

ELECTIONS ACT, 1985

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THE UNITED REPUBLIC OF TANZANIA



No. 1 OF 1985

I ASSENT.

Julius K. Nyerere

President

3rd April, 1985

An Act to provide for the Law regulating the election of President, the elections to the National Assembly and to repeal the Elections Act, 1970

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

CHAPTER I

PRELIMINARY

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1.—(1) This Act may be cited as the Elections Act, 1985.

Short title and construction

(2) The provisions of this Act which relate to Presidential and Parliamentary elections shall be read as one with the Constitution, 1977 (hereinafter referred to as "the Constitution").

(3) This Act shall apply throughout the United Republic of Tanzania.

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

Interpretation

"candidate" means a person who submits himself for election to the National Assembly:

Provided that—

- (a) for the purpose 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 provisions of section 70;
- "contested election" means an election in a constituency;
- "Director of Election" means the person appointed to be the Director of Elections in accordance with the provisions of section 6 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, and includes a by-election;
- "election day" in relation to an election in any constituency means the day appointed under section 46 or any day substituted therefor in accordance with the proviso to that sub-section, or in the case of a parliamentary elections in which a candidate is declared elected under section 46;
- "member" means in relation to the National Assembly, a constituency member;
- "National Executive Committee" means National Executive Committee of the Party;
- "nomination" means nomination as a candidate for election to the National Assembly and references to nomination except where there are by context expressed to be references to primary nomination shall be construed as references to final nomination;
- "nomination day" means a day appointed as a primary nomination day;
- "Parliamentary election" means the election of a member to the National Assembly;
- "the Party" means Chama cha Mapinduzi;
- "polling agent" means a person appointed under the provisions of section 57;
- "polling assistant" means a person appointed under the provision of section 56;
- "polling district" means the area or division of a constituency made pursuant to the provisions of section 5;

"prescribed" means prescribed by regulations made by the Commission under section 124;

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

"presiding officer" means a person appointed under the provisions of section 56;

"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 qualification 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;

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

"Returning Officer" means a Returning Officer appointed under section 7 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;

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

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

(3) References in this Act to an election in a constituency shall be construed as references to a 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.

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

Regulation,
directions
and
notices

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 this Act in accordance with the constitution of the Party and any rules of the Party applicable which are not inconsistent with the constitution or the Act:

Acts of
Party

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.

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

Pollin
districts.

(2) Where the boundaries of 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 one such constituency and shall constitute a polling district in the constituency in which the area lies.

Director of
Electio
ns

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

(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 preform all such functions and duties as are conferred upon him by this Act, the regulations or directions of the Commission.

Ex-officio
assista
Returnin
officer

7. Every City, Municipal or Town Director and every District Development Director shall, by virtue of such office and without further or other appointment under this Act, be an Assistant Returning Officer.

Returning
Officers
and staff

8.- (1) The Commission shall appoint by office or name a Returning officer for each constituency.

(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 the 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 before a magistrate in the prescribed form.

(6) The Returning Officer shall be responsible, for all matters relating to the registration of voters in his area of jurisdiction.

9.- (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-

Supervisory
delegates

(a) three supervisory delegates for every meeting of an Annual District Conference held for the purpose of section 41;

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

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

(a) under paragraph (a) of subsection (1), for a meeting of an 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.

(3) Supervisory delegates shall exercise the functions conferred upon them by this Act, notwithstanding any vacancy in their number.

CHAPTER II

REGISTRATION OF VOTERS

PART I

QUALIFICATIONS AND DISQUALIFICATION FOR REGISTERING AS VOTERS AND VOTING

10. 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.

Qualifica-
tions for
registration

11-(1) No person shall be qualified for registration as a voter or shall be registered under this Act-

Disqualifica-
tion from
registraton

(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 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 purposes of paragraph (c) or sub-section (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 or 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.

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

Register
of
Water

12.-(1) The Returning Officer shall make and maintain a register of voters for each and every polling district.

(2) Every register of voters shall consist of names of all persons who are registered as voters in the polling district.

(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) Every register of voters shall be kept and maintained in such manner as the Director of Elections may direct.

Place and
disqualifi-
cation from
Voting

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

(2) Notwithstanding the provisions of subsection (1) a presiding officer or polling assistant at any polling station shall not permit any person to vote at that polling station unless such person satisfies the presiding officer or, as the case may be, that polling assistant, that he is the voter he claims to be by producing to him the certificate of registration issued to such person or such other proof of his identity as the Director of Election 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 was not so registered, would cause him to be disqualified for registration under this Act.

(4) Notwithstanding any other provisions of this Act, the Director of Elections or any person 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 to vote at the election in that constituency at the polling station specified in such certificate whether or not such candidate is registered as a voter in that polling district.

(5) Notwithstanding any other provisions of this Act, where a voter registered as such in any polling district is employed as 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 tender his and, 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 allocated to such voter.

