in him after the date appointed for the Primary nomination but before such person or his spouse, as the case may be, takes his seat as a member of the local authority, such person lodges with the Electoral Commission an undertaking in the prescribed form that he will dispose of the share, house or building or, as the case may be, interest m the share, house or building within three months of his or his spouse, as the case may be, becoming a member of the local authority.

(5) For the purposes of paragraph (j) of subsection (1) of this section " statutory corporation- means any body corporate established by , under any written law other than the Companies Ordinance.

Cap. 212

(6) For the purposes of paragraph (1) of subsection (1) of this section-

- (a) "salary" means-
 - (i) the gains or profit from any trade, business, profession or vocation; or
 - (ii) the remuneration payable to a person under any contract of service by way of salary, wages or allowances; or
 - (iii) the income accruing to a beneficiary under a trust or wakf from such trust or wakf,

but does not include the allowances payable to a member of a local authority as such member;

- (b) where a person receives two or more salaries he shall be deemed to be receiving only one salary if the total amount received by him does not exceed the amount of the salary for the time being payable to a member of the National Assembly as such member; and
- (c) where a person is a beneficiary under two or more trusts or wakfs, the total income received by him as such beneficiary shall be deemed to be one salary.

(7) Notwithstanding the provisions of paragraph (a) of subsection (6) of this section, the President may, by order published in the *Gazette*, declare any income, remuneration or emoluments not to be a salary for the purposes of paragraph (c) of subsection (1) of this section.

PART 2

PRIMARY NOMINATION OF CANDIDATES

49.-(1) Where a parliamentary election is to be held in a constituency or a local authority election is to be held in a ward, or Where such election is countermanded and the election procedures are to be commenced afresh, the Commission shall, by notice published in the *Gazette*, appoint a day (hereinafter in this Part referred to as the primary nomination day) for the primary nomination of candidates for the election:

Provided that in the case of parliamentary elections-

- (a) where a general election is to be held, the primary nomination day for any constituency shall be not less than five nor more than twenty-five days after the dissolution of Parliament;
- (b) where a by-election is to be held, the primary nomination day shall be not less than twenty nor more than fifty days after the occurrence of the event upon which the by-election is to take place.

(2) The Commission may appoint different primary nomination days for different constituencies, or as the case may be, for different wards, and may revoke the appointment of a primary nomination day and appoint some later day as primary nomination day:

Provided that any such later day appointed for a primary nomination day for a parliamentary election shall be within the period provided for under the proviso to subsection (1).

(3) The Commission shall give at least seven days notice of primary nomination day and, in the case of a parliamentary general election, where the President has given notice of his intention to dissolve Parliament, the notice of primary nomination day may be given before such dissolution.

Primary
nominations
of candidates

50.-(1) In order to be validly nominated at a primary nomination to stand as a candidate for a constituency or, as the case may be, a ward, a person must be nominated in writing by not less than twenty-five voters registered in the polling districts within the constituency or, as the case may be, ward, for which he is a candidate.

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

- (a) the name, address and occupation of the candidate;
- (b) the names and addresses, of the nominators of the candidate;
- (c) a certificate by the candidate that he is, willing and otherwise qualified to stand for election.

(3) Every nomination paper shall be accompanied by—

- (a) a statutory declaration in the prescribed form, made and signed by the candidate before a magistrate and declaring the candidate's qualifications and that he is not disqualified for election,
- (b) a certificate in the prescribed form by the Registration Officer in charge of the constituency certifying—
 - (i) in the case of a parliamentary election, that the nominators are registered as voters in the polling districts within that constituency;
 - (ii) in the case of a local authority election, that the nominators are registered as voters in the polling district or districts within the ward in respect of which the candidate has been nominated;
- (c) in the case of a parliamentary election, One Photograph of the candidate taken not earlier than three months preceding the primary nomination day;
- (d) such biographical information relating to the candidate as may be required to be given by regulations in such form as may be prescribed.

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

Provided that the Commission may, in any particular case, if it thinks reasonable so to do, direct that the nomination paper shall be accepted as valid notwithstanding that such nomination paper was not accompanied by any of such documents if the document in question is submitted to the Returning Officer within such further time as the Commission may allow.

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

(6) Every candidate or one of the persons nominating him, shall deliver his nomination paper (together with one copy thereof) signed as herein before provided at the office of the Returning officer not later than four o'clock in the afternoon of the primary nomination day.

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

(8) No person shall nominate more than one candidate for any one election and where a Registration Officer has issued a certificate under paragraph (b) of subsection (3) in respect of a person's nomination of one candidate he shall refuse to issue a certificate in respect of that person's nomination of another candidate for the same election:

Provided that a person shall not be prevented from signing a nomination paper by reason only of his having signed that of a candidate who has died or withdrawn his candidature before delivery of such first mentioned nomination paper.

(9) Where notwithstanding the provisions of subsection (8), a person nominates more than one candidate for the same election and certificates have been issued under paragraph (b) of subsection (3) in respect of such person's registration, such person's nomination shall be valid only in respect of the nomination paper first delivered to the returning officer, and any nomination made by such Person in respect any candidate whose nomination paper is subsequently delivered be invalid.

(10) A Registration Officer shall, when requested by or on behalf of a candidate to issue a certificate in respect of a nominator who is registered in a polling district of which he has charge, issue a certificate accordingly

1) 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 relevant polling district shall not invalidate the nomination of the candidate.

51. No person shall be nominated as a candidate for election-

- (a) in the case of a parliamentary election, in more than one constituency;
- (b) in the case of a local authority election, in more than one ward.

candidate to be nominated for one seat only

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

- (a) that the particulars given in respect of the candidate are insufficient to identify him;
- (b) that the nomination paper does not comply with or was not delivered in accordance with the provision of this Part;
- (c) that it is apparent from the contents of the nomination paper, that the candidate is not qualified to stand for election;

Objections to and decision as to validity of nomination papers

(d) that the requirements of subsection (3) of section 50 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 constituency or, as the case may be, the ward, or by the Director of Elections or the Returning Officer of his own motion and shall be in writing, signed by the objector, and shall specify the 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 Chapter VII 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.

Procedure
following
primary
nominations

53.-(1) As soon as may be practicable after the determination of any objection under section 52-

- (a) in the case of a parliamentary election, a meeting of the Annual District Conference of the Party for the district in which the constituency is situated;
- (b) in the case of a local authority election, a meeting of the Branch Annual Conference of the Party for the ward concerned,

shall be held.

(2) The Returning Officer and the supervisory delegates shall be entitled to attend the proceedings of the meeting of the Annual District Conference or, as the case may be, of the Branch Annual Conference, held for the purposes of this section. The supervisory delegates who shall be entitled to attend the meeting of the Annual Branch Conference shall be the supervisory delegates appointed under paragraph (b) of subsection (2) of section 12.

