

Uganda

## Presidential Elections Act, 2005

Act 16 of 2005

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# Presidential Elections Act, 2005

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# Uganda

## Presidential Elections Act, 2005

Act 16 of 2005

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**Assented to on 16 November 2005**

**Commenced on 21 November 2005**

*[This is the version of this document as it was from 1 October 2015 to 26 July 2020.]*

*[Amended by [Presidential Elections \(Amendment\) Act, 2010 \(Act 14 of 2010\)](#) on 25 June 2010]*

*[Amended by [Presidential Elections \(Amendment\) Act, 2015 \(Act 14 of 2015\)](#) on 1 October 2015]*

**An Act to provide for elections to the office of President; to repeal and replace the Presidential Elections Act; to provide for qualifications and disqualifications for candidates and the manner of establishing equivalent qualifications; to provide for the nomination, campaigning, polling procedure, counting and tallying and declaration of results of a presidential election and the procedure for challenging the results; and for other related matters.**

BE IT ENACTED by Parliament as follows:

### Part I – Preliminary

#### 1. Interpretation

(1) In this Act, unless the context otherwise requires—

“**agent**” by reference to a candidate, includes a representative and polling agent of a candidate;

“**aspirant**” means a person intending to stand as a candidate during the election for the office of President;

“**authorised mark of choice**” means the tick or mark authorised under [section 31](#) to be applied to a ballot paper against the picture of a candidate of choice of a voter;

“**campaign period**” means the period determined by the Commission under [section 21](#) as the period during which campaigning may take place;

“**candidate**” means a person duly nominated as a candidate for a presidential election under [section 10](#);

“**Commission**” means the Electoral Commission established article 60 of the Constitution;

“**Commission Act**” means the Electoral Commission Act;

“**constituency**” means one of the constituencies into which Uganda is divided pursuant to article 63 of the Constitution for the purpose of elections;

“**currency point**” means the value specified in relation to a currency point in the First Schedule;

“**district**” means an electoral district;

“**election**” means a presidential election;

“**election officer**” includes a returning officer, assistant returning officer, registration officer, assistant registration officer and any other officer appointed by or under the authority of the commission with responsibility for registration of voters, for presiding over voting in any election or for counting votes at any election;

- “election petition”** means a petition filed in accordance with [section 59](#);
- “illegal practice”** means an act declared to be an illegal practice under Part IX of this Act;
- “Minister”** means the Minister responsible for presidential and parliamentary elections and referenda;
- “money”** includes a pecuniary reward;
- “nomination day”** means a day fixed to be nomination day under this Act;
- “nomination paper”** has the meaning assigned to it in [section 10](#);
- “office hours”** means the hours on a week-day during which the relevant office is open to members of the public;
- “parish”** includes a ward;
- “payment”** includes a pecuniary or other reward;
- “pecuniary reward”** includes any office, place of employment, and valuable security or other equivalent for money and any valuable consideration;
- “polling agent”** means a person appointed by a candidate as a polling agent;
- “polling day”** means a day appointed to be polling day under this Act;
- “presiding officer”** means a person appointed under the Commission Act to be a presiding officer for a polling station;
- “registered”**, in relation to a voter, means registered for the purpose of voting at an election;
- “registered voter”** means a person whose name is entered on the voters' register;
- “returning officer”** means a returning officer appointed under the Commission Act;
- “voter”** means a person qualified to be registered as a voter at an election who is so registered and at the time of an election is not disqualified from voting;
- “voters card”** means a voter's card issued under section 26 of the Commission Act to a voter whose name appears in the voters' register;
- “voters' register”** means the National Voters Register compiled under section 18 of the Commission Act;
- “voters' roll”** means the voters' roll for any constituency or parish prepared and maintained under the Commission Act.

- (2) The Commission Act shall be construed as one with this Act.

## Part II – Mode of election and qualifications for election of President

### 2. Election of President

- (1) The election of the President shall be by universal adult suffrage through a secret ballot using one ballot box for all candidates at each polling station.
- (2) The election of the President shall, subject to article 61 of the Constitution, be held during the first thirty days of the last ninety days before the expiration of the term of the President.



- (3) Apart from the election required to be held by clause (2) of Article 61 of the Constitution, election of the President shall also be held in the following circumstances—
- (a) an election held under clause (6) of article 104 of the Constitution where a presidential election is annulled;
  - (b) an election held under clause (3) of article 105 of the Constitution where the office has become vacant by expiration of the term of the President or if the incumbent dies or resigns or ceases to hold office as President by removal under article 107 of the Constitution;
  - (c) an election held under clause (2) of article 109 of the Constitution within six months after the death, resignation or removal of the President; and
  - (d) an election necessitated by the fact that a normal presidential election could not be held as a result of the existence of a state of war or a state of emergency in which case, the election shall be held within such a period as Parliament may, by law, prescribe.

