

THE UNITED REPUBLIC OF TANZANIA



No. 8 OF 1995

I ASSENT,

President

31 - 7 - 95

An Act to amend the Election Act, 1985

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Elections (Amendment) Act, 1995 and shall be read as one with the Elections Act, 1985 hereinafter referred to as the principal Act.

Short title

2. Section 7 of the principal Act is repealed and replaced by the following—

Repeal
and re-
placement
of section
7

"Appoint-
ment of
Returning
officer
and other
staff

7.—(1) The Commission shall appoint for every election in every constituency a Returning Officer and such number of Assistant Returning Officers as the Commission may think necessary for the purpose of conducting an election in the constituency, and for more than one constituencies.

(2) A Returning Officer or Assistant Returning Officer may be appointed by office or by name and for more than one constituencies.

(3) The Returning Officer may, subject to the directions of the Director, appoint such staff as may be necessary for the purpose of conducting an election in the constituency.

(4) Every Returning Officer and Assistant Returning Officer shall, before embarking on the functions of his office during any election, take and subscribe to an oath of secrecy in the prescribed form before a magistrate.

(5) The Returning Officer shall be responsible for all matters relating to the registration of voters within the area of his jurisdiction."

Repeal
and re-
placement
of Section
8

3. Section 8 of the principal Act is here by repealed and replaced by the following-

"Appoint-
ments of
Regional
Election
coor-
dinators
and duty
of public
officers

8.---(1) The Commission may during an election, appoint by office or by name in respect of every region a Regional Election Coordinator to coordinate information, the availability of material resources and other matters necessary for the efficient conduct of elections *in* constituencies within a Region.

(2) Every person holding a public office shall upon request by the Commission, the Director of Election, the Returning Officer, Assistant Returning Officer or the Regional Elections Coordinator provide such assistance or perform such other duty as shall be so requested for the purposes of facilitating the conduct of election.

Repeal
and re-
placement
of section
10

4. Section 10 of the principal Act is repealed and replaced by the following-

"Qualifi-
cation for
registra-
tion

10. No person, other than a citizen of Tanzania who has attained the age of eighteen years and who is not disqualified by this Act or any other written law, shall be entitled to be registered under and in accordance with the provisions of this Act as a voter"

Addition
of new
Section
12A

4A. The principal Act is hereby amended by inserting after section 12 the following new section 12A.

"Registra-
tion of
voters in
Tanzania
Zanzibar

12A. Notwithstanding the provisions of section 12, for the purposes of the conduct of the parliamentary and presidential elections in Tanzania Zanzibar the law relating to the registration of voters and the register of voters for elections to the House of Representatives of Zanzibar shall *mutatis mutandis* be the law for the registration of voters and the register of voters in Tanzania Zanzibar for the purposes of this Act"

Amend-
ment of
section 22

5. Section 22 of the principal Act is amended by adding the following-
"Provided that such application shall not unreasonably be rejected."

Amend-
ment of
section 44

6. Section 44 of the principal Act is amended-

(a) by deleting the figure "(1)" which appears in the first line of that section;

(b) by deleting subsection (2).

7. Section 48 of the principal Act is repealed and replaced by the following-

Repeal
and re-
placement
of section
48

With-
drawal or
cessation
of candi-
dature or
member-
ship

48.-(1) A candidate may withdraw his candidature by notice in writing signed and delivered by him to the Returning Officer and a copy to the local branch of the Party sponsoring him not later than six o'clock in the afternoon of the day following nomination.

(2) Subject to subsection (1) where a candidate withdraws his candidature after six o'clock in the afternoon of the day following nomination the provisions of section 35A (2) shall apply.

(3) Whenever a member resigns, dies or otherwise relinquishes his office, the Speaker shall in writing to the Chairman of the Commission, and by notice published in the *Gazette*, declare that there is a vacancy in the seat of the member"

8. Section 51 of the principal Act is amended-

Amend-
ment of
Section 51

(a) in subsection (2) by deleting the words "District Commissioner" and substituting for them the word.- "returning Officer";

(b) by adding the following subsection-

"(3) A Returning officer may call a meeting of all the candidates or their agents for the purposes of coordinating the campaign program of the candidates.

