

THE UNITED REPUBLIC OF TANZANIA



No. 4 OF 2000

I ASSENT

Benjamin W. Mkapa

President

8th April, 2000.

An Act to amended electoral laws.

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Electoral Laws (Miscellaneous Amendments) Act, 2000.

2. The Electoral Laws set forth in the first and second columns of the Schedule to this Act are amended in the manner specified in the third column of that Schedule—

SCHEDULE

COLUMN 1	COLUMN 2	COLUMN 3
Act No. 1 of 1985	The Elections Act, No. 1 of 1985	1. The Act is amended— (a) In section 2 by inserting at their appropriate alphabetical positions the following definitions: "Chairman" means the Chairman appointed under section 4 and includes the Vice-Chairman or any person for the time being discharging the functions of the Chairman; "Observer" means local or international observer. (b) in paragraph (b) of subsection (1) of section 4, by adding immediately after the word "Chairman" the words "who is a Judge of or a person qualified to be appointed a Judge of the High Court or the Court of Appeal of Tanzania"; (c) by adding immediately after section 4 the following new section— "Decision of the Commission 4A. The Chairman, Vice Chairman or the temporary chairman presiding at any meeting of the Commission shall have a vote and, in the event of an equality of votes, shall have a casting vote in addition to his deliberative vote". (d) by adding immediately after the proposed section 4A the following new section— "Quorum 4B. The quorum at any meeting of the Commission shall be four members including the Chairman or in his absence the Vice-Chairman or the temporary Chairman as the case may be."; (e) in section 7— (i) by deleting subsection (1) and substituting for it the following:— "(1) For purposes of any election held under this Act, every City Director, Municipal Director, Town Director and District Executive Director shall be a Returning Officer for the purposes of conducting an election in the constituency and such a Returning Officer may be for more than one constituency"

SCHEDULE—(contd.)

COLUMN 1

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(ii) by deleting subsection (2) and substituting for it the following:—

"(2) The Electoral Commission shall appoint by office such number of Returning Officers or Assistant Returning Officers as it may deem fit."

(iii) by adding immediately after subsection (2) the following new subsection—

"(3) Notwithstanding subsections (1) and (2), the Commission may where circumstances so require, by notice published in the Gazette appoint any person holding a public office by name or by office to be a Returning Officer or an Assistant Returning Officer in any Constituency instead of the one referred to in subsections (1) and (2), and where such person is so appointed the City Director, Municipal Director, Town Director, District Executive Director or an official as the case may be, shall cease to be a Returning Officer or an Assistant Returning Officer of that Constituency, in such election."

(f) by repealing the whole of section 12 and replacing it with the following—

"Register
of voters

12.—(1) Subject to this section, there shall, for the purposes of this Act, be a permanent national voters register for the United Republic, which shall be in such parts, chapters or other divisions as the Commission shall determine.

(2) Every Returning Officer shall make and maintain a register of voters for each and every polling district.

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

(4) The register shall show relative to every registered voter, 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 and such other particulars as the Commission may direct.

SCHEDULE—(contd.)

COLUMN 1

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(5) Every register of voters for each polling district shall be a part of the permanent national voters register and its contents shall be communicated to the Director of Elections, and be kept and maintained in such manner as the Director of Elections may from time to time direct.

(6) The Commission shall make regulations prescribing anything which is to be prescribed or directing any other matter to be done by any person for the purposes of giving full effect to the provisions of this section and of establishing, keeping and maintaining the permanent national voters register."

(g) in section 35F—

(i) by inserting a new subsection immediately after subsection (1) as follows—

"(2) The Returning Officer shall, after compiling the Presidential results in the constituency, display such results at a conspicuous place".

(ii) by renumbering subsections (2) as (3), (3) as (4), (4) as (5), (5) as (6), (6) as (7), and (7) as (8);

(iii) by deleting subsection (8) as renumbered and substituting for it the following—

"(8) A Presidential candidate shall be declared to have been elected President if he receives the greatest number of all the valid votes cast."

(h) by repealing section 35G and replacing for it the following—

* Second
ballot

35G.—(1) Where at the initial ballot no Presidential candidate has received the greatest number of valid votes cast, the Commission shall, by notice published in the *Gazette*, appoint some other convenient day, being not more than forty days after the election day for the second ballot of the Presidential election.

SCHEDULE—(contd.)