### 3. Aspirant consultations

- (1) An aspirant may consult in preparation for his or her nomination as a presidential candidate.  
*[subsection (1) amended by section 1 of [Act 14 of 2010](#)]*
- (2) While consulting under subsection (1), a presidential aspirant may—
- (a) carry out nation-wide consultations;
  - (b) prepare his or her manifesto and other campaign materials;
  - (c) raise funds for his or her campaign through lawful means;
  - (d) convene meetings of national delegates.
- (3) While consulting, the aspirant shall introduce himself or herself to the Commission and notify the relevant local council and the police of the area to which he or she goes.

### 4. Qualifications for candidates

- (1) Subject to clause (7) of article 15 of the Constitution, a person is not qualified for election as President unless that person is—
- (a) a citizen of Uganda by birth;
  - (b) not less than thirty-five years and not more than seventy-five years of age; and
  - (c) a person qualified to be a member of Parliament.
- (2) The Commission shall request such evidence as it thinks necessary of the qualifications specified in subsection (1).
- (3) For the purposes of subsection (1), a person is qualified to be a member of Parliament if that person —
- (a) is a citizen of Uganda;
  - (b) is a registered voter; and
  - (c) has completed a minimum formal education of Advanced Level standard or its equivalent.
- (4) A person is not qualified for election as a member of Parliament if that person—
- (a) is of unsound mind;
  - (b) is holding or acting in an office the functions of which involve a responsibility for or in connection with the conduct of an election;

- (c) is a traditional or cultural leader as defined in clause (6) of article 246 of the Constitution;
  - (d) has been adjudged or otherwise declared bankrupt under any law in force in Uganda and has not been discharged;
  - (e) is under a sentence of death or a sentence of imprisonment exceeding nine months imposed by any competent court without the option of a fine;
  - (f) has, within the seven years immediately preceding the election, been convicted by a competent court of a crime involving dishonesty or moral turpitude;
  - (g) has, within the seven years immediately preceding the election, been convicted by a competent court for contravention of any law relating to elections conducted by the Commission.
- (5) Under the movement political system, a person who is elected President while he or she is a member of a local government council or who holds a public office shall resign that office before assuming the office of President.
- (6) Under the multiparty political system, a public officer or a person employed in any government department or agency of the government or an employee of a local government or any body in which the government has controlling interest, who wishes to stand for election as President shall resign his or her office before nomination day.
- (7) For the purposes of subsection (3)(c), any of the following persons wishing to stand for election as President shall establish his or her qualification with the Electoral Commission as a person holding a minimum qualification of Advanced level or its equivalent at least two months before nomination day, in the case of a normal presidential election, or where a presidential election is held otherwise than as a result of expiry of the term of the President, at least two weeks before nomination day—
- (a) persons, whether their qualification is obtained from Uganda or outside Uganda, who are claiming to have their qualification accepted as equivalent to advanced level education;
  - (b) persons claiming to have advanced level qualifications obtained from outside Uganda;
  - (c) persons claiming to have academic degrees which were obtained from outside Uganda.
- (8) A person required to establish his or her qualification under subsection (7) shall do so by the production of a certificate issued to him or her by the National Council for Higher Education in consultation with the Uganda National Examinations Board.
- (9) A person who claims to possess a qualification referred to in subsection 7(c) of this section shall, before the issue of the certificate prove to the satisfaction of the National Council for Higher Education that admission to that qualification was obtained on the basis of Advanced Level Standard of Education or its equivalent.
- (10) The certificate issued under subsection (9) shall be in the form in the Second Schedule to this Act.
- (11) A certificate issued by National Council for Higher Education under subsection (8) shall be sufficient in respect of any election for which the same qualification is required.
- (12) A certificate issued by the National Council for Higher Education under any other enactment, to the same effect as a certificate required to be obtained under subsection (8) shall be sufficient for the purposes of subsection (3)(c).
- (13) A person aggrieved by the grant or refusal to grant a certificate by the National Council for Higher Education under this section is entitled to appeal to the High Court against the decision and the High Court may confirm, modify or reverse the decision.
- (14) The Chief Justice may, in consultation with the Attorney General make rules to regulate the procedure for appeals under subsection (14) and may for that purpose apply, with or without modifications, rules of court applicable to civil proceedings in the High Court.