(3) At the meeting of the Annual District Conference or as the case may be, the Branch Annual Conference, for the purposes of this section-

- (a) the Returning Officer shall read to the meeting the names, addresses and other particulars of the candidate or candidates as the case may be, specified in their respective nomination papers and in the documents accompanying their nomination papers; and

- (b) where there are two or more candidates, after each candidate has been given a fair and equal opportunity to answer questions put to him by the members of the Annual District Conference or, as the case may be, the Branch Annual Conference then present, the meeting shall proceed to discuss the merits and the suitability of each of the candidates for election for the constituency or, as the case may be, the ward, for which he is, a candidate, and shall after such discussion proceed to vote by secret ballot on the candidates for each constituency or, as the case may be, ward, for which the meeting is held, and on such a ballot each member of the Annual District Conference or, as the case may be, the Annual Branch Conference, present at the meeting may cast a preference for the candidate of his choice in each such constituency or, as the case may be, ward; and
- (c) where there is only one candidate for any constituency or ward, the Annual District Conference or, as the case may be, the Annual Branch Conference, shall, after giving the candidate a fair opportunity to answer such questions as the members present at the meeting may put to him, proceed to discuss the suitability of the candidate as a candidate for the constituency or, as the case may be, the ward concerned and shall, after such discussion proceed to vote by secret ballot, and on such a ballot each member of the Annual District Conference or, as the case may be, the Annual Branch Conference, present at the meeting may indicate whether in his opinion the candidate is so suitable.
- (4) The Returning officer shall certify the number of preferences accorded to each candidate and shall forthwith send such certificates together with the nomination papers of the candidates to-
- (a) in the case of a parliamentary election, the National Executive Committee of the Party;
- (b) in the case of a local authority election, the District Executive Committee of the Party of the district in which the ward is situated.
- (5) The supervisory delegates shall report to the National Executive Committee of the Party or, as the case may be, the District Executive Committee, any failure to accord a fair and equal opportunity to candidates and any non-compliance with the provisions of this section or with any rules of the Party not inconsistent therewith or any other irregularities at the meeting of the Annual District Conference or, as the case may be, the Annual Branch Conference, held for the purposes of this section or, if it be the case, shall report that there were no such irregularities.

PART 3

FINAL NOMINATION OF CANDIDATES FOR PARLIAMENTARY ELECTIONS

54. This Part shall apply to parliamentary elections and-

- (a) every reference in this Part to a candidate shall be construed as reference to a candidate for a parliamentary election;
- (b) every reference in this Part to an election shall be construed as a reference to a parliamentary election;

Application
of this
Part

- Approval and selection by National Executive Committee
- 55,(1) When one or more candidates have been nominated, at a primary nomination for an election in a constituency, the Central Committee of the Party, acting on the advice of the Chairman of the Commission, shall appoint a day for a meeting of the National Executive Committee of the Party for the final nomination of such candidate or candidates, and the National Executive Committee shall meet on that day and, if necessary, on succeeding days for such purpose.
- (2) A meeting of the National Executive Committee held for the purpose of this section shall
- (a) consider the nomination papers of the candidates, the certificates of the preferences accorded them at the meeting of the Annual District Conference, the minutes or the record of the proceedings of the meeting of such Conference, and any report of the supervisory delegates; and
- (b) unless, in the exercise of the powers conferred upon the National Executive Committee by section 28 of the Constitution the meeting declines to approve or select a candidate or candidates, exercise its powers of approval or selection, as the case may be, in accordance with the provisions of that section,
- and every candidate approved or selected shall be deemed to have been finally nominated for the relevant election and constituency.
- (3) The National Executive Committee shall forthwith after approving or selecting the candidate or candidates in a constituency, or as the case may be, declining to give its approval or make a selection certify the same to the Electoral Commission:
- Provided that where the National Executive Committee meets for the purpose of this section in respect of more than one constituency, it shall not be required to give its certificate until it has exercised its functions in respect of all the constituencies for which the meeting, is convened other than those in which an election is countermanded.
- (4) The Chairman of the Electoral Commission and the Director of Elections shall be entitled to be present at meetings of the National Executive Committee of the Party held for the purpose of this section.
- One candidate only finally nominated
56. Where only one candidate is finally nominated for an election in a constituency, such candidate shall be deemed to be elected and the Electoral Commission shall, by notice in the *Gazette*, declare him to have been elected.
- Absence of candidates
57. If the National Executive Committee of the Party declines, in the exercise of the powers conferred on it by section 28 of the Constitution, to approve or select a candidate or candidates for a constituency on final nomination and there are, therefore, no candidates for the constituency, the Commission shall, by notice in the *Gazette*, countermand the election and appoint some other convenient day, not later than thirty days after such countermand, for the primary nomination of candidates for election in the constituency and the electoral procedure in that constituency shall be commenced afresh.

PART 4

FINAL NOMINATION OF CANDIDATES FOR LOCAL AUTHORITY ELECTIONS

58. This Part shall apply to local authority elections and-

Application
of this
Part

- (a) every reference in this Part to a candidate shall be construed as a reference to a candidate for a local authority election; and
- (b) every reference in this Part to an election shall be construed as reference to a local authority election.

59.-(1) Upon receipt of the nomination papers of the candidates, the certificates of the preferences accorded by the Branch Annual Conference, the minutes of the meeting of the Branch Annual Conference or a report of such meeting and the report of the supervisory delegates, the District Executive Committee shall meet as soon as may be practicable and shall-

Selection of
candidates
by District
Executive
Committee

- (a) where two or more candidates were nominated for any ward at the primary nomination, nominate, by secret ballot, two candidates for relevant election and ward, and
- (b) where only one candidate was nominated at the primary nomination. declare such candidate to have been finally nominated as candidate for the relevant election and ward.

(2) in making any selection under this section, 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.

(3) In making any selection under this section, it shall be lawful for the District Executive committee to discuss the merits and suitability of all candidates nominated by the primary nomination as well as of the candidates finally nominated by it and reduce its findings into writing

(4) The District Executive Committee shall, after making its selection under this section and unless otherwise directed by the Commission, forward all the papers, declarations, certificates, reports and other documents (including the report of its findings on the merits and suitability of the candidates) relative to the nomination of the candidates together with a certificate of the selection made by it to the Commission.

60.-(1) Upon receipt by it of the papers, declarations, reports and other documents forwarded to it under the Provisions of section 59, the Commission shall, as soon as practicable, submit the same to a meeting of the Central Committee of the Party, and the Central Committee may, if it considers it desirable so to do, intervene in relation to the nominations for any ward made by a District Executive committee.

Intervention
by central
Committee

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

- (a) if it is satisfied that the election procedure has not been properly complied with, request the Commission to take action in accordance with subsection (4);
- (b) in its discretion, overrule the final nomination by the District Executive Committee and select by secret ballot two candidates 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 powers conferred upon it by subsection (2), selects candidates for an election, the Committee 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 have been finally nominated for the relevant election and ward.