(4) Every Returning officer shall cause a copy of the coordinated program to be submitted to the District Commissioner and the Police Officer commanding the police within the constituency and such program shall constitute a notice of the proposed meetings for the purposes of the Political Parties Act, 1992 and the Police Force Ordinance.

Act No. 5
of 1992
Cap. 322

9. Section 53 of the principal Act is repealed and replaced by the following-

Repeal
and replacement
of section 53

"Access
to and ob-
ligation of
public
media

53.--(1) Subject to subsection (2), the candidates for the office of the President and Vice-President of the United Republic and political parties participating in an election shall have the right to use the state radio and television broadcasting service during the official period of election campaign.

(2) The Commission shall after consultations with the candidates, the political parties concerned, and the officers responsible for the public media, coordinate the use of the broadcasting rights under this section.

(3) Every print media owned by the government which publishes any information relating to the electoral process shall be guided by the principle of total impartiality and shall refrain from any discrimination in relation to any candidate both in the manner they treat the candidates journalistically and in the amount of space dedicated to them.

(4) For the purpose of giving effect to this section the Commission may in writing issue binding directives to any government owned media"

Amend-
ment of
Section 61

10. Section 61 (3) of the principal Act is amended-

(a) by deleting paragraph (e) and substituting for it the following-

"(e) a voter shall record his vote by putting a mark against the name of the candidate for whom he wishes to vote thereby recording no more than one vote;"

"(b) by deleting paragraph (h) and substituting for it the following:

(h) if a voter is incapacitated by blindness or other physical cause, or is unable to read, he may ask a person of his own choice other than the presiding officer, a polling assistant or a polling agent to assist the incapacitated person to record his vote in accordance with paragraph (d) and (e) of this section.

Amend.
ment of
section 63

St. Section 63 of the principal Act is amended by deleting subsection (2)- and substituting for it the following-

"(2) No person other than the following shall be admitted into a polling station-

- (a) presiding officer;
- (b) polling assistant;
- (c) polling agent;
- (d) voter;
- (e) a person assisting an incapacitated voter pursuant to section 61;
- (f) observer duly authorized in writing by the Commission;
- (g) candidate;
- (h) member of the Commission;
- (i) Director of Elections;
- 0) police officer or person responsible for security at the polling station"

(3) The Commission may give directions regulating the conduct of observers.

12. Section 72 of the principal Act is repealed and replaced by the following:-

Repeal
and re-
placement
of section
72

"Persons
who may
be present
at count-
ing votes

72. No person other than the following shall be present at the counting of votes-

- (a) the Returning Officer;
- (b) Assistant Returning Officer;
- (c) enumerator;
- (d) counting agent;
- (e) candidate;
- (f) police officer or other person responsible for security at the place of counting of votes;
- (g) a member of the Commission;
- (h) Director of elections or an electoral officer; and
- (i) observer duly authorized in writing by the Commission.

13. Section 87 of the principal Act is hereby repealed and replaced by the following-

Repeal of
section 87
and inser-
tion of
new section 87

"Defini-
tion of
campaign
period

87. For the purposes of the provisions of Chapter VI and Chapter VII, the term "campaign period" in relation to a Parliamentary election, means, except for section 97 the whole of the period immediately following after dissolution of Parliament or the occurrence of a vacancy in the House declared by the Speaker by notice published in the *Gazette* up to the day immediately preceeding election day"

14. The principal Act is amended by adding immediately after section 91, the following new sections-

Addition
of section
91A and
91B

"False
publica-
tion of
with
drawal

91A Any person who knowingly, by utterance, print or broadcasting, publishes any statement of the withdrawal of any candidate for the purposes of promoting the election of another candidate is guilty of an illegal practice and shall be liable on conviction to imprisonment for a term not exceeding two years.

corrupt
Induce-
ment of
with
drawal

91B Any person who corruptly induces or procures another person to withdraw from being a candidate -to an election in consideration of payment or promise of payment and any person who withdraws in pursuance of such inducement or procurement is guilty of corrupt practice and shall be liable on conviction to imprisonment for a term not exceeding five years".

Addition
of section
94

15. The principal act is amended by adding immediately after section 93 the following-

"Penalty
for brib-
ery, treat-
ing etc.

94. Any person who commits the offence of bribery, treating or undue influence shall be guilty of a corrupt practice and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding five years or to both such fine and imprisonment".