- (15) For the avoidance of doubt, if a candidate has an advanced level certificate obtained in Uganda or qualifications higher than the prescribed qualification obtained in Uganda or obtained from the former University of East Africa or any of its constituent colleges, then, there shall be no need for the verification of his or her qualifications by the National Council for Higher Education.
- (16) The Electoral Commission shall not accept for the purpose of this section a statutory declaration or affidavit as evidence of an academic qualification required by this section.
- (17) Under the movement political system, a person holding a public office, or a member of a Local Government Council or a Commission established under the Constitution, wishing to be a candidate shall apply for leave of absence at least sixty days before the expiry of the term of the President; except that in the case of an election taking place other than by reason of the normal expiry of the term of the President, the person shall apply for leave at least fourteen days before the nomination for the election.
- (18) Where a person to whom subsection (17) applies wishes to be a candidate he or she shall, before proceeding on leave, relinquish any vehicle or office equipment in his or her custody belonging to his or her employer.
- (19) For the purposes of enforcing this section the Commission shall, by writing require any candidate to state in writing the facilities ordinarily attached to any office held by that person to which subsection (18) applies or by virtue of that office; and the candidate shall comply with the requirement.
- (20) Every employer to whom subsection (17) relates shall, upon receiving an application by an employee, grant to the employee leave of absence with pay, or where the employee has not earned leave, leave without pay, to seek nomination as a candidate and to be a candidate for election, and for such period as may be requested by the employee.
- (21) In this section, “public service” and “public officer” have the meanings assigned to them by article 257 of the Constitution; and “public officer” shall for the avoidance of doubt, include an employee of any Commission established by the Constitution.
- (22) This section applies with the necessary modifications, to an employee of a statutory corporation or of a company in which the Government owns a controlling interest as it applies to a public officer.
- (23) Where any person intends to stand for election he or she shall not accept office as an election officer.
- (24) A person to whom a certificate is issued under this section, shall pay to the National Council for Higher Education a prescribed fee for the certificate.

## 5. Forgery of certificate of academic qualification

- (1) A person who—
  - (a) forges a certificate purporting it to be issued by the National Council for Higher Education under [section 4](#) or utters such a forged certificate; or
  - (b) forges any academic certificate for the purpose of nomination for any election under this Act or utters such a forged certificate,commits an offence and is liable on conviction to a fine not exceeding two hundred and forty currency points or imprisonment not exceeding ten years or both.
- (2) A court which convicts a person under this section shall sentence him or her to a fine not less than seventy two currency points or imprisonment not less than three years or both.

### Part III – Information to returning officers and secrecy

#### 6. Information to be given to returning officers

- (1) Whenever it is considered necessary and, in any case, immediately after the date of an election is appointed, the Commission shall transmit to every returning officer—
  - (a) sufficient copies of this Act, and such instructions prepared by the Commission, as are required for the proper conduct of an election by the returning officer and to enable the returning officer to supply to each election officer a copy of those instructions as each election officer may need;
  - (b) copies of the voters roll for each polling station within the electoral district;
  - (c) sufficient blank report books and other election materials; and
  - (d) sufficient funds to cover all the expenses to be incurred by the returning officer in carrying out the electoral process.
- (2) The Commission shall also transmit to each returning officer as soon as practicable after nomination days, a sufficient number of ballot papers for each constituency within the electoral district of the returning officer in any case not later than twenty four hours before polling day.

*[subsection (2) amended by section 2 of [Act 14 of 2010](#)]*

#### 7. Secrecy required of election officers and others

- (1) Every candidate, election officer, clerk, candidate's agent or other person in attendance at a polling station during the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and a candidate, officer, clerk, candidate's agent or other person shall not—
  - (a) at the polling station, interfere with, or attempt to interfere with, a voter when marking the ballot paper, or otherwise attempt to obtain information with respect to the candidate for whom any voter is about to vote or has voted;
  - (b) at any time, communicate any information with respect to the manner in which any ballot paper has been marked in his or her presence in the polling station;
  - (c) at any time or place, directly or indirectly, induce or endeavour to induce any voter to show his or her ballot paper after he or she has marked it, so as to make known to any person the name of the candidate for or against whom the voter has cast his or her vote;
  - (d) at a polling station, induce or endeavour to induce any voter to vote for a person other than the person of his or her choice;
  - (e) at any time, communicate to any person any information obtained at a polling station with respect to the candidate for whom any voter at the polling station is about to vote or has voted; or
  - (f) at the counting of the votes, attempt to obtain any information or communicate any information obtained at the counting with respect to the candidate for whom any vote is given in any particular ballot paper.
- (2) A candidate, election officer, candidate's agent or other person on duty at a polling station shall not, except for a purpose authorised by law, communicate to any person any information as to—
  - (a) the name of a voter who has or has not applied for a ballot paper or voted at a polling station; or
  - (b) the number on the voters register of a voter who has or has not applied for a ballot paper or voted at a polling station.

