

Date Printed: 02/05/2009

JTS Box Number: IFES_49
Tab Number: 49
Document Title: AN ACT TO AMEND THE ELECTIONS ACT
Document Date: 1992
Document Country: TAN
Document Language: ENG
IFES ID: EL00731



law/TAN/1992/005/eng

THE UNITED REPUBLIC OF TANZANIA



No. 21 OF 1992

I ASSENT,

A. H. MWINYI,
President

28TH DECEMBER, 1992

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, Short title 1992 and shall be read as one with the Elections Act, 1985, in this Act and construction referred to as "the principal Act".

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

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.

AMEND.
#2
TANZANIA

Elections (Amendment) (No. 2)

ya Katiba
anamteua
a kushika

ya ya 53A
na hoja ya
ote of No
wa Bunge
atajiuzulu,
mwingine.
Mawaziri
acha kazi.

a Rais wa
Katiba ya

ELA, Mb.
kamu wa
a wa Rais

NOTICE

The following Bill to be submitted to the National Assembly is published for general information with a statement of its objects and reasons.

Dar es Salaam.
27th October, 1992

PAUL M. RUPIA,
Chief Secretary

A BILL

for

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.

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 in Tanzania Zanzibar being one Region of Zanzibar and one region of Pemba.

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 noon on nomination day, two 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.

Sole Presidential candidate

33.—(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 casted.

(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.

Deposits

34.—(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.

- (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.

Withdrawal of candidature 35.— by notification on nomination day.

Death or lack of candidates 36.— (a)

(b)

the Electoral Commission shall declare less than

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

Presidential election day 37.— Commission shall declare such person as the sole Presidential candidate.

(2) 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.

(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.

Withdrawal of candidature 35. A Presidential candidate may withdraw his candidature by notice in writing signed and delivered by him to the Electoral Commission not later than four o'clock on nomination day.

Death or lack of candidates 36.—(1) Where—
(a) after four o'clock on nomination day there is no validly nominated candidate; or
(b) at any time after four o'clock on nomination day and before the determination of election, any Presidential candidate dies,

the Electoral Commission shall forthwith, by notice in the *Gazette*, appoint a further nomination day being a day not less than twenty one days thereafter,

(2) Where a new nomination day is appointed under this section, the Electoral Commission shall appoint another Presidential election day and the appropriate procedures shall be commenced afresh save that no new nomination shall be required in the case of the other Presidential candidates, if there are any.

PART I

ELECTION PROCEDURE

Presidential election day 37.—(1) Subject to section 37B of this Act, 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 the President.

(2) Subject to the provisions of this section, the Electoral Commission may appoint different Presidential election days for different constituencies and may revoke the appointment of a Presidential election day and appoint some other Presidential election day in its stead.

(3) The Electoral Commission shall appoint as Presidential election day—

(a) in the case of a Presidential election held by reason of dissolution of Parliament (other than in the circumstances provided for by paragraphs (b), (c), (d) or (e) of subsection (2) of section 38 of the Constitution—

(i) for each constituency in which there is a 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 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 contested election.

37A.—(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.

37B. The provisions of Chapter IV of this Act, other than the provisions of sections 39, 44, 46 and 47, shall apply *mutatis mutandis* in relation to Presidential candidates.

37C. The ballot for the election of a President in each constituency shall be held in like manner as the ballot in a contested Parliamentary election and, subject to any necessary modification and the provisions of this section and section 35, the provisions of Chapter V of this Act, other than the provisions of sections 77, 80(4), 81, shall apply for the regulation thereof and for such other matters as are provided for in Chapter V of this Act.

37D.—(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 elec
- (b) the each
- (c) in the num
- iden
- and the Ele
- tive totals f
- all constitu
- (2) The
- appears to
- situencies,
- (3) Subje
- shall, after
- to it by each
- (1), declare
- country.

- Second ballot 37E—(1)
- has obtaine
 - votes cast,
 - lished in th
 - but not mo
 - second ball
 - (2) Subje
 - with the fir
 - the only can
 - (3) When
 - the Presiden
 - candidates i
 - (4) When
 - highest, the
 - together wit
 - votes, conte

- (c) in section 91(1)—
- (i) by insertin
- after paragraph (a
- “(b) knowingly non
- (ii) by renumb
- (c), (d) and (e) re

Persons entitled to vote at Presidential elections

Application of Chapter IV

Application of Chapter V

Counting of votes

- (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.

Second ballot 37E—(1) Where in a Presidential election no candidate has obtained more than fifty percent of the total number of 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."