(6) A person who is serving, a sentence or 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 sub-section shall be construed as authorizing any such person to vote at any polling station other than the polling station allocated to him.

14. 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 13 be entitled to vote, under the name in which he is registered.

Change of
name

PART II

REGISTRATION

15.-(1) Where an election is to take place in any constituency the Commission may, at any time within six months before the date of such election, direct the Returning Officer in charge of such constituency to make available at each and every polling district within the constituency, facilities for the registration of voters.

Times for
registration

(2) Any person entitled to be registered as a voter at any polling district and who has not been so registered may present himself in cases where under the provisions of sub-section (1) facilities for registration are made available at polling districts, at the relevant polling district.

(3) 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 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 in the near future or any other reason whatsoever.

(4) Where a direction under sub-section (3) 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.

16.-(1) Where a person makes an application for registration as a voter in accordance with the provisions of section 15, he shall if he satisfies the Returning Officer or any other officer for the time being responsible for the registration of voters, that he is qualified to be

Certificate
of
registration

registered as a voter at a polling district within the jurisdiction of such Returning 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 124 require any person applying for registration as a voter, to fill in such forms as may be prescribed.

Changes of residence

17.-(I) Where any voter who is registered in one polling district becomes ordinarily resident in some other polling district, he may apply in accordance with the provisions of section 14 to the Returning Officer for the polling district in which he is ordinarily resident; and the Returning Officer shall-

- (a) if he is satisfied that the applicant-
 - (i) is qualified for registration;
 - (ii) is ordinarily resident in the polling district in respect of which he makes the application; and
- (b) on the surrender by the applicant of his certificate of registration, or on the applicant satisfying the Returning Officer that it is lost or destroyed, forthwith register the applicant in the register for the polling district and issue to him a new certificate of registration for that polling district.

(2) Where a Returning Officer registers an applicant under this section he shall forthwith cancel the certificate of registration surrendered by the applicant.

(3) Notwithstanding the provisions of sub-section (1) of section 16, or sub-section (1) of this section, where by reason of-

- (a) any change of name of a constituency; or
- (b) any adjustment 111 the number of constituencies; or
- (c) any adjustment in the boundaries or areas of one or more constituencies a constituency becomes part of another constituency or a polling district of one constituency becomes a polling district or part of a polling district of another constituency or of the same constituency with a new name

it shall not be necessary for a voter whose name is in any register 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 amendment or transfers as may be necessary to give effect to such adjustment as if an application for transfer had been made by the voters concerned pursuant to the Provisions of this section.

Certificate of registration lost defaced or destroyed

18.-(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 Returning Officer for the issue of a new certificate of registration.

(2) On any such application, the Returning Officer shall, if satisfied that the application is properly made and that the applicant remains qualified for registration, issue the applicant with a new certificate of

registration upon the applicant paying the prescribed fee, if any, and where the application is made in respect of a defaced certificate of registration, upon the applicant surrendering such defaced certificate of registration.

19. Where any of the particulars on a certificate of registration or in a register requires amendment by reason of a change of name or of any other alteration in the circumstances affecting the person to whom it was issued, other than a change of residence from one polling district to another, the person to whom such certificate of registration, and the Returning 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:

Amend
ment 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 Returning Officer that it is lost or destroyed and pays the prescribed fee, if any.

20. Where, under the foregoing provisions of this Part, an application is made to a Returning 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 Returning 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.

Declaration
relating to
lost or
destroyed
certificate of
registration

21. 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.

Refusal of
application

PART III

OBJECTIONS TO REGISTRATION OR CONTINUED REGISTRATION

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

Inspection
of register

23.(1) Where any person who has been registered as a voter and holds a valid certificate of registration in respect of polling district discovers, pursuant to an inspection made in accordance with the provisions of section 22, that his name does not appear in the register of the polling district, he may apply to the Director of Election, and the Director of Elections or, as the case may be, the Returning 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.

Inclusion
of name in
a register

- (2) Where the Director of Elections or the Returning Officer refuses to amend the register to include the name of any person, the person aggrieved by such refusal may object to such refusal.
- Objections** **24.**-(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 Returning Officer may object to the retention of any name in the register of any polling district on any such ground aforesaid.
- (3) Any person who makes an objection under this section or under section 24 shall hereinafter be referred to as the objector.
- Procedure for making objections** **25.**-(1) Except in the case of an objection being made by the Returning Officer, every objection shall be made in duplicate in the prescribed form and shall be made to the Returning Officer within such period as may be prescribed.
- (2) Every objection, other than an objection made by the Director of Elections or Returning Officer, shall be accompanied by a deposit of such sum as the Commission may, by notice in the Gazette, prescribe.
- (3) Only such objections as are made in accordance with the provisions of this section shall be received by the Returning Officer.
- (4) The Returning 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 Returning Officer shall not be required to send a notice when an objection is made on the ground that a person whose name appears in register is dead.
- Inquiry and determination by Registration Officer** **26.**-(1) The Returning Officer shall as soon as practicable hold a public inquiry into all objections which have been duly made, giving not less than fourteen clear days' written notice of the date on which and the time and place at which such inquiry will commence to each objector, and person in regard to whom objection has been made. At any such public inquiry any person appearing to the Returning 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.
- (2) Where an objection, is made to the retention or non-inclusion of any name in the register, the Returning 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 Returning Officer such *prima facie* proof as aforesaid is given, the Returning 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 persons's qualification is not proved to the Returning Officer's satisfaction, he shall delete or cause to be deleted that persons name from the register;

(b) if such person's qualification is so proved he shall retain, or as the case may be, include or cause to be retained or included, such person's name in the register.