- (3) A person who has undertaken under [section 38](#) to assist a blind, illiterate or other voter with disability to vote, shall not communicate at any time to another person information as to the candidate for whom the assisted voter intends to vote or has voted, or as to the number, if any, on the ballot paper given for the use of the voter.
- (4) A person shall, before assuming the duties of election officer, take and subscribe the oath in Form EO specified in the Sixth Schedule to this Act.
- (5) A person who contravenes subsection (1), (2) or (3), commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.
- (6) A election officer who, without lawful authority, reveals to any person any matter that has come to his or her knowledge or notice as a result of his or her appointment, commits an offence and is liable on conviction, to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

## Part IV – Nomination of candidates for election as President

### 8. Appointment of nomination days

- (1) The Commission shall issue a notice in the *Gazette* appointing two days during which the nomination of candidates are to take place indicating—
  - (a) the places and times fixed for the nomination of candidates; and
  - (b) the hours of each nomination day, during which nominations are to take place.
- (2) Every place fixed under subsection (1)(a) for the nomination of candidates shall be a public place such as a court house, city or town hall, community centre or other public or private building in a central place.
- (3) The hours to be indicated in accordance with subsection (1)(b) shall be from ten o'clock in the forenoon to four o'clock in the afternoon on each nomination day.

### 9. Sponsorship of candidates by political organisation or political party

Under the multiparty political system, nomination of candidates may be made by a registered political organisation or political party sponsoring a candidate or by a candidate standing for election as an independent candidate without being sponsored by a political organisation or political party.

### 10. Procedure of nomination

- (1) A person shall not be a candidate in a presidential election unless—
  - (a) that person submits to the Commission on or before the day appointed as nomination day in relation to the election, a document, in this Act referred to as a nomination paper, in the form specified in the Third Schedule to this Act, which is signed by that person, nominating him or her as a candidate; and
  - (b) the nomination is supported by not less than one hundred voters in each of at least two thirds of all the districts in Uganda.
- (2) A candidate shall be proposed and seconded in the manner specified in the Third Schedule to this Act.
- (3) Each candidate shall attach to his or her nomination paper a list of names of the registered voters required under subsection (1) (b); and each of those registered voters shall, append to that list his or her name, signature, physical address and voter registration number as specified in the Third Schedule.

- (4) A person shall not subscribe to more than one nomination paper and no person shall give his or her support under subsection (3) to more than one candidate.
- (5) A person who contravenes subsection (4) commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.
- (6) The nomination paper shall be accompanied by—
  - (a) a declaration in the form specified in the Fourth Schedule to this Act;
  - (b) a non-refundable fee of one thousand currency points payable to the Uganda Administration in cash or bank draft; and  
*[paragraph (b) amended by section 1 of [Act 14 of 2015](#)]*
  - (c) three postcard size copies of a recent photograph of the proposed candidate; except that professional or occupational attire shall not be worn by the candidate in the photograph.
- (7) Where under the multi party political system, a person is sponsored by a political organisation or political party, the nomination paper shall indicate that he or she is so sponsored, stating the name and address of the political organisation or political party.
- (8) A person is not duly nominated as a candidate unless he or she has complied with subsection (6).
- (9) A returning officer shall not refuse to accept any nomination paper—
  - (a) by reason of an alleged ineligibility of the candidate sought to be nominated, unless the ground for the alleged ineligibility appears on the nomination paper; or
  - (b) solely on account of any minor variation between the name of any person as it appears on the nomination paper and as it appears on the voters' roll, if the returning officer is reasonably satisfied that the variation is due to an error; or
  - (c) on account of any other imperfection in the nomination paper, if the returning officer is satisfied that there has been substantial compliance with this Act.
- (10) A nomination paper which a returning officer has refused to accept for filing may be replaced by another nomination paper or may be corrected; except that a new or corrected nomination paper shall be filed with the returning officer not later than the time for the closure of nominations specified in section (8).
- (11) The returning officer shall, immediately after the expiry of the nomination time, announce the name of every candidate who has been duly nominated.
- (12) For the purposes of the nomination of candidates for a presidential election, the returning officer shall be the chairperson of the Commission or a person designated in writing by the Commission.
- (13) A candidate who uses a convoy of vehicles for the purpose of his or her nomination shall have not more than two vehicles in the convoy and each vehicle shall bear police stickers and shall not carry more than ten persons.
- (14) A person who contravenes subsection (13) commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

## 11. Factors which may invalidate a nomination

A person shall not be regarded as duly nominated and the nomination paper of any person shall be regarded as void if—

- (a) the person's nomination paper was not signed and seconded in accordance with [section 10\(1\)](#) and (2);
- (b) the nomination paper of the person was not accompanied by the list of names of registered voters as required by [section 10\(1\)](#) and (3);

- (c) the person has not complied with [section 10\(6\)](#);
- (d) the person seeking nomination was not qualified for election under [section 4](#); or
- (e) the person seeking nomination has been duly nominated for election as a member of Parliament.