COLUMN 1

COLUMN 2

COLUMN 3

(2) Where there is a tie up in the votes for the first highest, the Presidential candidate who had tied up shall be the only candidates in the second ballot."
(i) in section 38—

(i) by deleting subsection (9) and substituting for it with the following:—

"(9) Notwithstanding the provisions of subsection (8), where a nominator nominates more than one candidate for the same election and certificates have been issued under paragraph (b) of subsection (3) in respect of such person's registration both such candidates nomination shall be valid."

(ii) by adding immediately after subsection (9) the following new subsections:—

"(10) Any person who nominates more than one candidate commits an offence, and upon conviction shall be liable to a fine not exceeding two hundred thousand shillings.

(11) The Returning Officer may, where he is satisfied that any person has committed an offence under subsection (10) by order under his hand compound, such offence by requiring such person to make payment of a sum of money:

Provided that:—

- (a) such sum of money shall not be more than the maximum fine provided for such offence;
- (b) the power conferred by this subsection shall only be exercised where the person admits in writing that he has committed the offence;
- (c) the Returning Officer shall issue to the person from whom he receives such sum of money a receipt thereof.

SCHEDULE—(contd.)

COLUMN 1

COLUMN 2

COLUMN 3

(12) A nominator may subject to the provisions of subsection (8), nominate one candidate each for presidential, parliamentary and local authority election."

(iii) by renumbering subsection (10) as (13) and subsection 11 as (14);

(j) in section 40—

(i) by adding immediately after subsection (4) the following subsection—

"(5) Where the Returning Officer makes an objection on his own motion, under subsection (3), he shall before making any finding inform the candidate concerned in writing and after making a finding on the objection he shall refer such findings to the Electoral Commission".

(ii) by renumbering subsection (5) as (6);

(k) in subsection (3) of section 46, by deleting the phrase "being a day within the period specified under subsection (1) or (2)" appearing in the fifth and sixth lines of that subsection, and substituting for it the following new phrase "being a day not less than sixty days and not more than ninety days for the Parliamentary election and not more than thirty days for the by election;"

(l) in section 59—

(i) by deleting paragraph (a) and substituting for it the following—

(a) contain—

- (i) the full name of the candidate;
- (ii) a recent photograph taken within three months;
- (iii) the acronym or logo of the political party sponsoring the candidate if any;

SCHEDULE—(contd.)

COLUMN 1

COLUMN 2

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- (ii) by deleting paragraph (c);
- (iii) by renaming paragraph (d) as (c)."
- (iv) by deleting paragraph (c) as renamed and substituting for it the following—

"(c) be attached to counterfoil bearing a serial number."

(m) in section 61—

- (i) by deleting paragraph (b) of subsection (3) and substituting for it the following—
- (b) 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 such an incapacitated person to record his vote in accordance with paragraphs (c) to (k) of this subsection and a person chosen under this paragraph shall assist not more than one voter:

Provided that:—

where in a household there is more than one person who require assistance under this paragraph, it shall be lawful for such members of the household to choose one person to assist them."

- (ii) by deleting paragraph (i) of subsection (3);
- (iii) by renaming paragraphs (j) as (i), (k) as (j) and (l) as (k);

(n) in section 63—

- (i) by deleting a "fullstop" appearing at the end of paragraph (j) of subsection (2) and substituting for it a "semi colon";
- (ii) by adding immediately after paragraph (j) the following new paragraph—

"(k) returning officer and assistant returning officer."

- (iii) by inserting immediately after subsection (2) the following new subsection:—

SCHEDULE—(contd.)

COLUMN 1

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COLUMN 3

"(3) The presiding officer may, in his discretion admit at least not less than two observers if any, to the polling station."

(iv) by renumbering subsection (3) as (4), (4) as (5) and (5) as (6).

(o) by repealing section 65;

(p) in subsection (2) of section 77 by deleting the last four lines and substituting for them the following phrase "the election day, for the vote to be cast for the candidates whose votes were equal during the first ballot";

(q) by adding immediately after subsection (1) of section 79A the following new subsections—

"(2) Where the candidate or his agent refuses to sign the prescribed form under this section, the presiding officer or polling assistant shall require such candidate or agent to give reasons in writing for his refusal.

(3) Where a candidate or his agent refuses to comply with the provisions of paragraph (b) he shall be estopped from raising any complaint regarding the voting and the counting procedure in that particular station."