(4) If on the date fixed for inquiry into any objection, the objector or any person authorized in writing in that behalf by the objector fails to appear, or appears but fails to give *prima facie* proof as aforesaid to the satisfaction of the Returning Officer, the Returning 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 cast 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 Returning Officer or the Director of Elections is disallowed by the Returning Officer and in his opinion, the objection was made without reasonable cause, the Returning Officer may, if he thinks fit, order in writing the objector to pay the person in regard to whom the objection has been made, a compensation by such sum as the Commission may, by notice in the *Gazette* prescribe.

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

(7) If an objection is disallowed by the Returning Officer and he is of the opinion that the objection was made without reasonable cause, the deposit of such sum as the Commission may by notice in the *Gazette*, prescribe shall be liable to be forfeited to the Government by order of the Returning Officer, but otherwise such deposit shall be refunded.

(8) The validity of the proceedings under this section shall not be questioned by reason only of the Returning 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 Returning Officer required proof of the present qualification of the person in regard to whom the objection is made.

27. If any objector or person in regard to whom objection has been made is dissatisfied with the decision of the Returning Officer under section 26 he may, within twenty days from the date of such decision appeal therefrom to a resident magistrate.

Objector
or person
objected
to may
appeal

PART IV

APPEAL AND ADDITION TO OR DELETION FROM THE REGISTER

28.- (1) Every appeal under section 21 or 27 shall state shortly the grounds of appeal, and shall be accompanied by the sum of such sum as the Commission may, by notice in the *Gazette*, prescribe as a deposit.

Appeals to
a Resident
Magistrate

(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 on the issue of certificates of registration, he shall forward to the Returning Officer a statement under his hand containing the names 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 Returning Officer shall amend or cause to be amended the register and issue such certificate of registration accordingly:

Provided that-

- (a) the resident magistrate shall not require a Returning Officer to issue 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 20; and
- (b) in any case to which sections 18, 19 or 20 applies and no declaration has been made in accordance with section 20, the Returning 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 the opinion that the appeal was made without reasonable cause, he may order that the deposit of such sum as the Commission may, by notice in the *Gazette*, prescribe be forfeited to the Government, 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 not allowed by the resident magistrate and in his opinion the appeal was made without cause, the resident magistrate may, if he thinks fit, order the appellant to pay compensation of such sum as the Commission may, by notice in the *Gazette* prescribe. 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 Returning officer made under section 26 (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 the 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 giving 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 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.

29.- (1) Where the name of any person has been added to a register under section 26, or any certificate of registration has been issued to any person in pursuance of that section, the Returning Officer shall take such steps in relation thereto as if he had not refused the application to which the appeal relates.

(2) Where the name of any person has been deleted from a register under section 24, the Returning 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 Returning Officer the declaration provided for in section 20,

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

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

CHAPTER III

PRESIDENTIAL ELECTIONS

PART I

GENERAL

30. Where a Presidential election is hold on a dissolution of Parliament, the meeting of the National 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, 9 meeting of the National Executive Committee of the Party held for the final nomination of candidates for parliamentary elections.

Meeting of National Executive Committee

Presidential
Election day

31.-(1) Whenever The National. Conference of the Party, in the exercise of the functions conferred on it by section 41 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 or 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 paragraphs (b), (c) or (d) of sub-section (2) of section 38 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 sub-section 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 sub-section (3) for different constituencies.

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

Persons
entitled
to vote at
President
elections

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

(2) Subject to the provisions of sub-clause 3 such person may vote-

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

(b) at the polling station allotted to him in the polling district for which he is so registered and not elsewhere.

(3) The commission may give directions and prescribe conditions under which a person may, on the Presidential Election day, be allowed to vote at a polling station other than that allotted to him.

PART II

ELECTION PROCEDURE

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

34.-(I) 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 35 and 36 the provisions of Chapter V of this Act, other than the provisions of sections 70, 77, 78(2), 80, 81, 84 and 85, 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 Special Annual District Conference of the Party for the district in which the Constituency is situated instead of upon a candidate.

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

- (a) the total number of votes cast 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 be sufficient, require that the votes in the constituencies, or in any particular constituency, shall be recounted.

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

CHAPTER IV

PARLIAMENTARY ELECTIONS

PART I

QUALIFICATION OF CANDIDATES

36. 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.

