

THE UNITED REPUBLIC OF TANZANIA



No. 3 OF 2005

I ASSENT,

Benjamin W. Mkapa

President

6th April, 2005.

An Act to amend electoral laws and to provide for other related matters.

[.....]

ENACTED by Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY PROVISIONS

1. This Act may be cited as the Electoral Laws (Miscellaneous Amendments) Act, 2005. Short title

PART II

AMENDMENT OF THE ELECTIONS ACT, 1985

2. This Part shall be read as one with the Elections Act, 1985 in this Act referred to as the "principal Act". Construction Act No. 1 of 1985

- Amendment of section 17
3. Section 17 of the principal Act is amended by deleting the phrase “and forward the form to the Director of Elections for processing of a new voter’s card” appearing in the closing statement and substituting for it the phrase “and cause to be issued another voter’s card.”
- Amendment of section 18
4. Section 18 of the principal Act is amended by deleting the phrase “register the applicant in the prescribed form and forward the form to the Director of Elections for processing of another voter’s card to be marked “duplicate”” appearing at the end of subsection (1).
- Amendment of section 19
5. Section 19 of the principal Act is amended by deleting the phrase “and forward the form to the Director of Election for processing of another voter’s card” and substituting for it the phrase “and cause to be issued another voters’ card”.
- Amendment of section 35F
6. Section 35F of the principal Act is amended -
- (a) in subsection (3) by deleting the word “The” appearing at the beginning of that subsection and substituting for it the phrase -
- “Subject to subsection (2), the...”
- (b) by adding immediately after subsection (6) the following subsection -
- “(6A) The Commission shall, after receiving the results submitted to it under subsection (3), declare the results of Presidential election for the particular constituency concerned.”.
- Amendment of section 40
7. Section 40 of the principal Act is amended -
- (a) by deleting subsection (4) and substituting for it the following:
- “(4) The Returning Officer shall, before deciding on the validity of any objection, with the least possible delay -
- (a) notify the person against whom the objection is made; and
- (b) avail such person an opportunity to be heard.”;
- (b) by adding immediately after subsection (4) the following new subsection:
- “(4A) Where the Returning Officer decides on any objection under subsection (4), he shall notify in writing the candidate

concerned of his decision and, if the objection is allowed, of the grounds for the decision”;

8. Section 88 of the principal Act is amended -

- (a) by deleting the words “not exceeding twenty thousand shillings” appearing in the closing words of subsection (1), and substituting for them words:

“of not less than one hundred thousand and not exceeding three hundred thousand shillings”;

- (b) by deleting the words “not exceeding ten thousand shillings” appearing in the eighth line of subsection (2) and substituting for them the words:

“of not less than fifty thousand and not exceeding one hundred thousand shillings”;

9. Section 89 of the principal Act is amended by deleting the words “not exceeding ten thousand shillings” appearing in subsection (1) and substituting for them the words:

“of not less than one hundred thousand shillings and not exceeding three hundred thousand shillings”.

10. Section 89A of the principal Act is amended by deleting subsection (1) and substituting for it the following -

“(1) Any election officer who knowingly 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, shall be liable to a fine of not less than five hundred thousand shillings and not exceeding one million shillings or to imprisonment for a term of not less than one year and not exceeding two years, or to both”.

11. Section 90 of the principal Act is amended -

- (a) by deleting the words “not exceeding twenty thousand shillings” appearing in the closing words of subsection (1) and substituting for them the words -

“of not less than two hundred thousand shillings and not exceeding five hundred thousand shillings or to

Amend-
ment of
section
88

Amend-
ment of
section
89

Amend-
ment of
section
89A

Amend-
ment of
section
90

imprisonment for a term of not less than two years and not more than four years or to both”.