(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) and (d) as paragraph (c), (d) and (e) respectively.

OBJECTS AND REASONS

This Bill is intended to amend the Elections Act, 1985 in order to provide for a new procedure of election of the President of the United Republic of Tanzania in a multi-party system.

Clause 1 deals with preliminary matters.

In Clause 2 it is proposed to repeal Chapter III of the Act which deals with the procedure of election of the President under a one-party system and replace it with a new Chapter III.

It is proposed in the new section 30 that any person aspiring to contest in the Presidential election must be sponsored by a registered political Party and therefore, it is proposed in sections 31 and 32 that every Presidential candidate when making his application to the Electoral Commission, must submit names and addresses of persons nominating him, from at least ten regions of Tanzania Mainland being two Regions of Tanzania Zanzibar. In each region he must obtain two hundred nominators. These nominators must be persons who have been registered as voters and should not necessarily belong to the same party as that of the candidate.

Another condition for registration as a Presidential candidate is the payment of deposit. It is proposed in the new section 34 that a deposit of an amount to be prescribed by the Electoral Commission must be deposited with the Commission. The deposit can be paid back or forfeited to the government depending on the performance of the candidate.

Sections 37, 37A—E propose for the procedure to be followed on the counting of votes. It is proposed that for any candidate to be declared the President of the United Republic, he must obtain more than fifty percent of the total votes casted. If no one secures the required number of votes, it is proposed that the election should be held afresh. This procedure will be repeated until a winner is declared. However, it is proposed that on the second election and on subsequent elections if any, the only candidates should be the candidates who secured the first and second highest votes.

S
u.
vi

ya
m
sa

m
ch

ki
ar.
ya
Pe
na

wa
kw
wa
ch:
Uc
wa
Iw:
yat
Sei

uta
kw
apa
hat
wai

Da:
8

MADHUMUNI NA SABABU

Madhumuni ya Muswada huu ni kufanya marekebisho katika Sheria ya Uchaguzi ya mwaka 1985 ili kuweka utaratibu mpya wa uchaguzi wa Rais wa Jamhuri ya Muungano chini ya mfumo wa vyama vingi vya siasa.

Ibara ya 1 inahusu mambo ya utangulizi.

Katika ibara ya 2, inapendekezwa kwamba Sura ya Tatu ya Sheria ya Uchaguzi ya mwaka 1985 ifutwe na badala yake iwekwe Sura mpya. Sura hii ndiyo inayoelezea utaratibu wa uchaguzi wa Rais kwa sasa chini ya mfumo wa chama kimoja.

Inapendekezwa katika kifungu kipya cha 30 kwamba kila mgombea kiti cha Rais ni lazima awe anaungwa mkono na chama chake.

Inapendekezwa pia katika kifungu kipya cha 31 kwamba ni lazima kila mgombea aungwe mkono na watu wasiopungua mia mbili toka angalao mikoa kumi ya Tanzania, ambamo imo angalau mikoa miwili ya Tanzania Zanzibar. Kwa Zanzibar ni lazima mkoa mmoja uwe wa Pemba. Hii itasaidia kujua kama wagombea ni watu wanaokubalika na watu na kwamba ni watu wenye nia hasa ya kugombea.

Mbali na kuwepo na watu wanaounga mkono ambao ni lazima wawe wameandikishwa kupiga kura katika uchaguzi wa Rais na kwamba si lazima wawe ni wanachama wa chama ambacho mgombea wanayemuunga mkono anatoka, inapendekezwa katika kifungu kipya cha 34 kwamba dhamana ya kiwango kitakachoamuliwa na Tume ya Uchaguzi kitalipwa na wagombea. Dhamana hiyo itarudishwa kwa wagombea iwapo watapata zaidi ya asilimia kumi ya kura zilizopigwa. Iwapo hawatapata au watahindwa kutimiza masharti mengine yanayopendekezwa na sheria hii, basi dhamana hiyo itachukuliwa na Serikali.

Muswada unapendekeza katika vifungu vipya vya 37, 37A—E utaratibu utakaotumika katika kuhesabu kura. Inapendekezwa kwamba ili mgombea aweze kuchaguliwa kama mshindi, basi itabidi apate zaidi ya asilimia hamsini ya kura zote zilizopigwa. Iwapo hatapatikana mshindi basi uchaguzi utarudiwa tena lakini wagombea watakuwa ni wale waliopata kura nyingi za mwanzo na za pili.

Dar es Salaam,
8 Novemba, 1992

J. S. MALECELA,
Waziri Mkuu na Makamu
wa Kwanza Rais