(r) In section 80—

(i) by inserting between subsections (2) and (3) the following new subsection—

"(3) After all the reports of the results and ballot boxes containing ballot papers relating to the parliamentary election have been received from the polling stations in the constituency, the Returning Officer, shall, after determining the validity of any disputed votes and before the addition of the votes, announce aloud the results of each polling station in the constituency serially."

SCHEDULE—(contd.)

COLUMN 1

COLUMN 2

COLUMN 3

(ii) by renumbering subsections (3) as (4), (4) as (5) and (5) as (6);

(s) by repealing section 87 and substituting for it the following new section—

"Definition of Cam- paign Pe- riod	87. For the purposes of the provisions of Chapter VI and Chapter VII, the term "Campaign period" in relation to Parliamentary election, means, the whole period commencing immediately after the nomination day up to the day immediately preceeding election day";
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(t) by adding immediately after section 89 the following new sections:—

"Election Officers miscon- duct	89A.—(1) Any election officer who knowingly or wilfully does or omits to do anything in relation to an election process and thereby occasions the nullification of the election results, commits an offence and upon conviction, is liable to imprisonment for a term not exceeding five years or to a fine of not less than one hundred thousand shillings and not exceeding three hundred thousand shillings or to both such fine and imprisonment.
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(2) Where in an election petition the Court determines that an election officer has done or omitted to do anything in relation to the election process which amounts to mishandling the election process, it shall certify such determination to the Attorney General.

(3) Where a prosecution is commenced for an offence under this section, a certificate issued under subsection (2) of this section shall be conclusive proof of what is contained therein.

(4) For avoidance of doubt, the certificate under subsection (2) shall not prevent the prosecution from calling further evidence to substantiate the case.

(5) The provisions of the Criminal Procedure Act, 1985 or the Tanzania Evidence Act, 1967 shall apply *mutatis mutandis* in the conduct of case under this section."

SCHEDULE—(contd.)

COLUMN 1

COLUMN 2

COLUMN 3

Applica-
tion of Act
No. 7 of
1970

89B. Notwithstanding the provisions of section 89A, the provisions of the Specified Officers (Recovery of Debts) Act, 1970 shall apply *mutatis mutandis* to the election officer who occasions the Government to incur loss, costs or damages as a result of his acts or omission in relation to the election process."

Definition
of election
officers

89C. For purposes of sections 98A and 98B, election officer includes the Regional Election Co-ordinator, Returning Officer, Assistant Returning Officer, presiding officer and polling assistant".

(u) In section 98—

(i) by deleting subsection (2) and substituting for it the following—

"(2) For the purpose of subsection (1), anything done in good faith as an act of normal or traditional hospitality shall be deemed not to be treating."

(ii) by adding immediately after subsection (2) the following new subsections—

"(3) Normal or ordinary expenses spent in good faith in the election campaign or in the ordinary course of election process shall be deemed not to be treating, bribery or illegal practice"

(v) in section 108—

(i) by deleting the word "an" which appears in the fifth line of subsection (3) and substituting for it the words "corrupt or";

(ii) by inserting the words "corrupt or" immediately before the words "illegal practice" wherever they appear in paragraphs (a), (b) and (c) of subsection (3).

SCHEDULE—(contd.)

COLUMN 1

COLUMN 2

COLUMN 3

(w) In section 109—

- (i) by deleting the word "an" appearing immediately before the words "illegal practice" wherever it appears in that section and substituting for it the words "corrupt or"
- (ii) by deleting the word "and" appearing at the end of paragraph (a);
- (iii) by inserting immediately after paragraph (a) the following new paragraphs—

(c) that an act of a candidate, his agent or another person was done in good faith as of normal or traditional hospitality;

(d) that normal or ordinary expenses were spent in good faith by a candidate, his agent or another person in furthering the candidates election campaign; and

(iv) by renaming paragraph (b) as (d).

(x) by deleting the word "or" which appears in the third line of section 109A and substituting for it the words "corrupt or"

(y) In section 111—

- (i) by inserting immediately after the figure "111" a figure "(1)";
- (ii) by adding immediately after the word "petition" appearing in the marginal notes the words "and deposit of security for costs";
- (iii) by adding immediately after paragraph (d) of the renumbered subsection (1) the following new subsections—

"(2) The Registrar shall not fix a date for the hearing of any election petition unless the petitioner has paid into the court, as security for costs, a sum of five million shillings in respect of the proposed election petition.

SCHEDULE—(contd.)