- (b) by deleting the words “not exceeding ten thousand shillings or to imprisonment for a term not exceeding twelve months or to both” appearing in the closing words of subsection (2) and substituting for them the words-

“of not less than one hundred thousand shillings and not exceeding three hundred thousand shillings or to imprisonment for a term of not less than one year and not more than two years or to both:”

Amend-
ment of
section
91

12. Section 91 of the principal Act is amended –

- (a) by deleting paragraph (e) of subsection (1);
(b) by deleting the words “not exceeding twenty thousand shillings” appearing in the closing words of subsection (1) and substituting for them the words -

”of not less than fifty thousand shillings and not exceeding three hundred thousand shillings”;

- (c) by deleting the words “not exceeding ten thousand” appearing in the sixth line of subsection (2) and substituting for them the words -

“of not less than fifty thousand shillings and not exceeding three hundred thousand shillings or to imprisonment for a term of not less than six months and not more than twelve months or to both”.

Amend-
ment of
section
92

13. Section 92 of the principal Act is amended by deleting the words “not exceeding ten thousand shillings or to imprisonment for a term not exceeding twelve months or to both” appearing in the third to fifth lines and substituting for them the words–

“of not less than fifty thousand shillings and not exceeding one hundred thousand or to imprisonment of not less than six months and not more than twelve months or to both”.

Amend-
ment of
section
93

14. Section 93 of the principal Act is amended in subsection (7) by deleting the words “not exceeding twenty thousand shillings or to imprisonment for a term not exceeding four years or to both” and substituting for them the words -

“of not less than one hundred thousand shillings and not exceeding three hundred thousand shillings or to imprisonment of not less than six months and not more than twelve months or to both”.

15. Section 94 of the principal Act is amended by deleting the words “not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding five years or to both” and substituting for them the words -

Amend-
ment of
section
94

“of not less than five hundred thousand shillings and not exceeding one million shillings or to imprisonment for a term of not less than one year and not more than three years or to both”.

16. Section 95 of the principal Act is amended by deleting the words “not exceeding twenty thousand shillings or to imprisonment for a term not exceeding four years or to both” and substituting for them the words -

Amend-
ment of
section
95

“of not less than fifty thousand shillings and not exceeding two hundred thousand shillings or to imprisonment for a term of not less than six months and not more than twelve months or to both”.

17. Section 103 of the principal Act is amended by deleting the words “not exceeding fifty thousand shillings or to imprisonment for a term not exceeding eight months or to both” and substituting for them the words -

Amend-
ment of
section
103

“of not less than fifty thousand shillings and not exceeding two hundred thousand shillings or to imprisonment for a term of not less than six months and not more than twelve months or to both”.

18. Section 104 of the principal Act is amended by deleting the words “not exceeding five thousand shillings” appearing in subsection (2), and substituting for them the words -

Amend-
ment of
section
104

“of not less than fifty thousand shillings and not exceeding one hundred thousand shillings”.

19. Section 105 of the principal Act is amended by deleting the words “not exceeding one thousand shillings” and substituting for them the words - “of not less than thirty thousand shillings and not exceeding one hundred thousand shillings”.

Amend-
ment of
section
105

Amend-
ment of
section
106

20. Section 106 of the principal Act is amended in subsection (3) by deleting the words “not exceeding two thousand shillings or to imprisonment for a term not exceeding twelve months or to both” and substituting for them the words -

“of not less than thirty thousand shillings and not exceeding one hundred thousand shillings or to imprisonment for a term of not less than three months and not more than six months or to both”.

PART III

AMENDMENT OF THE LOCAL AUTHORITIES (ELECTIONS) ACT, 1979

Construc-
tion Act
No. 4
of 1979

21. This Part shall be read as one with the Local Authorities (Elections) Act, 1979 hereinafter referred to as the “principal Act”.

Amend-
ment of
section
10

22. Section 10 of the principal Act is amended by adding immediately after subsection (4) the following new subsection -

“(5) Every Registration Officer shall, before embarking on the functions of that office, take and subscribe to an oath of secrecy in the prescribed form before a Magistrate.”.