## 12. Payment of deposit

The deposit payable under [section 10](#) shall be received by the Commission which shall issue a general receipt in respect of the deposit.

## 13. Inspection of nomination papers and lodging of complaints

A registered voter may—

- (a) during office hours on the nomination day, at the office of the returning officer or other place determined by the Commission, inspect any nomination paper filed with the returning officer;
- (b) after the closure of the nomination time and during such period as may be prescribed, inspect any nomination paper in respect of a candidate at such time and subject to such conditions as may be prescribed; and

may lodge any complaint with the returning officer or the Commission in relation to any nomination in respect of a candidate challenging the qualifications of any person nominated.

## 14. Right to complain to Commission upon rejection of nomination paper

Where a nomination paper of a person has been rejected or has been regarded as void by virtue of [section 10](#)—

- (a) the returning officer shall immediately notify the person of the decision giving reasons for the decision; and
- (b) the person shall have the right to complain against the decision to the Commission and the Commission may confirm or reverse the decision of the returning officer.

## 15. Allocation of symbols and colours

- (1) Where an election is contested, the Commission shall as soon as practicable after the nomination days—
  - (a) allocate to each candidate the symbol of his or her political organisation or political party in the case of a candidate sponsored by a registered political organisation or political party;
  - (b) allocate to a candidate who is not sponsored by a political organisation or political party, a symbol or colour chosen by him or her; or
  - (c) *[paragraph (c) repealed by section 3 of [Act 14 of 2010](#)]*
- (2) A symbol or colour under subsection (1)(b) and (c) shall be chosen or assigned for the purpose of this section from among symbols and colours approved by the Commission for the purposes of the election.
- (3) A person shall not be allocated a symbol or colour which has a tribal or religious affiliation or any other sectarian connotation.

## 16. Commission to appoint polling day and tallying places

- (1) The Commission shall, as soon as practicable after nomination days, by notice in the *Gazette*, appoint—
  - (a) a day to be known as polling day; and
  - (b) the time and the place where each returning officer will tally the number of votes given to each candidate at each polling station.
- (2) The polling day appointed under subsection (1) shall, subject the Constitution, be not later than ninety days after nomination days.
- (3) At least ten days before polling day, each returning officer shall—
  - (a) fix at his or her office within the district and in each constituency, a list of the names of all the presiding officers and polling assistants appointed under the Commission Act for each polling station in the electoral district, with the names and numbers of their respective polling stations to enable persons to raise any objections; they think necessary; and
  - (b) permit free access to and afford full opportunity for the inspection of the list by the candidates or their agents and any other interested persons during normal working hours.

*[subsection (3) amended by section 4 of [Act 14 of 2010](#)]*
- (4) The time to be indicated under subsection (1) (b) as the time when the returning officer will tally the votes given to the several candidates shall, at a presidential election, be not later than forty eight hours immediately following polling day.

## 17. Withdrawal of candidates

- (1) Subject to subsections (2) and (3), a duly nominated candidate for election as President may withdraw his or her nomination at any time before polling day or the first polling day, as the case may be, in the election for which the person is standing as a candidate.
- (2) A withdrawal of a candidate under subsection (1) shall be effected by means of a written notification to the Commission or the returning officer and shall be signed by the candidate personally and the candidate's signature shall be witnessed by the signatures of two registered voters.
- (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.

*[subsection (2a) inserted by section 5 of [Act 14 of 2010](#)]*
- (3) A candidate who withdraws his or her nomination under subsection (1) within thirty days after his or her nomination shall refund the funds received under [section 22](#).
- (4) A vote cast on polling day for a candidate who has withdrawn his or her nomination is invalid.
- (5) Where a candidate withdraws after nomination day and after the ballots are printed, the Commission or the returning officer shall—
  - (a) in writing, give notice in the *Gazette* of the fact of withdrawal;
  - (b) if the time permits, print a notice of the withdrawal and distribute it to each presiding officer.
- (6) Where a candidate withdraws under this section, each presiding officer shall, on polling day—
  - (a) post a notice of the withdrawal in a conspicuous place in the polling station; and



- (b) when delivering a ballot paper to each voter, verbally inform the voter of the withdrawal.

## 18. Where a candidate dies etc.

- (1) Where in a presidential election, after the close of nominations and before the closing of polls, a candidate dies, the Commission shall fix fresh nomination days for giving such time as it thinks reasonable for enabling a new or new candidates to be nominated.
- (2) Where fresh nomination days are fixed under subsection (1), the remaining candidate previously validly nominated, shall not be required to be renominated.
- (3) Where fresh nomination days are fixed under subsection (1), the Commission shall, where necessary, postpone the election to a convenient date.
- (4) An election arising out of a postponement under subsection (3) shall, as far as possible, be conducted in accordance with this Act.
- (5) Where a candidate ceases to be a candidate otherwise than by reason of his or her death after the close of nominations and before the closing of polls, no fresh nominations shall be carried out by reason of his or her ceasing to be a candidate.