Supervision by Electoral Commission Presidential election to be conducted in a manner similar to Parliament elections

Certification of vote and decreeion of results

Qualification of candidates for parliamentary elections

PART II

PRIMARY NOMINATION OF CANDIDATE

Primary
nomination
day

37.(1) Where a parliamentary election is to be held in a constituency 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-

- (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 appoint different primary nomination day for different constituencies 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 sub-section (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 candidate

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

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

- (a) the name, address and 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 Returning Officer in charge of the constituency certifying;

- (c) 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 sub-section (3) the nomination of the candidate shall be deemed to be void:

Provided that the Commission may, in any particular case, if it thinks reasonable so to do, direct that the nomination paper shall be accepted as valid notwithstanding that such nomination paper was not accompanied by any 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 hereinafter 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 Returning Officer has issued a certificate under paragraph (b) of sub-section (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 may not be prevented from signing a nomination paper by reason only of his having signed a nomination form of a candidate who has died or withdrawn his candidature before delivery of such first-mentioned nomination paper.

(9) Where, notwithstanding the provisions of sub-section (8), a person nominates more than one candidate for the same election and certificates have been issued under paragraph (b) of sub-section (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 of any candidate whose nomination paper is subsequently delivered shall be invalid.

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

(11) The fact that, subsequent to primary nomination day, the name of a person who has nominated a candidate is deleted from a register of voter for the relevant polling district shall not invalidate the nomination of the candidate.

Candidate
to be
nominated
for one
seat only

39. No person shall be nominated as a candidate for election in more than one constituency.

objections
to and
decision
as to
validity
of nomina-
tion paper

40.-(1) Objections 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 provisions of this Part;
- (c) that it is apparent from the contents of the nomination paper that the candidate is not qualified to stand for election;
- (d) that the requirements of sub-section (3) of section 38 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 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.

Procedur
followin
primar
nominations

41.-(1) As soon as may be practicable after the determination of any objection under section 40, a meeting of the Special Annual District Conference of the Party for the district in which the constituency is situated shall be held.

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

(3) At the meeting of the Special Annual District 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 Special Annual District Conference then present, the meeting shall proceed to vote by secret ballot on the candidates for each constituency for which the meeting is

held, and on such a ballot each member of the Annual District Conference, present at the meeting may cast a preference for the candidate of his choice in each such constituency;

- (c) where there is only one candidate for any constituency the Special Annual District 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 vote by secret ballot, and on such a ballot each member of the Annual District 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 the National Executive Committee of the Party.
- (5) The supervisory delegates shall report to the National Executive Committee of the Party 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 Special Annual District Conference held for the purposes of this section or, if it be the case, shall report that there were no such "irregularities".

PART V

FINAL NOMINATION OF CANDIDATES FOR PARLIAMENTARY ELECTIONS

42. 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 Part II

43.-(1) When one or more candidates have been nominated 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 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.

Approval and
selection by
National
Executive
Committee

(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 meetings of the Annual District Conference, the minutes or the record of the proceedings of the meetings of such. Conference, and any report of the supervisory delegates; and
- (b) unless in the exercise of powers conferred upon the National Executive Committee by section 77 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 fort with 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 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 for which an election is countermanded.

(4) The Chairman of the 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 Candi-
date only
finally
nominated

44. Where only one candidate is finally nominated for an election in a constituency, such candidate shall be deemed to be elected and the Commission shall, by notice in the *Gazette*, declare him to have been elected.

Absence of
candidates

45. If the National Executive Committee of the Party declines, in the exercise of the powers conferred on it by section 77 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 IV

ELECTION DAY

Two candide-
tes finally
nominated
and election
day

46. Where two candidates are finally nominated for election in a constituency, the Commission shall, by notice published in the *Gazette*, appoint a day not less than forty days 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:

Provided that-

- (a) where there are two or more contested elections during a parliamentary general election, the Commission may appoint different election days for different Constituencies;
- (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.

Notice of
Election

47.-(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 in such a manner as he may think fit as to the following matters:-

- (a) the day or days and (subject to the Provisions of sub-section (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 sub-section (1) in any Polling district may differ from that appointed day for any other polling district in the same constituency..

Provided that-

- (a) election day for a constituency shall be the Polling day for at least one Polling district in that constituency;
 - (b) one day but not more than one day shall be appointed as polling day for each polling district; and
 - (c) the last day appointed for polling in any polling district in any constituency shall be not later than such time after election day for the constituency as the Commission may appoint.
- (3) Where the Returning Officer has appointed a polling day for a polling district pursuant to the provisions Of this section, he may, where it appears to him to be in Public interest so to do, give notice in the constituency in such manner as he may think fit altering the polling day appointed for any Polling district, and the upon Polling shall take place in that Polling district on the polling day specified in such notice.
- (4) For the Purpose Of Paragraph (a) of sub-section (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 V

WITHDRAWAL DEATH AND ABSENCE OF CANDIDATES

48. 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.