COLUMN 1

COLUMN 2

COLUMN 3

Acts No. 4 The Local Authorities (Elections)
of 1979 Act, 1979

(3) The provisions of subsection (2) requiring a petitioner to give security for costs shall not apply to the Attorney General in any case in which the Attorney General is the petitioner or one of the petitioners.

(4) The money deposited as security for costs under subsection (2), shall, where the petitioner succeeds in the petition or on appeal, and where no order as to costs lies against him, the deposit or the balance, as the case may be, shall immediately be refunded to the petitioner."

(z) in section 114 by inserting the words "corrupt or" before the word "illegal" wherever it appears in subsections (1), (2)(a) and (b), (4), and (5).

The Act is amended—

(a) in section 12—

(i) by inserting the words "or, as the case may be, in any particular ward of that local government authority" between the words "ward" and "on" which appear in the second line in subsection (2);

(ii) by deleting subsection (3);

(iii) by renumbering subsection (4) as (3);

(b) by deleting subsection (2) of section 13 and substituting for it with the following:—

"(2) A by-election under this section shall not be held to fill a casual vacancy in the office of a Council in which an ordinary election of councillors is or may be required to be held under section 12, unless the Electoral Authority after consultation with the Minister has by order directed that the by-election be held."

(c) in section 42—

(i) by deleting the whole of subsection (9) and substituting for it with the following—

SCHEDULE—(contd.)

COLUMN 1

COLUMN 2

COLUMN 3

"(9) Where, notwithstanding the provisions of subsection (8), a nominator nominates more than one candidate for the same election and certificates have been issued under paragraph (b) of subsection (3) in respect of such person's registration both such candidates' nominations shall be valid.

(ii) by adding immediately after subsection (9) the following new subsections—

"(10) Any person who nominates more than one candidate commits an offence, and upon conviction shall be liable to a fine not exceeding two hundred thousand shillings.

(11) The Returning Officer may, where he is satisfied that any person has committed an offence under subsection (10) shall by order under his hand compound such offence by requiring such person to make payment of a sum of money:

Provided that:

- (a) such sum of money shall not be more than the maximum fine, provided for such offence;
- (b) the power conferred by this subsection shall only be exercised where the person admits in writing that he has committed the offence;
- (c) the Returning Officer shall issue to the person from whom he receives such sum of money a receipt thereof.

(12) A nominator may subject to the provisions of subsection (8), nominate one candidate each for presidential, parliamentary and local authority election."

(iii) by renumbering subsection (10) as (13) and (11) as (14);

(d) in section 48—

- (i) by deleting the opening words of subsection (1), and substituting for them the following—

SCHEDULE—(contd.)

COLUMN 1

COLUMN 2

COLUMN 3

- "(1) Where candidates are nominated for election in a ward, the Electoral Authority shall appoint a day not less than sixty days and not more than ninety days after the nomination day to be an election day;"
- (ii) by deleting the phrase "within the period prescribed by this subsection to be election day" appearing in paragraph (b) of subsection (1) and substituting for it the phrase "being a day not less than sixty days and not more than ninety days to be an election day.";
- (e) in section 60—
- (i) by deleting paragraph (c);
- (ii) by renaming paragraph (d) as (c);
- (iii) by deleting paragraph (c) as renamed and substituting for it the following—
- "(c) be attached to a counterfoil bearing a serial number."
- (f) in paragraph (h) of section 62 by adding immediately after that paragraph the following words:—
- "and a person chosen under this paragraph shall assist not more than one voter;
- "Provided that where in a household there is more than one person who require assistance under this paragraph, it shall be lawful for such members of the household to choose one person to assist them".
- (g) by deleting subsection (2) of section 63 and substituting for it the following—
- "(2) No person other than the following shall be admitted into the polling station—
- (a) presiding officer;
- (b) polling assistant;
- (c) polling agent;
- (d) voter;

SCHEDULE—(contd.)

COLUMN 1

COLUMN 2

COLUMN 3

- (e) Regional Coordinator;
- (f) a person assisting an incapacitated voter pursuant to section 61;
- (g) an international or local observer duly authorised in writing by the Commission;
- (h) the candidate;
- (i) member of the Commission;
- (j) Director of Elections;
- (k) Returning Officer or an Assistant Returning Officer;
- (l) Police Officer or any other person duly authorised in writing by the Commission to be responsible for security at the polling station."