## 19. Declaration of unopposed candidate elected

- (1) Where a candidate at time of the close of nominations is the sole candidate nominated, the Commission shall publish and declare under its seal within forty eight hours from the close of nominations, that that candidate is elected unopposed with effect from the date fixed for the poll under [section 16](#).
- (2) A declaration under subsection (1) shall be in Form A specified in the Seventh Schedule to this Act.

## 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.

*[section 19A inserted by section 6 of [Act 14 of 2010](#)]*

## 20. False declarations

A person who makes a false declaration under [section 10](#) (6) (a) which that person knows to be false in a material particular or has no reasonable ground to believe to be true, commits an offence and is on conviction liable to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

# Part V – Campaigning

## 21. Time and manner of campaigns; candidate meetings programme

- (1) Subject to the Constitution and this Act, the commission may determine the manner and the period during which campaigns shall take place and shall publish that information in the *Gazette* and forward a copy to each returning officer.  
*[subsection (1) amended by section 2 of [Act 14 of 2015](#)]*
- (2) Every candidate may hold individual public campaign meetings in any part of Uganda in accordance with any existing law.
- (3) For the avoidance of doubt, a candidate's agent may carry on campaign meetings on behalf of the candidate and otherwise carry on any campaign which the candidate is allowed to do under this Act.

- (4) The Commission may, after consultation with all the candidates, organise one or more joint candidates' campaign meetings for those candidates who consent to such a meeting.
- (5) A candidate or a candidate's agent authorised in writing by the candidate to do so, may hold a consultative meeting with the candidate's campaign agents for the purposes of planning and organising the candidate's election campaign.
- (6) A candidate shall not hold any public campaign meeting under subsection (2) except in accordance with a programme of meetings submitted by the candidate to the Commission.

## 22. Security, protection and facilitation of candidates

- (1) The Commission shall ensure that the relevant organs of the state provide during the entire campaign period—
  - (a) protection of each candidate; and
  - (b) adequate security at all meetings of candidates.
- (1a) Notwithstanding subsection (1), the Commission shall consult a candidate on his or her security detail.  
*[subsection (1a) inserted by section 7 of [Act 14 of 2010](#)]*
- (2) *[subsection (2) repealed by section 3 of [Act 14 of 2015](#)]*
- (3) Except as otherwise provided by this section, a candidate or a candidate's agent may raise additional funding for the candidate's campaign through lawful means.
- (4) A candidate or a candidate's agent shall not obtain, solicit or receive any financial or other assistance for the purpose of the candidate's campaign, from any foreign government, institution, body or person which or who has demonstrated an intention to overthrow the lawfully established Government of Uganda, or to endanger the security of Uganda;
- (5) For the purposes of subsection (4), the Government shall lay before Parliament the necessary information as to the prohibited foreign governments institutions, bodies or persons, at least three months before the nomination day.
- (6) Every candidate shall maintain a record of all assistance obtained or solicited for under this section.
- (7) Each candidate shall, within thirty days after the election—
  - (a) *[paragraph (a) repealed by section 3 of [Act 14 of 2015](#)];*
  - (b) submit a return to the Commission disclosing all assistance obtained by the candidate from any source.
- (8) A candidate or a candidate's agent who contravenes subsection (4) or a candidate who—
  - (a) contravenes subsection (6) or (7); or
  - (b) for the purposes of subsection (6) or (7), makes a statement which he or she knows to be false in any material particular,commits an offence.
- (9) A person who commits an offence under subsection (8) is liable on conviction—
  - (a) in the case of an offence under subsection (4), to a fine not exceeding one hundred and twenty currency points or imprisonment not exceeding five years or both; and
  - (b) in any other case, to a fine not exceeding seventy two currency points or imprisonment not exceeding three years or both.

**23. Equal treatment, freedom of expression and access to information of candidates**

- (1) During the campaign period, every public officer and public authority and public institution shall, give equal treatment to all candidates and their agents.
- (2) Subject to the Constitution and any other law, every candidate shall enjoy complete and unhindered freedom of expression and access to information in the exercise of the right to campaign under this Act.
- (3) A person shall not, while campaigning, use any language—
  - (a) which constitutes incitement to public disorder, insurrection or violence or which threatens war; or
  - (b) which is defamatory or insulting or which constitutes incitement to hatred.
- (4) A person who contravenes subsection (3) commits an offence and is liable, upon conviction—
  - (a) in case of an offence under subsection (3)(a), to a fine not exceeding one hundred and twenty currency points or imprisonment not exceeding five years or both; and
  - (b) in the case of an offence under subsection (3)(b), to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.
- (5) The Commission may issue guidelines to be complied with by every candidate while conducting his or her campaign for the election under this Act.