Withdra-
wal of
candidature

49-(1) Where after four O'clock in the afternoon on Primary nomination day and before the close of the poll in an election a candidate in constituency dies, the Returning officer shall, upon being satisfied of the fact of death countermand the election in the constituency.

Death of
candidates

(2) In the case where the Returning Officer countermands an election Pursuant to the provisions of sub-section (1), the Commission shall, by notice published 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 and the electoral Procedure in that constituency shall be commenced afresh:

Provided that no new nomination shall be required in respect of any candidate validly nominated at the 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

50. if after a primary nomination day by reason of death withdrawal or any other reason whatsoever, there are no candidates in a constituency, 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, and the electoral procedure in that constituency shall be commenced afresh -

PART VI

THE ELECTION CAMPAIGN

Campaign to be organized by Party

51.-(1) Where there is a contested election in a constituency-

(a) the election campaign on behalf of both candidates shall be organized by and the candidates shall be presented to the electorate at meeting convened for the purpose by the Political Committee of the Party:

(b) no candidate at such election nor 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 for the purpose of furthering the candidate's election, other than the meeting held by or under the auspices of the political Committee of the Party and no candidate or any such other person shall undertake any public or door-to-door canvassing save as may be permitted by the Political Committee of the Party.

(2) In the case of a parliamentary election the Political Committee of the Party 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 (alterating at successive meeting) of the candidates.

(3) Every programme drawn up in accordance with sub-section (2) 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.

(4) In the organization and conduct of the election campaign the members of the Political Committee of the Party shall accord a fair and equal opportunity to each of the candidates.

Supervision campaign

52.-(1) The organization and conduct of an electoral campaign in a constituency shall be subject to the supervision of supervisory delegates appointed for the constituency and such delegates shall be entitled to attend every meeting of the Political Committee of the Party, at which the business of the electoral campaign is conducted and every meeting convened for the purposes of the campaign.

(2) The supervisory delegates appointed for a constituency shall bring to the notice of the Political Committee of the Party, 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 purpose 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.

53.-(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 allocated to him by the National Executive Committee of the Party and no candidate shall, while electioneering, associate himself with any other symbol.

Symbols

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

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

Payments
by
Candidates

(2) 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.

(3) Save as provided in sub-section (1) 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

55. 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 47.

Polling
days and
times

56. The Returning Officer shall-

- (a) provide a sufficient number of polling stations in each polling district in accordance with the terms of any notice given under the Provisions of section 47;
- (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;

Arrange-
ments
for
contested
elections

- (d) furnish each polling station with such number of compartments as in the opinion of the Returning Officer may be necessary in which the voters can, screened from observation, record their votes ;
- (c) place or caused to be placed outside each polling station in a conspicuous place a notice showing the names in alphabetical. order of surnames, or in such other order as the Commission may direct, addresses, occupations and representative symbols, if any, of the candidate;
- (f) provide both within and without each polling station notices containing instructions relating to the voting procedure to be followed;
- (g) provide each presiding officer with such number of ballot boxes and ballot papers as in the opinion of the Returning Officer may be necessary;
- (h) provide each polling station with writing materials and instruments with which the voters can mark the ballot papers and for making official marks;
- (i) subject to any direction the Commission may give in that behalf provide each polling station with copies of the register of voters for the polling district or such part of such register as contains the names of the voters allowed to vote at that polling station;
- (j) do such other acts and things as he may be directed to do by the Commission.

Polling agent

57.-(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 for the purpose of detecting personation.

(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 Political Committee of the Party may appoint another polling agent in his place, and shall forthwith give to the Returning Officer and the presiding officer concerned notice in writing of the name and address of the polling agent so appointed and the polling station to which he is appointed.

Ballot boxes

58.-(1) Every ballot box shall be constructed in a manner which allows a voter to put ballot papers in it but cannot withdraw them.

(2) Immediately before the commencement of voting the presiding officer at each polling station shall show the empty ballot box to persons lawfully present so that they may see that it is empty, and shall then close it and place a seal upon it in such manner as to prevent it being opened without breaking the seal, and shall place it in view for the receipt of ballot papers and shall keep it so closed and sealed.

59. Every ballot Paper Shall-

- (a) contain the full names, addresses and occupations of the candidates as shown in their respective nomination papers arranged in the order in which they appear in the notice placed in accordance with section 47, 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 in the same serial number as that printed on the ballot paper.

Form of
ballot
Paper

60. No person who has voted at an election shall, in any legal proceeding to question the election return, be required to state for whom he voted: Provide that this section shall not apply in any legal proceedings in which the question whether a presiding officer acting under the provision of paragraph (b) or (c) of section 61 acted *bona fide* as in issue.