(h) by repealing section 65;

(i) by repealing the whole of section 70 and replacing for it with the following:—

"Procedure on closing of poll 70.—(1) Before the closing of the polling station or immediately after the closing of the poll

- (a) the polling agent for each of the candidates shall record any complaint or his satisfaction in the prescribed form; and
- (b) any election complaint presented under paragraph (a) of this subsection which can be resolved shall be attended to as soon as possible.

(2) At the conclusion of the polling, the presiding officer shall prepare a report, detailing all complaints raised during and after the close of the poll and

the measures taken in respect of each of them and the report shall be read before and be confirmed and signed by the polling agent, the presiding officer and a polling assistant, and shall be submitted to the Returning Officer in accordance with section 70A."

(j) by adding immediately after section 70 the following new sections—

SCHEDULE—(contd.)

COLUMN 1

COLUMN 2

COLUMN 3

"Place of
counting

70.A—(1) Subject to the provisions of subsection (2) of this section, the votes for local authority election cast at a polling station shall be counted at that polling station.

(2) A presiding officer may on his own motion or upon advice from the Returning Officer, or Assistant Returning Officer, or upon advice by the polling agents, may for reasons of security, inadequacy of counting space or other facilities or for such other reasonable cause, direct that the votes of that polling station be counted at a place different from the one at which the votes were cast.

(3) Where a direction is given pursuant to subsection (2) of this section, the votes from each polling station shall be counted separately in the same manner as if the votes had been counted at the polling station at which they were cast.

(4) Upon the conclusion of the counting of the votes at the polling station the Presiding Officer, with the assistance of the Polling Assistant, shall seal up in separate packets the counted and rejected ballot papers.

(5) At the conclusion of the procedure under subsection (4) each candidate or his counting agent shall, in the prescribed form, state whether or not he is satisfied with such procedure or whether he has any complaint in relation to it.

(6) Any complaint submitted under this section which can be resolved shall be settled immediately by the Presiding Officer and such event shall be incorporated in the report to be submitted to the Returning Officer.

(7) Where a candidate or his counting agent refuses to complete or sign any form under this section, the Presiding Officer or a Polling Assistant shall require such candidate or his agent to give reasons in writing of his refusal and that Presiding Officer or a Polling Assistant shall record that refusal in the report which he submits to the Returning Officer,

SCHEDULE—(contd.)

COLUMN 1

COLUMN 2

COLUMN 3

(8) Where the candidate or his agent refuses to comply with the provisions of subsection (7), he shall be estopped from raising any complaint regarding the voting and the counting procedure in that particular station."

Methods of
counting
votes

70.B—(1) Before the Presiding Officer and Polling Assistant proceed to count the votes, they shall in the presence of the candidates or their counting agents and such persons as may be authorised in writing by the Electoral Authority if present:—

- (a) ascertain and record the number of all the persons who voted at the polling station;
- (b) count and record the number of all the unused ballot papers, including any spoilt ballot papers and seal them in a special envelop;
- (c) inspect the seal and any padlock affixed to the ballot box to ascertain whether or not they have been opened or tampered with;
- (d) Unseal the seal and unlock the pad lock; and
- (e) open the ballot box.

(2) After the ballot box has been opened under subsection (1) the Presiding Officer shall take out and count aloud each ballot paper and record the total of the ballot papers found in the ballot box.

(3) After the total of the ballot papers in the ballot box has been ascertained, the votes shall be counted as follows:—

- (a) the Presiding Officer shall unfold each ballot paper, display it for viewing by those present and announce aloud the candidate for which the vote has been cast or whether the ballot paper is blank, spoilt or otherwise invalid;

SCHEDULE—(contd.)

COLUMN 1

COLUMN 2

COLUMN 3

(b) the ballot papers which have been announced shall be arranged and displayed in separate lots facing upwards, according to the candidate for which they are cast or as the blank or invalid votes.

(c) the Presiding Officer shall count aloud and record the votes in each lot and verify their total with the total of all the ballot papers which were found in the ballot box and the number of voters who cast their votes at the polling station."

(k) by repealing section 71 and replacing for it the following—

"Counting
agents

(1) Every polling agent or the alternate polling agent appointed by a candidate pursuant to section 58 of this Act, shall at the close of the poll and during the counting of votes, be the counting agent of the appointing candidate.

(2) Every candidate in the local authority election may appoint a counting agent to represent that candidate at the place and during the addition of election results."