**24. Rights of candidates**

- (1) All presidential candidates shall be given equal treatment on the State owned media to present their programmes to the people.
- (2) Subject to any other law, during the campaign period, any candidate may, either alone or in common with others, publish campaign materials in the form of books, booklets, pamphlets, leaflets, magazines, newspapers or posters intended to solicit votes from voters but shall, in any such publication specify particulars to identify the candidate or candidates concerned.
- (3) A person shall not, during the campaign period print, publish or distribute, a newspaper, circular or pamphlet containing an article, report, letter or other matter commenting on any issue relating to the election unless the author's name and address, or the authors' names and addresses, as the case may be, are set out at the end of the article, report, letter or other matter or, where part only of the article, report, letter or matter appears in any issue of a newspaper, circular, pamphlet or matter at the end of that part.
- (4) Except as otherwise provided in this section, a candidate may use private electronic media for his or her campaign.
- (5) A candidate shall not while campaigning, do any of the following—
  - (a) making statements which are false—
    - (i) knowing them to be false, or
    - (ii) in respect of which the maker is reckless whether they are true or false;
  - (b) making malicious statements;
  - (c) making statements containing sectarian words or innuendoes;
  - (d) making abusive, insulting or derogatory statements;
  - (e) making exaggerations or using caricatures of the candidate or using words of ridicule;
  - (f) using derisive or mudslinging words against a candidate; or

- (g) using songs, poems and images with any of the effects described in the foregoing paragraphs.
- (6) The proprietor or operator of a private electronic media shall not knowingly use the media or allow it to be used to do any of the acts prohibited in subsection (5).
- (7) A person who contravenes any of the provisions of subsections (2), (3), (4), (5) and (6) commits an offence and is liable on conviction—
  - (a) in the case of an offence under subsection (3), to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both; and
  - (b) in any other case to a fine not exceeding forty eight currency points or imprisonment not exceeding two years or both.
- (8) In this section “electronic media” includes television, radio, internet and email.

## 25. Non-sectarian campaign

- (1) A person shall not use a symbol or colour which has a tribal, religious affiliation or any other sectarian connotation as a basis for that persons candidature for election or in support of that person’s campaign.
- (2) Under the movement political system, a person shall not use as a basis for his or her candidature or campaign, a symbol or colour of a political organisation or political party.
- (3) A person who contravenes subsection (1) or (2) commits an offence and is liable on conviction—
  - (a) in the case of an offence under subsection (1), to a fine not exceeding one hundred and twenty currency points or imprisonment not exceeding five years or both; and
  - (b) in the case of an offence under subsection (2), to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

## 26. Interference with electioneering activities of other persons

A person who, before or during an election for the purpose of effecting or preventing the election of a candidate either directly or indirectly—

- (a) by words, whether spoken or written, song, sign or any other representation or in any manner seeks to excite or promote disharmony, enmity or hatred against another person on grounds of sex, race, colour, ethnic origin, tribe, birth, creed or religion;
- (b) organises a group of persons with the intention of training the group in the use of force, violence, abusive, insulting, corrupt or vituperative songs or language calculated to malign, disparage, condemn, insult or abuse another person or candidate or with a view to causing disharmony or a breach of the peace or to disturb public tranquillity so as to gain unfair advantage in the election over that other person or candidate;
- (c) obstructs or interferes or attempts to obstruct or interfere with the free exercise of the franchise of a voter or compels or attempts to compel a voter to vote or to refrain from voting;
- (d) compels, or attempts to compel a candidate to withdraw his or her candidature;
- (e) in any manner threatens any candidate or voter with injury or harm of any kind; or
- (f) induces or attempts to induce any candidate or voter to fear or believe that he or she will suffer illness or will become an object of divine, spiritual or fetish displeasure or censure;

commits an offence and is liable on conviction to a fine not exceeding seventy two currency points or imprisonment not exceeding three years or both.

## 27. Use of Government resources

- (1) Except as authorised under this Act or authorised by law, a person shall not use Government resources for the purpose of campaigning for any candidate, party or organisation in an election.  
*[subsection (1) substituted by section 8(a) of [Act 14 of 2010](#)]*
- (2) Notwithstanding subsection (1), a candidate who holds the office of President, may continue to use Government facilities during the campaign, but shall only use those Government facilities which are ordinarily attached to and utilised by the holder of that office.
- (3) For purposes of subsection (2), the Minister responsible for public service shall lay before Parliament a statement of those Government facilities which are attached to and utilised by the President.
- (4) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding 48 currency points or imprisonment not exceeding two years or both.  
*[subsection (4) inserted by section 8(b) of [Act 14 of 2010](#)]*

## Part VI – Voting and voting procedure

### 28. Distribution of election materials

Within forty-eight hours before polling day, every returning officer shall furnish each presiding officer in the district with—

- (a) a sufficient number of ballot papers to cover the number of voters likely to vote at the polling station for which the presiding officer is responsible;
- (b) a statement showing the number of ballot papers supplied under paragraph (a) with the serial numbers indicated in the statement; and
- (c) the other necessary materials for the voters to mark the ballot papers and complete the voting process.