Prohibi-
tion of
disclosure
of vote**PART II****VOTING AND COUNTING PROCEDURE**

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

method of
Voting

- (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 situated, the presiding officer or polling assistant shall deliver to the voter concerned a ballot paper;
- (c) immediately before the presiding officer or polling assistant delivers a ballot paper to any person-
 - (i) the ball of 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), complying with such directions as the Commission may give in that behalf;

- (d) subject to the provisions of paragraph (h) a voter on receiving a ballot paper shall go immediately into one of the screened compartments in the polling station, secretly record his vote in the manner provided in paragraph (e), fold up the ballot paper so as to conceal his vote and shall then show to a polling assistant the back of the paper so as to reveal the official mark and shall then put the folded ballot paper into the ballot box;
- (e) a voter shall record his vote-
 - (i) in a Presidential election, by putting a mark in the appropriate place on the ballot paper to indicate whether he votes in favour or against the candidate;
 - (ii) in a parliamentary 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 a side, 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, in 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 spoiled by accident, obtain another ballot paper in the place of the paper so delivered up, and the spoiled ballot paper and its counterfoil shall be immediately marked as cancelled.

62.--(1) Notwithstanding the provisions of section 61, a person appointed as a supervisory delegate for the purposes of a parliamentary election may vote for the election concerned and any other election taking place simultaneously with such first named election, in a constituency in which he is registered as a voter, by writing the name of the candidate of his choice on a special ballot paper and sending it to the Returning Officer for that constituency in a sealed envelope marked "Ballot".

Voting by
supervisory
delegate

(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 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 61, 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.

63.-(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.

Admission
to polling
station

(2) The presiding officer shall regulate the admission of voters to the polling station and shall exclude all other persons except candidates, the polling agent 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 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 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.

64.-(1) Where the presiding officer at any polling station has reason to believe, or where a candidate or a polling agent present at any polling station 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 entitled to vote at the polling station in question; and
- (b) being thereto required as prescribed by section 66 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 sub-section (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 sub-section. (1), a presiding officer shall state to such person the reasons for his belief that such a person is not a voter entitled to vote at the polling station in question or, in the case of an allegation as mentioned in sub-section (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.

Tendered
ballot
papers

65,-(1) 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 66 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 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 packet, 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 66 applies.

Declaration
by voters

66.--(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.

67.--(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.

Adjourn-
ment of
polling
case of
riot

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

(a) the hours of polling on the day to which it is adjourned shall be the same as for the original day; and

(b) references in this Act to the close of poll shall be construed accordingly.

68. 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 upon a sufficient time to enable them to vote.

closing of
the poll

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

Procedures
on closing
of poll

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

(b) the counterfoils of the used ballot papers;

(c) tendered ballot papers;

(d) the marked copies of registers or parts thereof;

(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.

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

Countin
g 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 accounting agent in respect of whom such notices 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.

Counting
of votes

71.-(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 and shall, so far as practicable proceed continuously with the counting, allowing only reasonable time for refreshment until it is complete.

(2) The Returning Officer shall appoint such number of persons as he shall consider necessary to assist him in account the votes and such persons shall be known as enumerators.

Persons
who may
be present

72. Except with the consent of the Returning officers, 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-

Method of
counting
votes

73. 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.

Votes
which are
not to be
counted as
ballot
papers

74.-(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 face upwards.

(2) Any ballot paper-

(a) which does not bear an official mark; or

(b) on which votes are recorded, otherwise than as provide in this section 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 be counted:

Provided that a special ballot issued under the provisions of section 62 shall be counted if it complies with the provisions of that section and any direction given by the Commission under that section.

Endorse-
ments by
Returning
Office
r

75.-(1) The Returning Officer or an Assistant Returning shall endorse the word "rejected" on any ballot paper which, under the provisions of section 76 is not counted

(2) The Returning Officer or an Assistant Returning Officer shall add the endorsement the words "rejection objected to" if an objection to his decision is made by any counting agent -

Rejected
ballot
papers

76. 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 record otherwise than as provided in paragraph (c) of section 63 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.

77.-(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.

Equality of votes and recount in contested elections

(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 78, report the fact to the Commissions 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 and the electoral procedure for such vacancy shall be commenced afresh.

78.-(1) A candidate or his counting agent may, if present when the counting or any recount of the votes is completed, require the Returning Officer to have the votes recounted or again recounted but the Returning Officer may refuse to make a third or subsequent recount if the results of the last two recounts were the same.

Candidates or counting agent may require recount

(2) No step shall be taken on the completion of the counting or any recount of votes until the candidates and counting agents present at the completion thereof have been given a reasonable opportunity to exercise the right conferred by subsection (1).

79. The decision of the Returning Officer as to any question arising in respect of any ballot paper shall be final, and shall be subject to review only on an election petition questioning the election pursuant to Chapter VII of this Act.

Returning Officers decision final

80.-(1) Upon the conclusion of the counting of the votes the Returning Officer, with the assistant Returning Officers, shall seal up in separate packets the counted and rejected ballot papers.

Returning Officer's duties of 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 61, the unused and spoilt papers in his possession and the tendered voters list, and shall re-seal each packet after examination.