Amend-
ment of
section
23

23. Section 23 of the principal Act is amended by deleting the words “and forward the form to the Director of Elections for processing of a new voter’s card” appearing in closing words of subsection (1), and substituting for them the words -

“and cause to be issued another voters’ card”.

Amend-
ment of
section
24

24. Section 24 of the principal Act is amended by deleting the words -

“and forward the form to the Director of Elections for processing of another voter’s card marked “duplicate” appearing in subsection (2), and substituting for them the words -

“and cause to be issued another voter’s card”.

Amend-
ment of
section
25

25. Section 25 of the principal Act is amended by deleting the words “and forward the form to the Director of Elections for processing another voter’s card” appearing after the word “district” and substituting for them the words -

“and cause to be issued another voter’s card.”

- 26.** Section 40 of the principal Act is amended –
- (a) by deleting the word “election” appearing in the marginal note and substituting for it the word “nomination”;
 - (b) by deleting the words “election as a member of a local authority” appearing at the opening words of subsection (1) and substituting for them the words “nomination for election”;
- Amend-
ment of
section
40
- 27.** Section 44 of the principal Act is amended –
- (a) by inserting the words “ or Assistant Returning Officer” between the word “ Officer “ and “ before” appearing in subsection (2);
 - (b) by inserting the words “ or Assistant Returning Officer” between the words “ Officer” and “ of “ appearing in subsection (3);
 - (c) by deleting subsection (4) and substituting for it the following -
 - “(4) The Returning Officer or the Assistant Returning Officer shall before deciding on the validity of any objection with the least possible delay -
 - (a) notify the person against whom the objection is made; and
 - (b) avail him an opportunity to be heard.”
 - (d) by adding immediately after subsection (4) the following new subsections -
 - “(4A) Where the Assistant Returning Officer decides on any objection under subsection (4), he shall forward that decision to the Returning Officer who shall with the least possible delay review the matter, and may uphold or reverse the decision of the Assistant Returning Officer.
 - “(4B) Where the Returning Officer decides on any objection under subsection (4) or (5), he shall inform the candidate concerned of his decision and, if the objection is allowed, of the grounds of his decision.”
- Amend-
ment of
section
44
- 28.** Section 87 of the principal Act is amended -
- (a) by deleting the words “not exceeding one hundred thousand shillings” appearing in the closing words of subsection (1), and substituting for them the words-”of not less than one
- Amend-
ment of
section
87

hundred thousand and not exceeding three hundred thousand shillings”;

- (b) by deleting the words “not exceeding two thousand shillings” appearing in the eighth line of subsection (2) and substituting for them the words -
“of not less than fifty thousand and not exceeding one hundred thousand shillings”.

Amend-
ment of
section
88

29. Section 88 of the principal Act is amended by deleting the words “not exceeding ten thousand shillings” appearing in subsection (1) and substituting for them the words “of not less than one hundred thousand shillings and not exceeding three hundred thousand shillings or to both”.

Amend-
ment of
section
88A

30. Section 88A of the principal Act is amended by deleting the whole of subsection (1) and substituting for it the following -

“(1) Any election officer who knowingly or willfully 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, shall be liable to a fine of not less than five hundred thousand shillings and not exceeding one million shillings or to imprisonment for a term of not less than one year and not exceeding two years, or to both”.

Amend-
ment of
section
89

31. Section 89 of the principal Act is amended by deleting the words “not exceeding five thousand shillings” or to imprisonment for a term not exceeding two years or to both” appearing in the closing words of subsection (1), and substituting for them the words - “of not less than two hundred thousand shillings and not exceeding five hundred thousand shillings or to imprisonment for term of not less than two years and not more than four years or to both”.