(l) by repealing section 72

(m) by repealing section 73 and substituting for it the following

"Persons
who may
be present

73.—(1) No person other than the following may be present at the counting of votes—

(a) the presiding officer;

(b) a polling assistant;

SCHEDULE—(contd.)

COLUMN 1

COLUMN 2

COLUMN 3

- (c) a polling agent or an alternate polling agent;
 - (d) a candidate;
 - (e) a police officer or such other person duly authorised by the Commission to be responsible for security at the place where votes are being counted;
 - (f) a Returning Officer, an Assistant Returning Officer or a Regional Co-ordinator;
 - (g) a member of the Commission;
 - (h) the Director of Elections or an Electoral Officer of the Commission; and
 - (i) an international or local observer duly authorised by the Commission.
- (2) No person other than those referred to in subsection (1) shall be permitted to be within the vicinity of the place where votes are being counted".
- (n) by repealing section 74;
 - (o) in section 75—
 - (i) by deleting the whole of subsection (1);
 - (ii) by deleting the figure (2);
 - (p) in section 76, by deleting the phrase "The Returning Officer or an Assistant Returning officer" wherever it appears in subsections (1) and (2) and substituting for it the phrase "The Presiding Officer or a Polling Assistant"
 - (q) in section 77 by deleting the phrase "Returning Officer" or an Assistant Returning Officer" which appears at the beginning of that section and substituting for it the phrase "The Presiding Officer or a Polling Assistant."

SCHEDULE—(contd.)

COLUMN 1

COLUMN 2

COLUMN 3

- (r) by adding immediately after the phrase "Returning Officer" wherever it appears in section 78 the phrase "or an Assistant Returning Officer,"
- (s) by deleting the phrase "Returning Officer" wherever it appears in subsection (1) of section 79 and substituting for it the phrase "Presiding Officer";
- (t) by repealing section 80 and replacing with it the following—

"The Re-
turning O-
fficer's de-
cision final

80. The decision of the Returning Officer or an Assistant Returning Officer as to any question arising in respect of any disputed ballot paper before addition shall be final, and shall be subject to review only in an election petition questioning the election pursuant to Part XIII of this Act."

- (u) by repealing section 81 and replacing it the following—

"Vote ad-
dition in
local au-
thority ele-
ction

81.—(1) After all the reports relating to the election, the election results and the ballot boxes containing ballot papers relating to a local authority election, have been received from the polling stations in the Ward, the Returning Officer or an Assistant Returning Officer as the case may be shall after determining the validity of any disputed votes and before the addition of votes, announce aloud the results of each polling station in the ward seriatim.

(2) Upon the conclusion of the procedure under subsection (1), the Returning Officer or an Assistant Returning Officer shall proceed to add together the figures of—

- (a) all votes cast in the ward;**
- (b) the votes in favour of each candidate;**
- (c) the rejected ballot papers".**

- (v) In section 87 by adding immediately after subsection (2) the following new subsection—

(3) Any person who in any way obstructs or attempts to obstruct a Presiding Officer, Polling Assistant, Returning Officer or Assistant Returning Officer, in

SCHEDULE—(contd.)

COLUMN 1

COLUMN 2

COLUMN 3

the performance of his duties or in the exercise of his powers under this Act, commits an offence and shall upon conviction, be liable to a fine of not exceeding three hundred thousand shillings".

(w) by adding immediately after section 88 the following

"new section Election Officers misconduct

88A.—(1) Any election officer who knowingly or wilfully does or omits to do anything in relation to the election process and thereby occasions nullification of the election results, commits an offence and upon conviction, is liable to imprisonment for a term not exceeding two years or to a fine of not less than fifty thousand shillings and not exceeding one hundred thousand shillings or to both, such fine and imprisonment.

(2) Where in an election petition the court determines that an election officer has done or omitted to do anything in relation to the election process which amounts to mishandling of the election process, it shall certify such determination to the Attorney General.

(3) Where a prosecution is commenced for an offence under this section, a certificate issued under subsection (2) of this section shall be conclusive proof of what is contained therein.

(4) For avoidance of doubt, the certificate under subsection (2) shall not prevent the prosecution from calling further evidence to substantiate the case.

(5) The Provisions of the Criminal Procedure Act, 1985, shall apply *mutatis mutandis* in the conduct of the case under this section.