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

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

- (a) forthwith declare to be elected the candidate for whom the majority of votes has been cast; and
- (b) send a notification of election in writing to the successful candidate; and
- (c) report the 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 to be published in the Gazette.

Declaration of result

Custody of document

82.-(1) The Returning officer shall ensure the safe custody of all documents relating to the conduct of an election.

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

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

83. 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.

Power of polling assistants

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

Candidate has power of his polling agents or counting agent

85. 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.

Non-attendance of agents not to invalidate proceedings

86. Where in the polling district the same day is appointed as the election day for the Presidential Election, a contested Parliamentary election-

Where two or more elections held simultaneously

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

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

- (c) the ballot papers for those elections respectively shall be of different colours being such as are easily distinguishable from one another;
- (d) a voter who leaves a polling station after voting for any but not all of those elections shall not be re-admitted to such polling station for the purpose of voting for any of those elections for which he did not vote in the first instance;
- (e) the requirements of paragraph (d) shall be deemed to have been complied with in respect of all 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 elections respectively shall be conducted separately.

87. 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 a fresh.

Equality of votes in Presidential election

CHAPTER VI

OFFENCES

PART I

OFFENCES RELATING TO REGISTRATION AND NOMINATION

88.-(1) Every person who-

- (a) for the purposes of procuring the registration of himself or of any other person of a certificate of registration officer or to any other person having any duty in relation to application 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 issue of other person for registration or for a certificate of registration;
- (b) knowing or having reason to believe that he is registered in a polling district, applies to be registered in a polling district, applies to be registered (otherwise than in accordance with section 17 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 17, section 18 or section 19 and on disclosing to the Registration Officer the circumstances in which the application is made); or

Offences in relation to registration

(e) knowingly makes any declaration provided for in section 20 which is false, or which he does not believe to be true in a material particular,

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 Returning 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 20 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
persons
seeking
nomination
etc.

89.-(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 candidate, shall be guilty of an offence and shall, on conviction, be liable 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 part, 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 register
and
certificates
of registra-
tion

90.-(1) Every person who -

- (a) forges or fraudulently defaces or fraudulently destroys any register of voters; or
- (b) forges, counterfoils 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 it is demanded by such person or a Returning Officer in that behalf, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment

91.--(1) Every person who-

- (a) forges or fraudulently defaces or fraudulently destroys any nomination papers, or delivers to a Returning Officer any nomination paper knowing the same to be forged; and
- (b) forges or counterfeits or fraudulently destroys any ballot paper or the official mark on any ballot paper; or
- being a Returning officer or presiding officer knowingly or negligently fails to put a correct authentication mark on a ballot paper.
- (d) being a Returning officer or presiding officer knowingly or negligently authorizes the use of a tendered ballot paper in a manner which contravenes the provisions of this Act"
- (e) without due authority supplies any ballot paper to any person; or
- (f) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorized by law to put in; or
- (g) without due authority takes out of any polling station any ballot paper or is found in possession of any ballot paper outside polling station; or
- (h) without due authority, destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purpose of an election,

Offence
relation
to
nominati
on 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 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 possession of the Returning officer for such election.

PART II

OTHER ELECTION OFFENCES

92. Any person who-

- (a) willfully furnishes false evidence or makes a false statement in a declaration made under section 66;
- (b) contravenes the provisions of sub-section (1) of section 53, 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.

Miscella-
neous
offences

Mainte-
nance of
secrecy at
elections

93.-(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 sub-section (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 not exceeding two years or to both such fine and imprisonment.

Penalty for
bribery,
treating,
etc.

94. 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

95. Every person who is, guilty of personation or of aiding, abetting, counseling or procuring the commission of the offence or 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.

Disqualific-
cations
entitled by

96.-(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.

(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.

97. 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, promise, or promises to procure or to endeavour to procure, any money or valuable consideration to or for any voter or to or for any person on behalf of any voter or to or for any other person, in order to induce any voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of such voter having voted or refrained from voting at any election;
- (b) every person who directly or indirectly by himself or by any other person on his behalf, gives or procures or agrees to give or procure or to endeavour to procure, any Office, place or employment to or for any voter, or to or for any person on behalf of any voter, or to or for any other person, in order to induce such voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of such 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 endeavors 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 *bonafide* incurred at or concerning any election.

Persons
to be
deemed
guilty of
treating

98. 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 provisions to or for any person, for the purpose of corruptly influencing that person, or any other person, to vote or refrain from voting at such election; and
- (b) every person who corruptly accepts or takes any such food, drink, entertainment or provision.

Persons
to be
deemed
guilty of
undue
influence

99. 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 prevent 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

100.-(1) Where any person does any such act as is described in section 97, 98 or 99 to or in respect of a member of an organ of the Party which is charged with the organization and conduct of the relevant election campaign, or a supervisory delegate appointed for the constituency 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 97, 98 and 99 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 sub-section (1) of this section.