(4) Where the Central Committee, in exercise of the powers conferred upon it by subsection (2) disallows the final nomination of a sole candidate for a ward, the Central Committee shall forthwith certify its ruling to the Commission and the relevant Returning Officer, and the Commission shall countermand the election and appoint some other convenient day not later than thirty days after such countermand, for the primary nomination of candidates for election in the ward, and the electoral procedure in that ward shall be commenced afresh.

(5) Where only one candidate is finally nominated for an election in a ward and the Central Committee has not intervened in respect of his nomination, the Returning Officer shall declare the candidate to have been elected.

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

(7) The Chairman of the Commission and the Director of Elections shall be entitled to be present at any meeting of the Central Committee or of any other organ of the Party held for the purposes of this section.

PART 5

ELECTION DAY

Two
candidates
finally
nominated
and
election day

61.-(1) Where two candidates are finally nominated for election, in a constituency or, as the case may be, a ward, the Commission shall, by notice in the *Gazette*, appoint a day not less than forty days and, not more than fifty days after the day on which they have been deemed to have been finally nominated, to be election day in the constituency or, as the case may be, the ward:

Provided that—

- (a) where there are two or more contested elections during a parliamentary general election or a local authority general election, the Commission may appoint different election days for different constituencies or, as the case may be, wards; and

(b) the Commission may revoke the appointment of an election day and appoint some other day within such period as aforesaid to be election day.

(2) The Commission may delegate any of its functions under this section in relation to a local authority election to a Returning Officer.

62.-(1.) Where there is a contested election, the Returning Officer shall, on or before the eighth day before the election day, give notice in the constituency or, as the case may be, 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)) and the time or times of commencement and close of the poll;
- (b) the address of the polling station or stations;
- (c) in any polling district where there are two or more polling stations, the voters assigned to each polling station; and
- (d) 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 constituency or, as the case may be, ward:

Provided that-

- (a) election day for a constituency or, as the case may be, a ward, shall be the polling day for at least one polling district in that constituency or, as the case may be, ward;
- (b) one day but not more than one day shall be appointed as polling day for each polling district; and
- (c) the last day appointed for polling in any polling district in any constituency or, as the case may be, ward, shall be not later than such time after election day for that constituency or, as the case may be, ward, as the Commission may appoint.

(3) Where the Returning Officer has appointed a polling day for a polling district pursuant to the provisions of this section, he may, where it appears to him to be in the public interest so to do, give notice in the constituency or, as the case may be, 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), unless the Commission otherwise directs, the time of commencement of the poll shall be eight o'clock in the morning and the time of the close of the poll shall be six o'clock in the evening or such earlier time as may be specified in the notice.

PART 6

WITHDRAWAL, DEATH AND ABSENCE OF CANDIDATES

Withdrawal of candidature 63. 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 64.-(I) 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 constituency or, as the case may be, a ward, dies, the Returning Officer shall, upon being satisfied of the fact of death, countermand the election in the constituency or, as the case may be, the ward.

(2) In the case where the Returning Officer countermands an election pursuant to the provisions of subsection (1), the Commission shall, by notice in the Gazette, appoint some other convenient day, not later than thirty days after such countermand, for the primary nomination of candidates for election in the constituency or, as the case may be, the ward, and the electoral procedure in that constituency or, as the case may be, ward, shall be commenced afresh:

Provided that no new nomination shall be required in respect of any candidate validly nominated at the primary nomination and every such candidate shall be deemed to have been primarily nominated unless he gives a notice of his withdrawal.

Absence of candidates 65. If after a primary nomination day by reason of death, withdrawal or any other reason whatsoever, there are no candidates in a constituency or, as the case may be, a ward, the Commission shall, by notice in the Gazette, countermand the election and appoint some other day not later than thirty days after such countermand for the primary nomination of candidates for election in the constituency or, as the case may be, the ward, and the electoral procedure in that constituency or, as the case may be, the ward, shall be commenced afresh.

PART 7

THE ELECTION CAMPAIGN

Campaign to be organized by Party 66.-(1) Where there is a contested election in a constituency or a ward-

(a) the election campaign on behalf of both the candidates shall be organized by, and the candidates shall be presented to the electorate at meetings convened for the purpose by-

(i) in the case of a parliamentary election, the District Executive Committee of the Party;

(ii) in the case of the local authority election, the Branch Executive Committee of the Party;

(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 constituency or, as the case may be, the ward for the purpose of furthering the candidate's election, other than a meeting held by or under the auspices of the District Executive Committee or, as the case may be, the Branch Executive Committee and no candidate or any such other person shall undertake any public or door-to-door canvassing save as may be permitted by the District Executive Committee or, as the case may be, the Branch Executive Committee.

(2) In the case of a parliamentary election, the District Executive Committee shall draw up a programme of meetings for every constituency situated within its district in which there is a contested election, and shall specify in such programme the time and place of each meeting, the person who shall take the chair thereat and the order of speaking (alternating at successive meetings) of the candidates.

(3) In the case of a local authority election, the Branch Executive Committee shall draw up a programme of meetings for every ward situated within its jurisdiction in which there is a contested election, and shall specify in such programme the time and place of each meeting, the person who shall take the chair thereat and the order of speaking (alternating at successive meetings) of the candidates.

(4) Every programme drawn up in accordance with subsection (2) or subsection (3) shall be subject to the approval of the supervisory delegates upon their appointment, and it shall be lawful for the supervisory delegates to suggest such alterations and modifications in the programme as they may consider fit.

(5) In the organization and conduct of the election campaign the members of the District Executive Committee or, as the case may be, the Branch Executive Committee, shall accord a fair and equal opportunity to each of the candidates.

67.--(I) The organization and conduct of an electoral campaign in a constituency or a ward shall be subject to the supervision of supervisory delegates appointed for the constituency or, as the case may be, the ward, and such delegates shall be entitled to attend every meeting of the District Executive Committee or, as the case may be, 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 constituency or a ward shall bring to the notice of the District Executive Committee or, as the case may be the Branch 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 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.

Symbols 68.-(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 an approved symbol allotted to him, in the case of a parliamentary election, by the National Executive Committee of the Party and, in the case of a local authority election, by the District Executive Committee of the Party, and, no candidate shall, while electioneering, associate himself with any other symbol.

(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 69.(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 or 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 subsections (1) and (2) of this section, no candidate shall expend any sum in furtherance of his campaign for election.

CHAPTER V

ELECTION AND VOTING PROCEDURE

PART I

ELECTION PROCEDURE

Polling days and times 70. In a contested election polling shall take place in each polling district in the manner hereinafter prescribed on the day appointed for polling in that polling district pursuant to the provisions of section 62.

