THE UNITED REPUBLIC OF TANZANIA



NO. 21 OF 1992

I ASSENT,

.....

President

28/12/92

An Act to amend the Elections Act, 1985

ENACTED by the United Republic of Tanzania.

1. This Act may be cited as the Elections (Amendment) (No. 2) Act, 1992 and shall be read as one with the Elections Act, 1985, in this Act referred to as "the principal Act". Short title and construction

2. The principal Act is hereby amended— Amendment of principal Act

(a) in Section 2 by inserting immediately after the definition "prescribed" the following definition:
"Presidential candidate" means a person nominated to contest election to the office of the President;

(b) by repealing Chapter III and replacing it with the following—

"CHAPTER III

PRESIDENTIAL ELECTIONS

PART I

NOMINATION OF PRESIDENTIAL CANDIDATES

30. Whenever a Presidential election is to be held, each registered political Party intending to participate in the Presidential election shall submit to the Electoral Commission a name of a Presidential candidate for that Party. Nomination of Presidential candidate

31. In order to be validly nominated to stand as a Presidential candidate, a person must be nominated in writing by not less than two hundred nominators who are registered voters for the purposes of elections under this Act from each of at least ten Regions of the United Republic out of which at least two Regions are in Tanzania Zanzibar. Number of nominators

of

Particulars of nomination

32.—(1) Notwithstanding the provisions of section 38(2), every Presidential candidate shall deliver in such manner and at such place as the Election Commission may direct before four o'clock on nomination day, such number of copies of each nomination paper which each shall contain the following particulars:—

(a) the names and addresses of the nominators;

(b) the number of the certificate of registration of the nominator.

(2) No person shall nominate more than one Presidential Candidate.

(3) For the purpose of this Part, "nomination day" means the day declared by the Electoral Commission as the last day for receiving names of aspiring Presidential candidates.

33.—(1) Every Presidential candidate shall, at the time of delivering nomination papers pursuant to the provisions of this Part, deposit with the office of the Electoral Commission, such sum of money as may be prescribed by the Electoral Commission.

Deposits

(2) The deposit shall be forfeited to the Government if—

(a) the Presidential candidate withdraws his candidature after nomination day; or

(b) the number of votes counted in his favour at the election is less than one-tenth of the total number of votes casted;

save that such deposit shall not be forfeited if the candidate dies before election.

(3) Where the deposit is not forfeited under the provisions of subsection (2) of this section, it shall, as soon as practicable after the declaration of the results of the election, be returned to the Presidential candidate or paid to his personal legal representative as the case may be, by the Electoral Commission.

Sole Presidential candidate

34.—(1) Where there is only one validly nominated Presidential Candidate, the Electoral Commission shall declare such person as the sole Presidential candidate.

(2) The Presidential candidate declared under subsection (1) shall be duly elected to the office of the President if he obtains more than fifty percent of the total votes cast.

(3) Where the sole Presidential candidate has failed to secure the required votes, the Electoral Commission shall declare another nomination day for the purpose of Presidential Election.

Functions of the Tribunal

7. Subject to section 3 of this Act the Tribunal shall have power to determine any land dispute within or touching on any village land and without prejudice to the generality of the foregoing shall have power—

(a) to determine whether any land is village land or is within village land;

(b) at all reasonable times to enter and inspect any land for the purpose of carrying out any of its powers, duties or functions under the provisions of this Act and to authorize in writing any person to exercise such power of entry and inspection on its behalf.

(c) to declare whether or not any right or interest in or over land of any person claiming has or has not been extinguished in accordance with this Act;

(d) to make such orders not inconsistent with this Act as may be necessary for the cause of justice in relation to any matter arising out of this Act.

Powers of the Tribunal and protection of the members Acts, 1968 No. 47

8. Sections 11, 12 and 14 of the Customary Leaseholds (Enfranchisement) Act, shall apply *mutatis mutandis* in relation to the powers of the Tribunal, the enforcement of its decisions and the protection of the members of the Tribunal in carrying out the functions and duties conferred by this Act.