Persons
to be
deemed
guilty of
personation

101. 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 factious persons; 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.

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

102.-(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 his knowledge such other person, has already voted at that election or in the case of a 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,

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

103. 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.

104.-(1) No person shall, within any buildings where; voting in an election is in progress or at any place within the radius or 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.

105. 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.

Penalty
for persons
guilty of
certain
corrupt
and illegal
practices

Interfe-
rence with
lawful
public
meeting to
be an
illegal
practice

Display of
emblems
in vicinity
of place of
voting
prohibited

Defacement
of notice

Documents
to bear
name and
address of
printer
and
publisher

106.-(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 published 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 Political 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.

Persons
convicted
of Corrupt
or illegal
practice to
be
removed
from
register
Acts 190
No. 44
Acts 1966
No. 47

107.-(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;
- (c) forthwith upon being so informed such Registration Officer shall take all such steps as, in the case of deletion of a name from the register under section 26 or section 28, he is required by sub-section (2) of section 29 to take.

CHAPTER VII

AVOIDANCE OF ELECTIONS AND ELECTION PETITION

Avoidance
of
election on
election
position

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

(2) The proceedings of a meeting of the Electoral Conference, the National Executive Committee, a Political Committee of the Party 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 sub-section shall apply to any non-compliance with the provisions of subsections (2), (3), (4) or (5) of section 77 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 circumstances whether similar to those before enumerated or not the majority of voters were, or may have been, prevented from election 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 sub-section (3) where, upon the trial of an election petition respecting an election under this Act, the court finds that a corrupt or illegal practice 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 that 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 held certain acts or commissions to be exempt

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

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

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

PROCEDURE AND JURISDICTION OF COURT

Petition triable by High Court

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

(2) Witnesses shall be subpoenaed and sworn in the same manner as nearly as circumstances admit as in a trial by the High Court in the exercise of its original civil jurisdiction and shall without prejudice to the provision 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 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.

Who May present petitions

111. An election petition may be presented by any one or more of the following persons, namely-

- (a) a person who lawfully voted or had a right to vote at the election to which the petition relates;
- (b) a person claiming to have had 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.

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

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

Reliefs
which may
be claimed

113. 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.

Certificate
of court as
to validity
of election

114.-(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.

Report of
court as
to corrupt
or illegal
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.

Time for
presenta-
tion of
election
petition

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

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

(2) Without prejudice to the provisions of any Rules of Court made under section 117, 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 the time within which an election petition questioning, the return or the election upon that ground may be presented.

Votes to
be struck
off at a
scrutiny

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

- (a) the vote of any person (other than a candidate or official voting under subsection (4) or subsection (5) of section 13) whose name was not in , . 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;
- (d) 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 W 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 (1) of this section, be struck off at a scrutiny by reason only of the voter not having been or not qualified to have his name entered on the register of voters.

Rules of
court

117. 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

118.-(1) 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,

Jurisdiction of resident magistrates.

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) Proceeding 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 IX

FINANCIAL AND MISCELLANEOUS

119. 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 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.

Inaccurate description

120.-(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 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.

Remuneration of staff

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

Expenses to be charged on general revenue

122. 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 121; and
- (d) by any public officer in connection with any official matter connected with or arising out of an election,

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

Service of notices

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

- (a) served on him personally; or
- (b) if left for him at this last however address.

Regulations

124.-(1) The Commission may make regulations for the better carrying out of the provisions of this Act and without prejudice to the generality of the foregoing, may make regulations-

- (a) prescribing anything, which under the provisions of the purposes 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 there are capable of being adapted and may be translated into and used in such language as the Commission may direct.

Exemption from stamp duty

125. Any instrument made on oath or affirmation pursuant to the provisions of this Act in the form prescribed shall be exempt from payment of stamp duty under any written law for the time being in force relating to stamp duties.

Direction

126. The Commission may, subject to the provisions of this Act, issues directions of a general or a specific character in relation to the function of Returning Officers, Registration Officer and other persons employed or 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 124.

127. 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.

Replace-
ment of
registers,
etc.

CHAPTER X

REPEAL AND TRANSITIONAL PROVISIONS

128. The Elections Act, 1970 is repealed.

129. Notwithstanding the repeal of the Elections Act, 1970-

- (a) every person registered as a voter in accordance with the provisions of the Elections Act, 1970 as in force before the Commencement of this Act, shall, be deemed to have been registered as a voter under and in accordance with the provisions of this Act;
- (b) every register of voters and certificate of registrations as a voter, maintained or issued under and in accordance with the provisions of Elections Act, 1970, shall be deemed to have maintained or issued under and in accordance with the provisions of this Act;
- (c) every person appointed as a Director of Elections, Returning Officer or to any other office, for the purposes of the Elections Act, 1970, 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 124 of this Act;
- (e) all other legislation made under the repealed Act and still in force shall be deemed to have been made under this Act until repealed or revoked under this Act.


.....
Clerk of the National Assembly