71. The Returning Officer shall-

Arrange-ments for contested elections (a) Provide a sufficient number of polling stations in each polling district in accordance with the terms of any notice given under the provisions of section 62;

(b) appoint in respect of each polling district such persons, to be known as polling assistants, as he may think fit to assist at the voting in the election;

(c) appoint from among such polling assistants a person to be *in charge* of the polling station, to be known as the presiding officer

(4) 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;
- (f) provide both within and without each polling station notices containing instructions relating to, the, Voting Procedure to be followed;
- (g) provide each presiding officer with such number of ballot boxes and ballot papers as in the opinion of the Returning officer may be necessary;
- (h) provide each polling station With writing materials and instruments with which the voters can mark the ballot papers and for making official marks;
- (i) subject to any direction the Commission may give in, that, behalf, provide each polling station with copies of the register of voters for the polling district, or such part of such register as contains the names of the voters allowed to. vote . at that polling station;
- 0) do such other acts and things as he may be, directed to do by the Commission.

72.-(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 constituency or, as the case may be, 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 station to which they have been assigned, shall, in so far as it may be possible, be given to the Returning Officer not later than seven days before election day or within such shorter time as the. Commission may allow.

(3) If any polling agent dies or becomes incapable of acting as such, the District Executive Committee may appoint another, polling agent 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.

73.-(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 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.

Form of
ballot paper

74. Every ballot paper shall-

- (a) contain the full names, addresses and occupations 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 section 71, 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.

Prohibition
of disclosure
of vote

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

Provided that this section shall not apply in any legal proceeding in which the question whether a presiding officer acting under the provision of Paragraph (h) or (i) of section 76 acted *bona fide* is in issue.

PART 2

VOTING AND COUNTING PROCEDURE

Method of
voting

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

- (a) every voter who wishes to vote shall present himself at the polling station allotted to, him in the polling district for which he is registered, and shall satisfy the presiding officer or a polling assistant at such Polling station that he is the voter he claims to be and that he has not voted already at such polling station or elsewhere. A person may satisfy the presiding officer or a polling assistant that he is the voter he claims to be by producing to such officer or assistant such documentary evidence as to his identity as such officer or assistant may find satisfactory;
- (b) upon being satisfied as to the identity of the voter and that such person's name appears on the register for the polling district in which such polling station is situate, the presiding officer or polling assistant shall deliver to the voter concerned a ballot paper;
- (c) immediately before the presiding officer or polling assistant delivers a ballot paper to any person-
 - (i) the ballot paper, shall be perforated or stamped with an official mark;
 - (ii) the number and particulars of the Voter, as stated in the copy of the register of voters or part thereof maintained at the polling station, shall be called out;
 - (iii) the number of the voter in the copy of the register of voters or part thereof shall be marked on the counterfoil; and

- (iv) a mark shall be placed against the number of the voter in the copy of the register of voters or part thereof to denote that a ballot paper has been received by such voter:

Provided that the number of the ballot paper delivered to such voter shall not be shown on the register:

And provided further that where no copy of the register or part thereof is available at the polling station, the presiding officer or the Polling assistant shall, in lieu of complying with the Provisions of sub-paragraphs (ii), (iii) and (iv),, comply with such directions as the Commission may give in that behalf;

- (d) subject to the provisions of paragraph (h), a voter on receiving a ballot paper. shall go immediately into one of the screened compartments In the polling station, and shall there secretly record his vote in the manner provided in paragraph (e), fold up the ballot paper so as to conceal his vote and shall then show to a polling assistant the back of the, paper so as to reveal the official mark and shall then put the folded ballot paper into the ballot box;
- (e) a voter shall record his vote-
- (i) in a presidential election, by putting a mark m the appropriate place on the ballot paper to indicate whether he votes in favour of or against the candidate;
 - (ii) in the case of a parliamentary. election or a local. authority election, by putting a mark against the name of the candidate for whom he wishes to vote thereby recording no more than one vote;
- (f) a voter shall not place on the ballot paper any writing or mark by which he may be identified;
- (g) a voter shall vote without undue delay;
- (h) if a voter is incapacitated by blindness or other physical cause, or is unable to read, he may call the Presiding officer aside, and shall tell him, no other person being present or within hearing, the name of the candidate for whom he wishes to vote,' and the presiding officer shall mark the ballot paper accordingly and shall, in the presence of the voter, place the ballot paper in the ballot box and every ballot paper marked in accordance with this paragraph shall be deemed to have been marked by the voter in accordance with paragraph (e);
- (i) if a voter is illiterate or does not understand how to record -his vote the presiding officer may, m the presence of the polling agent, explain to the voter the procedure;
- (j) subject to the provisions of paragraphs (h) and (i), a voter shall not show the, mark which he has placed. upon his ballot paper to any person, and if he does so the ballot paper shall be treated as a 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 spoilt by accident, obtain another ballot paper in the place of the paper so delivered up, and the spoilt ballot paper and its, counterfoil shall be immediately marked as cancelled.

Voting by
supervisory
delegates

77,(1) Notwithstanding the provisions of section 76, a person appointed as a supervisory delegate for the purposes of a parliamentary election or a local authority election, may vote for the election concerned and any other election taking place simultaneously With such first. named election, in the constituency or, as the case may be. 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 constituency or, as the case may be, ward, in a sealed envelope marked "Ballot".

(2) Ballot papers for the purpose of this section shall be provided by the Commission or the Director of Elections and may be obtained by supervisory delegates from the Returning Officer in the constituency or, as the case may be, the ward for which they are appointed.

(3), The Commission may issue directions for the purposes of ensuring that ballot papers issued under this section to any supervisory delegate to vote at the polling station at which they would have been required to vote in accordance with section 76, had this section not been enacted are properly utilized and are taken into account during the counting of votes.

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

Admission
to polling
station

78,(1) No person shall be admitted to vote at any polling station except at the Polling station assigned to him in the polling district in which he is registered as a voter.

(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, the Director of Elections or any person authorized by him in that behalf 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 the 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.

79.-41) Where the presiding officer at any polling station has reason to believe, or where a candidate or a polling agent present at any polling station alleges, that any person wishing to vote at that polling station is not a voter entitled to vote at that polling station, the presiding officer shall warn such person that he may commit an offence under this Act by so voting.

Allegation
of
irregularities

(2) If, notwithstanding such warning, such person persists in his wish to vote and-

- (a) produces any evidence to show that he is the person entitled to vote at the polling station in question; and
- (b) being thereto required as prescribed by section 81 makes and subscribes one or both of the declarations to which that section refers,

the presiding officer shall deliver a ballot paper to such person and permit him to vote at such polling station.

(3) A presiding officer shall record in writing the full name and address which a person warned under subsection (1) gives as his name and address and, if such person has voted the presiding officer shall state that fact in such record.