Appeals

9.—(1) Any person who is dissatisfied with any decision of the Tribunal may appeal to the Appeals Tribunal having jurisdiction over the area in which the dispute arose:

Provided that where the Customary Leaseholds (Enfrinchisement) Act, 1968 does not apply, the Minister may establish such Appeals Tribunal as if that Act applied to such area and the Appeals Tribunal so established shall perform all the functions and exercise all the powers of the Appeals Tribunal under this Act.

(2) Any person who is dissatisfied with the decision of the Appeals Tribunal may further appeal to the Minister whose decision shall be final and conclusive and shall not be reviewed by any court.

Regulations

10. The Minister may make regulations prescribing the manner and procedure by which appeals may be made or generally, for the better giving effect to the provisions of this Act.

Amendment of the Land Ordinance Cap. 113

Acts, 1992 No. 21

11. The Land Ordinance is hereby amended in section 2—

(a) in the definition "Occupier", by deleting the semi-colon at the end of that definition and substituting for it the words. "or in accordance with any rights acquired during or subsequent to Operation Vijiji as defined in section 2 of the Regulation of Land Tenure (Established Villages) Act, 1992, in any village established as the result of Operation Vijiji;" and

(ii) for every other constituency a day not less than forty days and not more than fifty days after nomination day.

(b) in the case of a Presidential election to which paragraph (a) of this subsection does not apply, for every constituency a day not less than forty days and not more than fifty days after the nomination of the Presidential candidates shall have been certified to the Electoral Commission.

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

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

Persons entitled to vote at Presidential elections

35C.—(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-section (3), a registered voter 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 Electoral Commission may give directions and prescribed 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.

Application of Chapter IV

35D. The provisions of Chapter IV of this Act shall apply *mutatis mutandis* in relation to Presidential candidates.

Application of Chapter V

35E. The ballot for the election of a President in each constituency shall be held in like manner as the ballot in a Parliamentary election and, subject to any necessary modification and the provisions of this section and sections 35F and 36, the provisions of Chapter V of this Act shall apply for the regulation thereof and for such other matters as are provided for in Chapter V of this Act.

Counting of votes

35F.—(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 Electoral Commission shall direct—

(a) the total number of votes cast for the Presidential election in the constituency;

(b) the total number of such votes which are in favour of each Presidential candidate;

(c) in the case of a single Presidential candidate the total number of such votes which are in favour of the Presidential Candidate,

and the Electoral Commission shall add together the respective totals for each Presidential candidate 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, be recounted.

(3) Subject to subsection (2), the Electoral Commission shall, after adding together all the respective totals certified to it by each Returning Officer in accordance with subsection (1), declare the results of the Presidential election in the country.

(4) A Presidential candidate shall be declared to have been elected President only if more than fifty percent of the total valid votes cast are in his favour.

Second ballot

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

(2) Subject to subsection (1), the Presidential candidate with the first and second highest number of votes shall be the only candidates at the second ballot.

(3) Where there is a tie up in the votes for the first highest, the Presidential candidates who had tied up shall be the only candidates in the second ballot.

(4) Where there is a tie up in the votes for the second highest, the Presidential candidates who had tied up shall, together with the candidate with the first highest number of votes, contest in the second ballot."

(5) Notwithstanding section 35F(4), at the second ballot, a Presidential candidate shall be declared to have been elected President if more than fifty percent of the total valid votes cast are in his favour or if he receives the greatest number of the valid votes cast,"

(c) in section 91(1)—

(i) by inserting the following new paragraph (b) immediately after paragraph (a)

"(b) knowingly nominates more than one Presidential candidate".

(ii) by renumbering paragraph (b), (c), (d), (e), (f), (g) and (h) as paragraphs (c), (d), (e), (f), (g), (h) and (i) respectively.

(d) in section 38(3)(c) by deleting the passage "one photograph of the candidate" and substituting for it the passage "such number of photographs of the candidate as the Electoral Commission may deem necessary".

(e) in section 51(2) and (3) by deleting the word "polling".

Passed in the National Assembly on the fourteenth day of December, 1992.

Clerk of the National Assembly

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