

ACTS SUPPLEMENT

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Act 12 *Parliamentary Elections (Amendment) Act* **2010**

THE PARLIAMENTARY ELECTIONS (AMENDMENT) ACT, 2010.

ARRANGEMENT OF SECTIONS.

Section.

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15. Amendment of section 68 of the principal Act.
16. Amendment of section 72 of the principal Act.

**THE PARLIAMENTARY ELECTIONS (AMENDMENT)
ACT, 2010**

An Act to amend the Parliamentary Elections Act, 2005 to require the Secretary General of a political party or organisation to notify the Commission where a candidate sponsored by a political party or organisation withdraws from an election; to require the Electoral Commission to declare a candidate elected unopposed where one of only two candidates withdraws from an election; to allow representatives of political parties and organisations and independent candidates taking part in an election to be present during the packing and dispatch of election materials; to require the Commission to provide political parties, political organisations and independent candidates taking part in an election with serial numbers of ballot papers and seals of ballot boxes supplied to each polling station; to allow a person who has no voter's cards but whose name and photograph appear on the voter's register to vote; to require a returning officer to compile and submit to the Commission a report of the elections within the returning officer's electoral district within seven days after the conclusion of the election; to prohibit fundraising and the giving of donations during the period of campaigning; and for related matters.

DATE OF ASSENT: 5th June, 2010.

Date of Commencement: 25th June, 2010.

BE IT ENACTED by Parliament as follows:

1. Amendment of section 11 of the Parliamentary Elections Act, 2005

The Parliamentary Election Act, 2005, in this Act referred to as the principal Act is amended in section 11 by substituting for subsection (2) the following—

“(2) Where under the multi-party political system, a candidate is sponsored by a political organisation or a party, the nomination paper shall be endorsed and sealed by the political party or organisation sponsoring the candidate.”

2. Amendment of section 18 of the principal Act.

Section 18 of the principal Act is amended in subsection (3) by substituting for the words “seven days,” the words, “ten days.”

3. Amendment of section 19 of the principal Act.

Section 19 of the principal Act is amended by inserting immediately after subsection (2) the following new subsection—

“(2a) Where a candidate is sponsored by a political party or organisation, the notification shall be signed and filed by the Secretary General of the political party or organisation or any other person authorised by the political party or organisation.”

4. Insertion of new section 19A in the principal Act.

The principal Act is amended by inserting immediately after section 19 the following new section—

“19A. Withdrawal of candidates for election.

Where as a result of withdrawal of other candidates for election there remains only one candidate, the returning officer shall immediately declare the remaining candidate elected unopposed.”

5. Insertion of new section 28A in the principal Act.

The principal Act is amended by inserting immediately after section 28 the following new section—

“28A. Packing and dispatch of election materials.

(1) Political parties, political organisations and independent candidates taking part in an election may, through their duly appointed representatives, be present during the packing and dispatch of election materials.

(2) The Commission shall provide political parties, political organisations and independent candidates taking part in an election with—

- (a) the serial numbers of ballot papers supplied to each polling station; and
- (b) the serial numbers of seals affixed to and enclosed in the ballot boxes supplied to all polling stations,

as soon as practicable after packing and dispatch of the election materials, and in any case, not later than 24 hours before polling day.

(3) Any replacement of the seals referred to under paragraph (b) of subsection (2) shall be documented by the presiding officer and witnessed by the agents of the political parties, political organisations and independent candidates present at the polling stations.”

6. Amendment of section 32 of the principal Act.

Section 32 of the principal Act is amended by inserting at the end of subsection (3) the following—

“and shall sit at a table provided under of section 31(5)(a) or be positioned in such a way that he or she is able to crosscheck the names of the voters on the voters’ roll against the voter’s card or any other identification given.”

7. Amendment of section 34 of the principal Act.

Section 34 of the principal Act is amended—

(a) by substituting for subsection (3) the following—

“(3) Where a person does not have a voter’s card but is able to prove to the presiding officer or polling assistant that his or her name and photograph are on the voters’ register, the presiding officer or polling assistant shall issue him or her with a ballot paper;” and

(b) by inserting immediately after subsection (3) the following new subsection—

“(3a) Where a person has a voter’s card and his or her name appears on the register but the photograph does not appear on the register, the presiding officer or polling assistant shall issue him or her with a ballot paper.”

8. Replacement of section 38 of the principal Act.

The principal Act is amended by substituting for section 38 the following—

“38. Special procedure for voting for persons in institutions and operation areas

(1) Subject to this Act or any other law, the Commission may make special provision for the taking of votes of patients in hospitals or persons admitted in sanatoria or homes for the aged and similar institutions and also for persons in operation areas such as soldiers and other security personnel, and the commission shall publish in the *Gazette* a list of the operation areas referred to in this section.

(2) Subject to subsection (1), the Commission shall not create special or separate polling stations exclusively for the army or any other security personnel.