(4) Before warning a person under subsection (1), a presiding officer shall state to such person the reasons for his belief that such person is not a voter entitled to vote at the polling station in question or, in the case of an allegation as mentioned in subsection (1) having been made by a candidate or polling agent present in the polling station in question, shall require such candidate or polling agent to state in his presence and the presence of the person wishing to vote, and so as to be heard by both of them, the reasons for the allegation. If a candidate or a polling agent refuses to comply *with such* requirement the presiding officer shall disregard the allegation made by him.

80.(I) If a person representing himself to be a voter entitled to vote at a polling station, applies for a ballot paper after another person has voted as such voter, the applicant shall, upon identifying himself to the satisfaction of the presiding officer as the person named in the register, and being thereto required as prescribed by section 81 makes and subscribes one or both of the declarations to which that section refers, be entitled to vote in the same manner as any other voter, but such ballot paper, hereinafter called a tendered ballot Paper, shall be, of a colour different from the ordinary ballot papers, and, instead of being put into the ballot box, shall be given to the presiding officer, and endorsed by him with the name of the voter and his number in the copy of the current register or part thereof, and set aside in a separate

Tendered
ballot
papers

packed and shall not be counted by the Returning Officer as hereinafter provided and the name of the voter and, where a copy of the register or part thereof is available at the polling station, such person's number on such register, or part thereof, shall be entered on a list, and this list shall be admissible in any legal proceedings arising out of the election.

(2) The presiding officer may require any person to whom a tendered ballot paper is delivered to make and subscribe one or both the declarations to which section 81 applies.

Declaration
by voters

81 (1) The presiding officer at any polling station may, in his discretion, and shall, on the request of a candidate present at the polling station or the polling agent, require any person wishing to vote, before he is given a ballot paper, to furnish such evidence of his identity with the person described in the certificate of registration which he presents, as the presiding officer may deem necessary and to make and subscribe one or both of the prescribed declarations.

(2) If any person fails to furnish such evidence of his identity or refuses to make any such declaration, the presiding officer may refuse to give him a ballot paper.

Adjournment
of poll in
case of riot

82. (1) Where the proceedings at any polling station are interrupted or obstructed by riot or open violence, the presiding officer shall adjourn the proceedings until the following day and shall forthwith give notice to the Returning Officer.

(2) Where the poll is adjourned at any polling station-

- (a) the hours of polling on the day to which it is adjourned shall be the same as for the original day; and
- (b) references in this Act to the close of the poll shall be construed accordingly.

Closing of
the poll

83. 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.

Procedure on
closing of
poll

84.-(1) The presiding officer of each polling station shall as soon as practicable after the closing of the poll, 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-

- (a) the unused and spoiled or cancelled ballot papers placed together;
- (b) the counterfoil of the, used ballot papers.,
- (c) tendered ballot papers;
- (d) the marked copies of registers or parts thereof, if any;
- (e) the tendered voters list;

(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.

85. (1) Each candidate may appoint one person, to be known as a 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 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.

86.-(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 constituency, or as the case may be, the ward and shall, so far as practicable proceed continuously with the counting, allowing only reasonable time for refreshment, until it is complete.

Counting of
votes

(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.

87. Except with the consent of the Returning Officer, no person other than the Returning Officer, Assistant Returning Officers, the enumerators, the counting agents, such persons as may be authorized in writing by the Commission, the candidates and their counting agents may be present at the counting of votes.

Persons who
maybe
present

88. 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.

Method of
counting
votes

89. (1) 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.

Votes
which are
not to be
counted as
ballot
papers

(2) Any ballot paper-

- (a) which does not bear an official mark; or
- (b) on which votes are recorded otherwise than as provided in section 76 or which is to be treated as spoilt under the provisions of that section; or
- (c) on which anything is written or marked by which a voter can be identified otherwise than by the printed number thereon; or
- (d) which is unmarked or void for uncertainty,

shall not be counted:

Provided that a special ballot issued under the provisions of section 77 shall be counted if it complies with the provisions of that section and any directions given by the Commission under that section.

Endorsements by Returning Officer

90.-(1) The Returning Officer or an Assistant Returning Officer shall endorse the word "rejected" on any ballot paper which, under the provisions of section 89, is not counted.

(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.

Rejected ballot papers

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

- (a) want of official mark;
- (b) voting recorded otherwise than as provided in paragraph (c) of section 76 or to be treated as spoilt under the provisions of paragraph (j) of that section;
- (c) writing or mark by which the voter could be identified; and
- (d) unmarked or void for uncertainty,

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

Equality of votes and recount in contested elections

92.-(1) Where an equality of votes is found to exist between the candidates in a contested election so that an addition of a vote would entitle any of them to be declared elected, the Returning Officer shall make a recount of the votes cast.

(2) If there is again an equality of votes, as ascertained by such a recount, the Returning Officer shall, subject to the provisions of section 93, report the fact to the Commission which shall, by notice published in the *Gazette*, appoint some other convenient day, not later than thirty days after the election day, for the nomination of candidates for the constituency or, as the case may be, the ward, and the electoral procedure for such vacancy shall be commenced afresh.

Candidates or counting agent may require re-count

93.-(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 make a third or subsequent re-count if the results of the last two re-count were the same.

(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).

94. The decision of the Returning Officer as to any question arising in respect of Officer, with the assistance of the Assistant Returning Officer only on an election petition questioning the election pursuant to Chapter VII of this Act-

Returning Officer's decisions final

95.-(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 of tendered ballot papers or the sealed packet containing the marked copy of the register of voters or part thereof, or the sealed packet containing the 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 section 88, the unused and spoilt papers his possession and the tendered voters list, and shall re-seal each packet after examination.

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

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

Declaration of result

- (a) forthwith declare to be elected the candidate for whom the majority of votes has been cast; and
- (b) in the case of a local authority election, cause a full report to be displayed at the office of the local authority setting out the name of the successful candidate; and
- (c) in the case of a parliamentary election, send a notification of election in writing to the successful candidate; and
- (d) 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 constituency or, as the case may be, ward, to be published in the *Gazette*.

97.-(1) The Returning Officer shall ensure the safe custody of all documents relating to the conduct of an election other than the documents to which the provisions of subsection (4) of section 53 and subsection (4) of section 59 apply.

Custody of documents

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

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

Powers of
polling
assistants

98. A polling assistant may be authorized by the presiding officer to do any act or thing which the presiding officer is required or authorized to do at a polling station by this Act, except that he may not order the arrest of any person, or the exclusion or removal of any person from the polling station.

Candidate
has power
of his
polling
agent or
counting
agent

99. A candidate may do any act or thing which the polling agent or counting agent may be authorized or required to do, and may assist the polling agent or counting agent in the doing of any such act or thing.

Non-attend
ance of
agents not
to invalidate
proceedings

100. Where in this Act, any act or thing is required or authorized to be done in the presence of a polling agent or the counting agents of the candidates, the non-attendance of any such agent, or agents, at the time and place appointed for the purpose shall not, if the act or thing is otherwise properly done, invalidate the act or thing done.

