



THE ELECTION (AMENDMENT) ACT, 2004

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A CT NO. 3 OF 2004

I ASSENT

Amani Abeid Karume

{ AMANI ABEID KARUME }
PRESIDENT OF ZANZIBAR

AND

CHAIRMAN OF THE REVOLUTIONARY COUNCIL

18TH FEBRUARY

....., 2004

AN ACT TO AMEND THE ELECTION ACT, NO. 11 OF 1984

ENACTED by the House of Representatives of Zanzibar.

Short title
and
Commencement.

1.(1) This Act may be cited as the Election (Amendment) Act, 2004 and shall come into operation immediately after being assented to by the President.

(2) This Act shall be read as one with the Election Act, No. 11 of 1984 in this Act referred to as the "principal Act."

Amendment of
Section 2.

2. Section 2 of the Principal Act is hereby amended by adding the words "and includes District Election Officer" at the end of the definition of the words "Registration Officer".

Repeal and
Replacement of
Section 16.

3. Section 16 of the principal Act is hereby repealed and replaced by the following:

"Time for 16.(1) The Commission shall arrange for Registration. the registration of the voters as it may deem necessary.



(2) Any person who is entitled to be registered as a voter at any polling district and who has not been so registered may present himself at the relevant polling district for registration, as the Commission may direct."

Amendment of
Section 32.

4. Section 32 of the principal Act is hereby amended by renumbering section 32 as 32(1) and adding subsection (2) as follows:

"(2) The writing shall be in the prescribed form and shall be signed by the candidate and by the persons nominating him, and shall contain the following particulars.

- (a) the name, address and occupation of the candidate;
- (b) the names and address of the nominators of the candidate;
- (c) a certificate of the candidate that he is willing and otherwise qualified to stand for election."

Repeal and
Replacement of
Section 33.

5. Section 33 of the principal Act is hereby repealed and replaced as follows:

"Particulars of nomination. 33(1) Every Presidential candidate shall deliver in such manner and such place as the Commission may direct before exceeding four o'clock on nomination day, two copies of each nomination paper and each shall contain the following particulars:

- (a) the names and addresses of the nominators;
- (b) the numbers of certificates of registration of the nominators.

(2) Every nomination paper shall be accompanied by:

- (a) a statutory declaration in the prescribed form, made and signed by the candidate before a judge and declaring candidate's qualifications and that he is not disqualified for election;



- (b) a certificate in the prescribed form by the Returning Officer in charge of the constituency certifying that the nominators are registered as voters in the polling districts within that constituency;
- (c) such number of passport size photographs of the candidate as the Commission may deem necessary taken not earlier than three months preceding the nomination day;
- (d) such biographical information relating to the candidate as may be required to be given by regulations in such form as may be prescribed.

(3) Where in any case, a nomination paper is not accompanied by the documents specified in subsection (2) of this section, the nomination of the candidate shall be deemed to be void.

(4) Every candidate or his agent shall deliver his nomination paper (together with one copy thereof) signed as herein before provided as the office of the Commission not later than four o'clock in the afternoon of the nomination day.

(5) The Director of Election shall forthwith cause a copy of the nomination paper to be posted in a conspicuous place outside his office."

Addition of a new
Section 37 A.

6. The Principal Act is hereby amended by adding a new section 37 A immediately after section 37 as follows:

"Objection as to validity of the nomination paper.

37A(1) Objection may be made to a nomination paper on all or any of the following grounds, but on no other grounds, namely:

- (a) that the particulars given in respect of the candidate are insufficient to identify him;



- (b) that the nomination paper does not comply with or was not delivered in accordance with the provisions of this part;
- (c) for the purpose of this part, "nomination day" means a day nominated by the Commission to be the last day of receiving the names of presidential candidates.

(2) No objection to a nomination paper shall be allowed unless it is made to the Director of Elections before four o'clock in the afternoon of the day following nomination day.

(3) The objection may be made by another presidential candidate or Director of Elections of his own motion and shall be in writing, signed by the objector, and shall specify the ground of objections.

(4) The Commission shall, with the least possible delay, hear and decide on the validity of every objection, and inform the candidate concerned of his decision".

Amendment of
Section 47.

7. Section 47 of the principal Act is hereby amended in subsection (2) by adding the word "valid: between the words "total number of" and "votes counted" on the third line from above.

Amendment of
Section 61.

8. Section 61 of the Principal Act is hereby amended by adding subsection (4) immediately after subsection (3) as follows:

"(4) The provision of Chapter VI of this Act relating to election, voting and counting procedure shall, *mutatis mutandis*, apply to elections in respect of the members of the local authority, except that reference to constituency shall be ward."