(3) For the purposes of this section—

- (a) “operation areas” includes an area where soldiers and other security personnel are deployed on special duty during an election period and may include restricted areas; and
- (b) “restricted areas” include an area experiencing an epidemic, disaster or insecurity.”

9. Replacement of section 41 of the principal Act.

The principal Act is amended by substituting for section 41 the following—

“41. Presiding officer to appoint election constables.

(1) A presiding officer shall ensure that polling takes place in a free and secure environment.

(2) A presiding officer other than a presiding officer for a polling station located in an urban area may, in the absence of a police officer appoint at least one person present and resident within the area of the polling station as an election constable to maintain order at the polling station throughout polling day where the presiding officer finds the services of an election constable to be essential.

(3) A presiding officer may only appoint a person other than a police officer to be an election constable under subsection (2) when there is actual or threatened disorder or when it is likely that a larger number of voters will seek to vote at the same time.

(4) There shall be appointed at every polling centre established under section 33 (2) of the Electoral Commission Act, one person to ensure the orderly and prompt entrance of the voters into their proper polling station within the centre.

(5) When an election constable has been appointed by a presiding officer, the constable shall take and subscribe the oath in Form OC in the Sixth Schedule to this Act before commencing to discharge his or her responsibilities.

(6) A presiding officer who appoints an election constable under subsection (2) shall announce publicly and record the appointment in the space provided for that purpose in the polling report book.

(7) A presiding officer may, where he or she deems it necessary, request for police assistance and he or she shall record in writing the reasons which necessitated the request for such assistance.

(8) For the avoidance of doubt, a military personnel, a member of the Internal Security Organisation or External Security Organisation shall not be appointed as an election constable.

(9) In this section “urban area” means a town, municipality or the City of Kampala.”

10. Amendment of section 50 of the principal Act.

The principal Act is amended in section 50—

(a) in subsection (1)—

(i) in paragraph (b), by inserting between the words “display” and “at”, the words “in a conspicuous place”;

(ii) by substituting for paragraph (c) the following—

“(c) one copy shall be enclosed in an envelope supplied by the Commission for the purpose, sealed by the presiding officer and delivered to the sub-county headquarters or division headquarters to the designated officer of the Commission together with the report book for transmission to the returning officer.”;

(b) by inserting immediately after subsection (2) the following—

“(2a) A presiding officer who without reasonable cause fails to cause to be posted a copy of the duly filed and signed declaration result form in contravention of subsection (1) (c) commits an offence and is liable on conviction to a fine not exceeding 12 currency points or imprisonment not exceeding six months or both.”;

(c) in subsection (3) by inserting immediately after paragraph (f) the following new paragraph—

“(g) the report book.”

11. Amendment of section 51 of the principal Act.

The principal Act is amended in section 51—

(a) by substituting for subsection (1) the following—

“(1) The presiding officer shall, immediately after close of polls, deliver the declared results and the sealed ballot box to the sub-county headquarters or the division headquarters to the designated officer of the Commission together with the report book for transmission to the returning officer.”;

(b) by inserting immediately after subsection (1) the following—

“(1a) A polling agent who wishes to accompany the presiding officer to witness the delivery under subsection (1) may do so at his or her own expense.”

12. Amendment of section 58 of the principal Act.

Section 58 of the principal Act is amended—

(a) by the repeal of subsection (2)(b); and

(b) by inserting immediately after subsection (2) the following—

“(2a) A returning officer shall compile and submit to the Electoral Commission within seven days after the conclusion of the election, a detailed report of the election within the returning officer's electoral district.”

13. Amendment of section 59 of the principal Act.

Section 59 of the principal Act is amended by substituting for subsection (1) the following—

“(1) The Commission shall, after the election, ascertain, declare in writing under its seal and publish, the result of the election in each constituency within forty eight hours after the close of polling.”

14. Amendment of section 66 of the principal Act.

Section 66 of the principal Act is amended—

(a) by substituting for subsections (2) and (3) the following—

“(2) The Court of Appeal shall proceed to hear and determine an appeal under this section within six months from the date of filing of the appeal and may for that purpose suspend any other matter pending before it.

(3) Notwithstanding section 6 of the Judicature Act, the decisions of the Court of Appeal pertaining to parliamentary elections petition shall be final.”;

(b) by repealing subsection (4).

15. Amendment of section 68 of the principal Act.

Section 68 of the principal Act is amended by inserting at the end, the following new subsections—

“(7) A candidate or an agent of a candidate shall not carry on fundraising or giving of donations during the period of campaigning.

(8) A person who contravenes subsection (7) commits an illegal practice.

(9) For purposes of this section fundraising shall not include the soliciting of funds for candidates to organise for elections.”

16. Amendment of section 72 of the principal Act.

Section 72 of the principal Act is amended by substituting for “section 68(5) or (6)” the following—

“section (5), (6) or (8).”

Cross References

Electoral Commission Act, Cap. 140

Judicature Act, Cap. 13