Amend-
ment of
section
89

32. Section 90 of the principal Act is amended -

- (a) by deleting the words “commits 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” appearing in paragraph (f) of subsection (1) and substituting for them as closing words-

“commits an offence and shall be liable on conviction to a fine of not less than one hundred thousand shillings and not exceeding three hundred thousand shillings or to

imprisonment for a term not less than six months and not more than two years or to both;”

- (b) by deleting the words “not exceeding two thousand shillings or to imprisonment for a term not exceeding one year or to both” appearing in subsection (2), and substituting for them the words:-

“of not less than fifty thousand shillings and not exceeding three hundred thousand shillings or to imprisonment for a term of not less than six months and not more than twelve months or to both.”

33. Section 91 of the principal Act is amended by deleting the words “not exceeding one thousand shillings or to imprisonment for a term not exceeding six months or to both” appearing in the closing words, and substituting for them the words - “of not less than fifty thousand shillings and not exceeding one hundred thousand or to imprisonment of not less than three months and not more than twelve months or to both.”

Amend-
ment of
section
91

34. Section 92 of the principal Act is amended in subsection (7) by deleting the words “not exceeding two thousand shillings or to imprisonment for a term not exceeding four years or to both” and substituting for them the words - “of not less than one hundred thousand shillings and not exceeding three hundred thousand shillings or to imprisonment of not less than six months and not more than twelve months or to both.”

Amend-
ment of
section
92

35. Section 93 of the principal Act is amended by deleting the words “not exceeding ten thousand shillings or to imprisonment for a term not exceeding five years or to both” and substituting for them the words - “of not less than five hundred thousand shillings and not exceeding one million shillings or to imprisonment for a term of not less than one year and not more than three years or to both.”

Amend-
ment of
section
93

36. Section 94 of the principal Act is amended by deleting the words “not exceeding five thousand shillings or to imprisonment for a term not exceeding two years or to both” and substituting for them the words - “of not less than fifty thousand shillings and not exceeding two hundred thousand shillings or to imprisonment for a term of not less than six months and not more than twelve months or to both”.

Amend-
ment of
section
94

- Amend-
ment of
section
101
- 37.** Section 101 of the principal Act is amended -
- (a) by deleting the words “not exceeding five thousand shillings or to imprisonment for a term not exceeding two years” appearing in the closing words of subsection (1) and substituting for them the words -
- “of not less than fifty thousand shillings and not exceeding two hundred thousand shillings or to imprisonment for a term of not less than six months and not exceeding two years or to both”;
- (b) by deleting words “exceeding ten thousand shillings or to imprisonment for a term not exceeding twelve months or to both” appearing in the closing words of subsection (2) and substituting for them the words “of not less than fifty thousand shillings and not exceeding two hundred thousand shillings or to imprisonment for a term of not less than six months and not exceeding two years or to both”;
- Amend-
ment of
section
102
- 38.** Section 102 of the principal Act is amended by deleting the words “not exceeding one thousand shillings or to imprisonment for a term not exceeding six months or to both” and substituting for them the words -
- “of not less than fifty thousand shillings and not exceeding two hundred thousand shillings or to imprisonment for a term of not less than six months and not more than twelve months or to both.”
- Amend-
ment of
section
103
- 39.** Section 103 of the principal Act is amended by deleting the words “not exceeding two hundred shillings” appearing in subsection (2), and substituting for them the words “of not less than fifty thousand shillings and not exceeding one hundred thousand shillings.”;
- Amend-
ment of
section
104
- 40.** Section 104 of the principal Act is amended by deleting the words “not exceeding one thousand shillings” and substituting for them the words -
- “of not less than fifty thousand shillings and not exceeding one hundred thousand shillings”;

41. Section 105 of the principal Act is amended in subsection (3) by deleting the words “not exceeding two thousand shillings or to imprisonment for a term not exceeding two months or to both” and substituting for them the words:-

Amend-
ment of
section
105

“of not less than thirty thousand shillings and not exceeding one hundred thousand shillings or to imprisonment for a term of not less than three months and not more than six months or to both”.

Passed in the National Assembly on the 8th February, 2005.



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Clerk of the National Assembly