Where two
or more
elections
held
simulta-
neously

101. Where in polling district the same day is appointed as the election day for the Presidential election, a contested parliamentary election and a contested local authority election or any two of those elections-

- (a) polling at the two or, as the case may be, three elections, shall be conducted simultaneously at all polling stations in that district;
- (b) the Returning Officer shall provide separate and distinctive ballot boxes and every presiding officer shall so organize and conduct his polling station and shall so place the ballot boxes thereat, as to avoid any confusion arising by reason of such simultaneous polling:

Provided that, subject to any direction of the Commission in that behalf, a single ballot box may be provided at each polling station for both the Presidential and parliamentary election;

- (c) the ballot papers for those elections respectively shall be of different colours, such colours being such as are easily distinguishable from one another;
- (d) a voter who, leaves a polling station after voting for any but not all of those elections shall not be readmitted to such polling station for the purpose of voting for any of those elections for which he did not vote in the first instance;
- (e) the requirements of paragraph (c) of section 76 shall be deemed to have been complied with in respect of all three of those elections if the particulars specified in that paragraph are called out once immediately before the delivery to the voter of the ballot paper for any of those elections which is first delivered to him;

- (f) the counting of votes for those two or, as the case may be, three elections respectively shall be conducted separately.

102. Where in a presidential election there is an equality of votes for and against the Presidential candidate the Commission shall, by notice published in the *Gazette*, appoint some other convenient day for the Presidential election, and the electoral procedure for the Presidential election shall be commenced afresh.

Equality of
votes in
Presidential
elections

CHAPTER VI

OFFENCES

PART I

OFFENCES RELATING TO REGISTRATION AND NOMINATION

103. (1) Every person who —

- (a) for the purposes of procuring the registration of himself or of any other person or the issue to himself or to any other person of a certificate of registration, knowingly makes to a Registration Officer or to any other person having any duty in relation to applications for registration or for the issue of certificates of registration any false statement material to any application on his own behalf or on behalf of such other person for registration or for the issue of a certificate of registration; or
- (b) knowing or having reason to believe that he is registered in a polling district, applies to be registered (otherwise than in accordance with section 21 and on disclosing to the Registration Officer his existing registration) in another polling district; or
- (c) applies to be registered in a polling district after he has applied to be registered in another polling district and the earlier application has not been determined, pending any investigation into the applicant's qualifications, or withdrawn; or
- (d) having been issued with a certificate of registration, applies for the issue to himself of a new certificate of registration (otherwise than in the circumstances set out in section 21, section 22 or section 23 and on disclosing to the Registration Officer the circumstances in which the application is made); or
- (e) knowingly makes any declaration provided for in section 24 which is false, or which he does not believe to be true, in a material particular,

Offences
relation to
registration

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 whose name has been deleted from a register and who has been required by a Registration Officer either to surrender a certificate of registration issued to him or to make and to deliver to the Registration Officer the declaration provided for in section 24 within a time specified by such Registration Officer, who, without lawful excuse, neither surrenders such certificate nor makes and delivers such declaration within such specified time, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand shillings.

official
discourage-
ment of
person from
seeking
nomination

104.-(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 two thousand shillings or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

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

Offences in
relation to
registers and
certificates of
registration

105 (I) Every person who-

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

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 has in his possession or under his control any certificate of registration issued to some other person and who refuses or neglects, without lawful excuse, to deliver the same to the person to whom it was issued, when demand is made therefor by such person or a Registration Officer in that behalf, 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.

106.-(1) Every person who-

- (a) forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to a Returning officer any nomination paper knowing the same to be forged; or
- (b) forges or counterfeits or fraudulently destroys any ballot paper or the official mark on any ballot paper; or
- (c) without due authority supplies any ballot paper to any person; or
- (d) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorized by law to put in; or
- (e) without due authority takes out of any polling station any ballot paper or is found in possession of any ballot paper outside a polling station; or
- (f) without due authority, destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of an election,

Offences in relation to nomination paper 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 purposes of procuring nomination as a candidate for himself or for any other person, knowingly makes any false statement material to such nomination in a nomination paper, biographical information form or statutory declaration delivered to a Returning Officer, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

(3) In any prosecution for an offence in relation to, the nomination papers, ballot boxes, ballot paper 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.

PART 2

OTHER ELECTION OFFENCES

107. Any person who-

- (a) wilfully furnishes false evidence or makes a false statement in a declaration made under section 81;

Miscellaneous offences

(b) contravenes the provisions of subsection (1) of section 68, shall be guilty of any 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.

Maintenance
of secrecy at
elections

108.-(1) Every officer, clerk, interpreter, candidate and agent authorized to attend at a polling station or at the counting of votes, shall, unless he has taken an oath of secrecy under the foregoing provisions of this Act, before so attending, 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 law, to any person any information as to the name or number of any voter who has or has not applied for a ballot paper or voted at the station, or as to the official mark.

(4) No Such Officer, clerk, interpreter, candidate or agent, and no person whosoever shall obtain or attempt to obtain in the polling station information as to the candidate for whom any person in such station is about to vote or has voted, or communicate at any time to any person any information obtained in a polling station as to the candidate for whom any person in such station is about to vote or has voted.

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

Penalty for
bribery,
treating etc.

109. 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

110. 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.

111.-(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 period of ten years from the date of his conviction from being registered as a voter or from voting at any election under this Act.

Disqualifications 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 a court of competent jurisdiction shall, in addition to any other punishment, be disqualified during a period of five years from the date of his conviction from being registered as a voter or from voting at any election under this Act.

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

persons to be deemed guilty 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 voter 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 a 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 return of any person as a member or the vote of any voter at an 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;

- (f) 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
- (g) every person who, after any election, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting at any election:

Provided always that the provisions of this section shall not extend or be construed to extend to any money paid or agree 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

113. 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, drink, 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

114. 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 against 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 either to give or refrain from giving his vote at any election shall be guilty of undue influence within the meaning of this Act.

Bribery treating and undue influence in relation to members of an organ of Party

115.-(1) Where any person does any such act as is described in section 112, 113 or 114 to or in respect of a member of an organ of the in Party which is charged with the organization and conduct of the relevant election campaign. or a supervisory delegate appointed for the constituency or, as the case may be, a 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 112, 113 and 114 shall be read as if references to the voters 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.

116. 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 certificate of registration issued to some other person,

person to
be deemed
guilty of
personation

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

117.-(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 in the case of general election, at any other election held during that general election;
- (b) for the purpose of procuring the issue of any ballot paper to any other person or to himself, delivers any certificate of registration issued to himself or to some third person to such other person, or induces or procures some third person to deliver such third person's certificate of registration to himself or such other person,

Penalty for
persons
guilty of
corrupt and
illegal
practices

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.