Application of Act No. 7 of 1970

88B. Notwithstanding the provisions of section 88A, the provisions of the Specified Officer (Recovery of Debts) Act, 1970, shall apply *mutatis mutandis* to the election officer who occasions the Government to incur loss, costs or damages as a result of his omission to do or not to do anything in relation to the election process.

Definition of Election Officer

88C. For purposes of sections 88A and 88B, an election officer includes the Regional Election Co-ordinator, Returning Officer, Assistant Returning Officer, presiding officer and polling assistant."

SCHEDULE—(contd.)

COLUMN 1

COLUMN 2

COLUMN 3

- (x) in the closing words of subsection (1) of section 105, by deleting the words "Electoral Authority" appearing between the words "the" and "and" and substituting for them the words "Returning Officer or Assistant Returning Officer,"
- (y) in section 106—
- (i) by inserting the words "corrupt or" immediately before the word "illegal" which appears in the marginal notes;
 - (ii) by inserting the word "corrupt or" immediately before the word "illegal" which appears in subsection (1);
- (z) In section 110—
- (i) by inserting immediately after the figure "110" a figure "(1)",
 - (ii) by adding immediately after the word "petitions" appearing in the marginal notes the words "and deposit of security for costs."
 - (iii) by adding immediately after paragraph (d) of the renumbered subsection (1) the following new subsection—
- "(2) The court shall not fix a date for the hearing of any election petition unless the petitioner has paid into the court, as security for costs, a sum of five hundred thousand shillings in respect of the proposed election petition.
- (3) The provisions of subsection (2) requiring a petitioner to give security for costs shall not apply to the Attorney General in any case in which the Attorney General is the petitioner or one of the petitioners.
- (4) The money deposited as security for costs under subsection (2), shall where the petitioner succeeds in the petition or on appeal, and where no order as to costs lies against him, as the case may be shall immediately be refunded to the petitioner.
- (a)(a) in section 120—
- (i) by deleting all the closing words of that section and substituting for them the following words:—

SCHEDULE—(contd.)

COLUMN 1	COLUMN 2	COLUMN 3
		" shall be a charge on the Consolidated Fund." (ii) by renumbering section 120 as section 120(1); (iii) by adding immediately after subsection (1) as renumbered the following new subsection:— "(2) Notwithstanding the provisions of subsection (1), the Minister may after consultation with the Minister for Finance and the Electoral Authority, prescribe the amount of contribution to be made by each local authority in respect of which the election is to be held."
Act No. 7 of 1982	The Local Government (District Authorities) Act, No. 7 of 1982	The Act is amended— (a) in paragraph (b) of subsection (1) of section 3, by deleting the definition of the phrase "Elected member" and substituting for it the following— "Member" means all members of the Local Government Authority specified under section 35 of this Act. (b) in paragraph (d) of subsection (1) of section 35, by deleting the words "one quarter" and substituting for them the words "one third"; (c) in section 36 of the Act, by deleting subsection (2) and substituting for it the following new subsection— "(2) The Chairman and the Vice-Chairman of the District Council shall each be elected by members from amongst themselves." (d) In section 42— (i) by deleting the words "Electoral Authority" appearing in subsection (1) and substituting for them the word "Minister"; (ii) in subsection (3) by deleting the word "Minister" which appears in the third line of that subsection and substituting for it the words "Electoral Authority
Act No. 8 of A982	The Local Government (Urban Authorities) Act No. 8 of 1982	The Act is amended— In subsection (1) of section 3—

COLUMN 1

COLUMN 2

COLUMN 3

SCHEDULE—(contd.)

- (a) by deleting the definition of the phrase "Elected "member" and substituting for it the following—

"member" means all members of the Local Government Authority as specified under section 19 of this Act;

- (b) by deleting the words "one quarter" wherever they appear in paragraphs (c) of subsections (1), (2) and (3) of section 19 and substituting for them the words "one third";
- (c) by deleting subsection (3) of section 20 and substituting for it with the following—

"(3) The Chairman and the Vice-Chairman of a Town Council, the Mayor and the Deputy Mayor of the Municipal Council or City Council as the case may be, shall each be elected by members from amongst the members of each of the respective Urban Authorities."

- (d) in section 26

- (i) by deleting the phrase "Electoral Authority: appearing in subsection (1) and substituting for it the word "Minister";
- (ii) by deleting the word "Minister" which appears in the third line of subsection (3), and substituting for it the phrase "Electoral Authority."

Passed in the National Assembly on the 11th February, 2000


Clerk of the National Assembly