Addition
of sections
96, 97 and
98

16. The principal Act is amended by adding immediately after section 95 the following:-

"Disqual-
ifications
by convic-
tion for
corrupt or
illegal
practice

96.-(1) Any 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 five years from the date of his conviction from being registered as a voter or from voting at any election under this Act or under any other written law.

(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 or under any other written law.

Persons to
be
deemed
guilty of
bribery

97.-(I) Subject to subsection (2), the following persons shall be deemed to be guilty of bribery within the meaning of this Act-

(a) Every person who, before or during the campaign period 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 endeavor 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, before or during the campaign period directly or indirectly by himself, his agent or by his political party on his behalf, gives or procures or agrees to give or procure or to endeavor 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, before or during the campaign period, directly or indirectly, by himself or his agent on his behalf, makes any gift, loan, offer, promise procurement, or agreement as aforesaid, to or for any person in order to induce such person to procure or to endeavor to procure, the nomination of a person as a candidate by a political party, 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 nomination of a person as a candidate by a political party, the return of any person as a member or the vote of any voter at an election;
 - (e) every person who, for purposes of promoting or furthering an election campaign, or during the campaign period knowingly 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 the campaign period 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, having induced any other person to vote or refrain from voting at any election;

(2) The provisions of this section shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of any expenses lawfully and bona fide incurred at or concerning any election.

"(3) Where it is alleged that the act constituting bribery was committed by an agent or other person on behalf of the candidate, it shall be a defence for the candidate if he proves that it was committed without his knowledge, consent or approval or that of his agent.

"(4) For the purposes of this section an act or transaction shall not be deemed to constitute bribery if it is proved to have been designed to advance the interests of community fund raising, self help, self reliance or social welfare projects within the constituency and to have been done before the campaign period".

Persons to
be
deemed
guilty of
treating

98.-(1) Subject to subsection (2) 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 of 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.

(2) For the purposes of subsection (1) nothing done as an act of normal or traditional hospitality or celebrations shall be deemed to be treating"

Addition
of section
100

17. The Principal Act is amended by adding immediately after section 99 the following:-

"Bribery,
treating
and undue
influence
in relation
to mem-
bers and
officers of
the Com-
mission

100.-(1) Where any person does any such act as is described in sections 97, 98 or 99 to or in respect of a member or officer of the Commission referred to in section 6 with intent that person shall discriminate in favour of one or other of the candidates at the election, or where any such person 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 reference to the persons specified in subsection (1) and to such discrimination respectively, and as if the references to the intent specified therein were references to the intent specified in subsection (1) of this section.

18. The Principal Act is amended by adding immediately after section 101, the following:-

Addition
of Section
102

"Penalty
for per-
sons guilty
of certain
Corrupt
and illegal
Practices

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 to 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 five hundred 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;
- (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 hundred thousand shillings or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment".

19. The principal Act is amended by adding immediately after section 106, the following-

Addition
Of Section
107

Person
convicted
of corrupt
or illegal
practice to
be re-
moved
from re-
gister

107. 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 36 or section 28, he is required by sub-section (2) of section 29 to take"

Amend-
ment of
section 108

20. Section 108 of the principal Act is amended-

(a) by deleting subsection (1) and substituting for it the following-

"(1) Pursuant to the limitation imposed by subsection (5) of section 41 of the Constitution, the provisions of this section shall apply only in relation to the election of a candidate as a Member of Parliament".

(b) by deleting the clause introductory to subsection (2) and substituting for it the following-

"(2) The election of a candidate as a member shall be declared void only where any of the following grounds is proved to the satisfaction of the Court and on no other ground, namely:-"

(c) by deleting subsection (3) and renumbering subsection (4) as subsection (3).

Addition
of section
109

21. The principal Act is amended by adding immediately after section 108, the following-

"When
High the
Court
hold cer-
tain acts
or omis-
sions to be
exempt

109. When it appears to 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 there upon 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".

22. The principal Act is amended by adding after section 109 the following:-

Addition
of section
109A

109A. Where in an election it is proved that any offence of bribery, treating or illegal practices was knowingly committed or furthered by an officer of the Commission or one acting under the direction of the Commission, the officer shall if convicted be liable to imprisonment for a term not exceeding five years"

Passed in the National Assembly on the 21st day of April, 1995.


Clerk of the National Assembly