(2) Every person who-

- (a) votes or induces some other person to vote at any election knowing that he or such other person is not entitled to, or is prohibited from, under or by this Act or any other law, voting at such election; or
- (b) for the purpose of procuring the issue to himself of a ballot paper knowingly tenders an invalid certificate of registration; 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 two thousand shilling or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

interference
with lawful
public
meeting to
be an
illegal
practice

118. 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
place of
voting
prohibited

119. (1) No person shall, within any building where voting in an election is in progress, or at any place within the radius of two hundred meters of any such building, wear or display any card, symbol, favour or other emblem indicating support for a particular candidate in the election.

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

Defacement
Of notices

120. 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

121.-(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 bill, placard or poster as aforesaid; or
- (c) distribute or cause to be distributed any printed document for the said purpose,

unless the bill, placard, poster or document bears upon the face thereof the name and address of the printer and publisher and—

- (i) in the case of Presidential election, such bill, placard, poster or document has been approved by the National Executive Committee of the Party or the Central Committee of the Party;
- (ii) in the case of a parliamentary election such bill, placard, poster or document has been approved by the relevant District Executive Committee of the Party;
- (iii) in the case of a local authority election such bill, placard, poster or document has been approved by the relevant Branch Annual Conference or the District Executive Committee of the Party.

(2) For the purposes of this section, any process for multiplying copies of document, other than copying it by hand, shall be deemed to be a printing and the expression "printer" shall be construed accordingly.

(3) Any person who contravenes the 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 twelve months or to both such fine and imprisonment.

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

122.-(1) Where a court convicts a person of a corrupt or illegal practice under this Act, it shall report the conviction to the Director of Elections who, if the person concerned is registered as a voter—

- (a) shall delete the name of such person from the register of voters in which he is registered;
- (b) shall inform in writing the Registration Officer for the polling district concerned of such deletion.

(2) Forthwith upon being so informed such Registration Officer shall take all such steps as, in the case of a deletion of a name from the register under section 30 or section 32, he is required by subsection (2) of section 33 to take.

Person convicted of corrupt or illegal practice to be removed from register Acts 1966 No. 44 Acts 1966 No. 47

CHAPTER VII

AVOIDANCE OF ELECTIONS AND ELECTION PETITIONS

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

Avoidance of election petition

(2) The proceedings of a meeting of the Electoral Conference, the National Executive Committee, 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:

Provided that nothing in this subsection shall apply to any non-compliance with the provisions of subsections (2), (3), (4) or (5) of section 28 of the Constitution where any question of such non-compliance is raised in the first instance on an election petition and not otherwise.

(3) The election of a candidate as a member shall be declared void on any of the following grounds which are proved to the satisfaction of the 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 were made by the candidate, or on his behalf and with his knowledge and consent or approval, with intent to exploit tribal, racial or religious issues or differences pertinent to the election or relating to any of the candidates 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 election, if it appears that the election was not conducted in accordance with the principles laid down in such provisions and that such non-compliance 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 or his representative 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

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

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

the High Court may make an order allowing the act or 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.

CHAPTER VIII

PROCEDURE AND JURISDICTION OF COURTS

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

Petitions
triable by
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 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, the respondent and the Attorney-General or his representative, if present, or any of them.

126. 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;
- (d) the Attorney-General.

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

Relief
which may
be claimed

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

Certificate of
court as to
validity of
election

128. At the conclusion of the trial of an election petition, the Court shall determine whether, the member whose nomination or election is complained of, or any other and which person, was duly nominated or elected, or whether the election was void, and shall certify such determination to the 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.

Report of
court as to
corrupt or
illegal
practice

129. (1) At the conclusion of the trial petition, the Court shall also report in writing to the Director of Elections-

(a) whether any corrupt or illegal practice has not been proved to have been committed by or with the knowledge and consent or approval of any candidate at the election, and the nature of such practice, if any; and

(b) the 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 cause 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 Director of Elections shall forthwith-

(a) cause a copy of such report to be published in the *Gazette*;

(b) delete from the register the name of any person registered therein who appears from the record to be 'disqualified from voting at an election;

(c) inform in writing the Registration Officer for the relevant polling district of every such deletion of the name of the person who- is registered as a voter in that polling district.

(6) Forthwith upon being so informed, such Registration Officer shall take all steps as may be necessary for ensuring that the person concerned returns the certificate of registration and any other relevant document for cancellation.

130.-(1 Every election petition shall be presented within one month of the date of publication in the *Gazette of the result of the election:*

Time for presentation of election petition

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 132, 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.

131.-(1 On a scrutiny at the trial of an election petition, the following votes only shall be struck off, namely-

Votes to be struck off at a Scrutiny

- (a) the vote of any person (other than a candidate or official voting under subsection (4) or subsection (5) of section 17) 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 votes of any person proved to have voted more than once at such election save the first vote recorded by such person, where such first vote can be identified to the satisfaction of the Court;
- (e) the vote of any person who, by reason of 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 an election.

(2) On a scrutiny at the trial of an election petition the Court may take into account any vote recorded on a tendered ballot paper if in the opinion of the Court there is justification for doing so.

(3) The vote of a registered voter shall not, except in the case specified in paragraph ,(e) of subsection,(I) 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.

132. 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 be court

Jurisdiction
of resident
magistrates

133.- The Chief Justice may by order-

- (a) invest any resident magistrate with jurisdiction to try any election petition, offence or application under this Act which, but for the provisions, of this section, would ordinarily be triable by the High Court and may specify the area within which such resident magistrate may exercise such jurisdiction; or
- (b) invest, any resident magistrate with jurisdiction to, try all such election petitions, Offences and applications 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 petitions, offences and applications specified therein to make any order or pass any sentence which could lawfully be made or passed by the High Court.

(2) The High Court may transfer any election petition, proceedings relating to any offence or any 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, proceedings or application transferred to him to make any order or pass any sentence which could lawfully be made or passed by the High Court.

(3) Every order made and sentence passed by a resident magistrate in respect of any election petition, offence or application under this Act 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, on 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 and on confirmation of a sentence may exercise, in respect of the proceedings, the appellate powers vested in it by the Criminal Procedure Code.

(5) Proceedings before a resident magistrate exercising jurisdiction under this section in respect' of a petition or application shall be governed, as far as may be Practicable, by rules relating to such proceedings before the High Court.

CHAPTER X

FINANCIAL AND MISCELLANEOUS

Inaccurate
descriptions

134. 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 way 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.

135.(1) In the exercise of their respective duties under this Act the Director of Elections, 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.

Power of
Director of
Elections,
Registration
and
Returning
Officers to
demand
information

(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 two thousand shillings.

136. A Returning Officer, the Director of Elections, supervisory delegate and other person employed under this Act and for the purpose Shall, if not holding an office of emolument in the service of the United Republic, receive such reasonable remuneration for the services as the Commission Sees fit to authorize.