Amendment of
Section 65.

9. Section 65 of the Principal Act is hereby amended in subsection (2) by deleting that subsection and substituting for the following:

"(2) Immediately before the commencement of voting, the presiding officer at each polling station shall show the empty the ballot



box to persons lawfully present so that they may see that it is empty, and shall then close it and place a seal upon it and the seal of candidates or agents present if they want to do so in such manner as to prevent it being opened without breaking the seal, and shall place it in view for the receipt of ballot papers and shall keep it so closed and sealed”.

Amendment of
Section 76.

10. Section 76 of the Principal Act is hereby amended in subsection (5) by deleting that subsection and substituting for the following:

“(5) The unopened ballot boxes shall be secured by the presiding officer and sealed with his seal and with the seals of such of the candidates or agents as attended and desired to affix their seals, in such manner that the boxes cannot be opened and nothing can be inserted there without the seals been broken”.

Repeal and
replacement of
Section 80.

11. Section 80 of the Principal Act is hereby repealed and replaced with the following:

“Method of counting votes. 80(1) Before the presiding officer or polling assistants proceed to count the votes, they shall, in the presence of the persons referred to in section 79(1), if present:

- (a) count and record the number of all votes received at the polling station;
- (b) ascertain and record the number of all persons who voted at the polling station;
- (c) count and record the number of all the unused ballot papers;
- (d) count and record the number of rejected votes;
- (e) ascertain that there is a proportion of count of ballot papers, the number of voters voted in the polling station and the number of ballot papers used;



- (f) inspect the seal and to ascertain whether it has been opened or tempered with;
- (g) unseal the seal; and
- (h) open the ballot box.

(2) After the ballot box has been opened 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) For the purpose of Part II of Chapter VI of this Act, the word seal includes a padlock and any other procedure, machinery or thing which is approved by the Commission for securing integrity of the contents of a ballot box, and the words seal, open, close or unseal, with their grammatical variations and cognate expressions shall, when used in relation to a seal or a ballot box, have a corresponding meaning.

(4) 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, spoiled or otherwise invalid;
- (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 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.”

Addition of a new Section 80B.

12. The Principal Act is hereby amended by adding a new section 80B immediately after section 80A as follows:

“Method of declaration of result.

80B(1) Upon the conclusion of the counting of the votes in accordance with Section 80, the presiding officer shall:

- (a) seal up in separate packets the valid, the disputed and the rejected, ballot papers;
- (b) prepare a separate report of the results of each of the Parliamentary and Presidential elections in the manner and form as the Commission may direct, which shall be signed by the presiding officer and the polling agents, if present;
- (c) require the polling agent or if present, a candidate to state in the prescribed form any complaint or to confirm satisfaction with the counting of votes;
- (d) announce a loud before the persons present in the counting of votes the results of votes of that polling station;
- (e) affix in some conspicuous place a copy of the report of the partial results of the elections at the polling station;
- (f) give each polling agent a copy of the report of results;
- (g) lock up and seal in the ballot box, all the packets of ballot papers; and
- (h) accompanied by such number of polling agents present as the Commission shall direct, transmit and hand over to the



Returning Officer, concerned the ballot box together with the report of the partial results of the elections at the polling station.

(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 refusal.

(3) Where a candidate or his agent refuses to comply with the provisions of subsection (2) of this section he shall be estopped from raising any complaint regarding the voting and the counting procedure in that particular station.

Addition of a new Section 83A.

13. The Principal Act is hereby amended by adding a new section 83 A immediately after section 83 as follows:

Addition of votes.

83A(1) No other person than the following shall be authorized to be present at the addition of votes:

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



(2) 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 seriatim.

(3) The candidate or polling agent may request the Returning Officer to check on any part of the addition to ascertain its accuracy but shall not be entitled to request a recount of all the votes or all the ballot papers from any polling station, unless the accuracy of the report of the results from that polling station, were disputed by the polling agent or candidate present at the polling station.

(4) Where a request is made pursuant to subsection (3) of this section the Returning Officer shall not unreasonably, refuse to check the addition or to recount the ballot papers of any particular polling station.

(5) The addition of the presidential votes and the member of the House of Representatives votes shall be done separately."

Amendment of
Section 88.

14. Section 88 of this Principal Act is hereby amended in paragraph (a) by adding the word "valid" before the word "votes."

PASSED in the House of Representatives on 15th day of January, 2004.


KHAMIS JUMA CHANDE
CLERK OF THE HOUSE OF REPRESENTATIVES