Remunera-
tion of staff

137. All expenses incurred-

- (a) in the preparation of the registers, the issue of certificates, of registration and in doing such other matters or things as may be required to be done for the purpose of carrying out the provisions of this Act; ...
- (b) by the Commission, the Director of Elections, Registration Officers and Returning Officers in the conduct of an election;
- (c) in the remuneration of the officers specified in section 136; and
- (d) by any public officer in connection with any official matter connected with or arising out of an election,

Expenses to
be charged
on general
revenue

shall be a charge on, and paid out of, the consolidated fund:

Provided that in the case of any local authority election, the President may by order under his hand direct any local authority to make such contribution as he may think fit in respect of an election to such Authority, and where such direction is given the amount specified in such direction shall be a charge on, and paid out of the general revenue of such authority.

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

Service of
notices

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

- Regulations **139.**-The Commission may make, regulations for the better carrying out of the provisions of this Act and without prejudice to the generality of the foregoing, may make regulations-
- (a) prescribing anything, which under the provision of this Act may be prescribed;
 - (b) prescribing forms of documents and declarations 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 duty **140.** 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 force relating to stamp- duties.
- Direction **141.** The Commission may, subject to the provisions of this Act, issue directions of a general or a specific character in relation to the functions of Returning Officers, Registration Officer and other persons employed for any of the purposes of the Act:
- Provided that, no such, direction shall be inconsistent with any provision of this Act or of regulation made under section 139.
- Replace-ment of registers, etc. **142.** Where, in the opinion of the Director of Elections, it is necessary to replace any register of voters for any reason whatsoever, it shall be lawful for him to direct that such register be replaced by a new register.

CHAPTER X

REPEALS, AMENDMENTS AND TRANSITIONAL PROVISIONS

- Repeals **143.** The written laws specified in the First Schedule to this Act are hereby repealed.
- Amend-ments **144.** The written laws specified in the first and second columns of the Second Schedule to this Act are hereby amended in the manner set out the third column thereof.
- Savings Cap. 551 **145.**-(1) Notwithstanding the repeal of the National Assembly (Elections) Act, 1964 and of the Local Government (Elections) Act, 1966-
- (a) every person registered as a votes in accordance with the provisions of the National, Assembly (Elections) Act, 1964 as in force immediately before the commencement of this Act, shall be deemed to have registered as a voter under and in accordance with the provisions of this Act;

- (b) every register of voters and certificate of registration as a voter, maintained or issued under and in accordance with the provisions of the National Assembly, (Elections) Act, 1964, shall be deemed to have been maintained or issued under and in accordance with the provisions of this Act;
- (c) every person appointed as a Director of Elections, Registration officer, Returning officer or to.: any other office, for the purposes of the National I Assembly (Elections) Act, 1964, shall be deemed to have been appointed to a corresponding office for the purposes of this Act;
- (d) all forms approved by the Commission for the purposes of any Of those Acts, shall, be deemed to be forms prescribed by regulations made under section 139 of this Act-

(2), Notwithstanding the amendments to the Municipalities ordinance, the Local Government ordinance and the Town Council (Acquisition of Municipality Status) Act. 1962, relating to establishment of wards, every area of a local authority declared to be a ward of such authority, under the provisions of any of those written laws, shall be deemed to have been, declared a ward of such authority under the provisions, of section 6 of this Act.

Cap. 105
Cap. 333
Cap. 496

FIRST SCHEDULE

- cap. 551 1. The National Assembly (Elections) Act, 1964.
- Cap. 597 2. The Presidential Elections Act, 1965-
- Acts 1966 3. The Local Government (Elections) Act, 1966-
- No. 47

SECOND SCHEDULE

- 1. cap. 105
- 2. The Municipalities Ordinance
- 3. (1) In section 2-
 - (a) in the definitions "elected member" and "poiling district" delete the words "the Local Government (Elections) Act, 1966" and substitute therefor the words "the Elections Act, 1970"; and
 - (b) add the following definition'-
"ward" means an area of A council declared to be a ward of that council under section 6 of the Elections Act, 1970."
 - (2) In section 6 delete the words "the Local Government (Elections) Act, 1966" and substitute, therefor the words "the Elections Act, 1970".
 - (1) in section 7A delete subsection (1) and substitute therefor the following subsection-
(I) Subject to this section the terms of office of members of a council shall be five years, and all members of the councils shall retire on the date specified in a notice issued by the President under the provisions of subsection (2) of section of the Local Government Elections Laws (Suspension) Act, 1969 (as being the date on which section 3 and same 4 of that Act shall expire) and on the same day of the same month of every fifth same thereafter, and their places shall be filled by the newly elected and appointed members who shall come into office on that day."

Acts 1969
No. 37

1.

2.

3.

(4) In section 7F delete the words "the Local Government (Elections) Act 1966" and substitute therefor the "& Elections Act, 1976".

(5) In section 7EE delete the words "of section 12 of the Local Government (Elections) Act, 1966" wheresoever they occur and substitute therefor in each case the words "of 48 of the Elections Act, 1970".

(6) In section 89 delete paragraph (c).

Cap. 333 The Local Government . (1) In section 2-
Ordinance

(a) in the definitions "elected member" and "polling district" delete the words "the Local Government (Elections) Act, 1966" and substitute therefor in each case the words "the Elections Act, 1970";

(b) add the following new definition:-
"ward" means any area of an authority declared to be a ward of that authority under section 6 of the Elections Act, 1970".

(2) In section 8 of subsection (1) delete paragraph (g).

(3) Section 10A is repealed.

(4) In section IIA delete the words "the Local Government (Elections) Act 1966" and substitute therefor the words "& Elections Act, 1970".

(5) In section IIA delete subsection (1) and substitute therefor the following subsection:-

"(1) Subject to this section the terms of office of members of an authority shall be five years, and all members of the authorities shall retire on the date specified in a notice issued by the President under the provisions of subsection (2) of section 1 of the Local Government Elections Laws (Suspension) Act, 1969 (as being the date on which section 3 and 4 of that Act shall expire) and on the same day of the some month of every fifth year **thereafter and their places shall** the newly elected and appointed members who shall come into office on that day."


(6) In section 12A delete the words "section 12 of the Local Government (Elections) Act, 1966" wheresoever they occur and substitute therefor the words "section 48 of the Elections Act, 1970".

(7) In section 14 in subsection (2) delete the words "the Local Government (Elections) Act, 1966" and substitute therefor the words "the Elections Act, 1970".

(8) Part IX is repealed.

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|---------|---|---|
| 1. | 2. | 3. |
| Cap.496 | The Town council (Acquisition of Municipality Status) Act, 1962 | (1) In section 2 add the following definition "ward' shall have the mean assigned to it in the Municipalities Ordinance. (2) Section 4, paragraph (d) of subsection (1) is deleted and in subsection (2) delete the words the Local Government (Elections) Act, 1966" and substitute therefore the words "the Elections Act, 1970". |

Passed in the National Assembly on the ~~twenty~~-second day of July, 1970.


.....
Acting Clerk of the National Assembly