### 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 to 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 in subsection (2)(b) 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 station.

*[section 28A inserted by section 9 of [Act 14 of 2010](#)]*

## 29. Publication of polling stations and candidates

- (1) The Commission shall, by notice in the *Gazette* publish—
  - (a) a list of the polling stations in each constituency at least fourteen days before nomination; and
  - (b) a list of the names of the candidates nominated in alphabetical order with surnames first.
- (2) The Commission shall also forward each list referred to in subsection (1) to all returning officers; and the returning officers shall ensure that the lists relevant to each constituency are published widely in that constituency.

## 30. Polling stations and voting time

- (1) Every polling station shall, as far as possible, be located in an open ground, or where there is no open ground, in large premises of convenient access, having an outside door for the admittance of voters, and, if possible, another door through which voters may leave after voting and the polling station shall, as far as possible, be such as to facilitate access by persons with disabilities and the aged.
- (2) At every polling station, polling time shall commence at seven o'clock in the morning and close at four o'clock in the afternoon.  
*[subsection (2) amended by section 4 of [Act 14 of 2015](#)]*
- (3) In the process of voting a voter shall not be allowed to carry a bag or anything that can be used for concealment.
- (4) A person registered as a voter and whose name appears in the voters roll of a polling station and who holds a valid voters card is entitled to vote at the polling station.
- (5) If at the official hour of closing the poll in subsection (2) there are any voters in the polling station, or in the line of voters under [section 31\(3\)](#) who are qualified to vote and have not been able to do so, the polling station shall be kept open to enable them to vote; but a person who is not actually present at the polling station or in the line of voters at the official hour of closing shall not be allowed to vote, even if the polling station is still open when he or she arrives.

## 31. Polling and polling procedure

- (1) Voting at every election shall be by secret ballot using one ballot box at each polling station for all candidates in accordance with this Act.
- (2) A presiding officer shall not inquire about or attempt to see, for whom a voter intends to vote; and any person who contravenes this subsection commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.
- (3) On polling day, all voters intending to vote shall form one line commencing backward from a point at least twenty metres away from the table at which each voter is to place the authorised mark of choice on the ballot paper.
- (4) Voters who have cast their votes and all other persons in the vicinity of the polling station other than election officers, candidates, candidates' agents and observers shall stand or sit at least twenty metres away from the table mentioned in subsection (3).
- (5) At every polling station there shall be positioned—
  - (a) a table where every voter shall report for identification in the voters' roll and collection of a ballot paper;

- (b) a second table positioned at least fifteen metres from the first with an ink pad, two pens, each pen being attached to the table with a string measuring about one metre in length, where every voter shall—
    - (i) fix a tick with a pen or mark with a thumbprint in the space provided in the box against the picture of the candidate of his or her choice; and
    - (ii) fold the ballot paper, to enable it to be deposited in the slot of the ballot box;
  - (c) a third table located at least ten metres away from the second and on top of which shall rest a ballot box into which - every voter shall deposit the folded ballot paper in the full view of all present; and
  - (d) a fourth table located at least ten metres from the ballot box where every voter, after depositing the ballot paper into the ballot box, shall proceed and have the thumb on the voters' right hand, dipped into indelible ink to indicate that the voter has cast the ballot.
- (6) Where voting takes place for two or more elections in the same premises at the same time the application of the indelible ink under subsection (5)(d) shall be done after the voter votes in the last or the only election for which he or she chooses to vote.
- (7) Where for the purposes of subsection (5)(d)—
- (a) the voter has no thumb on the right hand, the process specified in that paragraph shall be applied to the finger nearest to the position of the thumb on the voter's right hand;
  - (b) the voter has no right hand, the process shall be applied to the left hand;
  - (c) a voter has no fingers on the left or right hand, the voter may dip the tip of any hand into the indelible ink; or
  - (d) the voter has no hands, the process shall be applied to any other conspicuous part of the voter's body as a polling assistant may determine.
- (8) The presiding officer at each polling station shall, at the commencement of the poll and in the full view of all present, demonstrate to the satisfaction of all present, that the ballot box is devoid of any contents and after that place the ballot box on the table referred to in subsection (5)(c).
- (9) Where more than one ballot box is used after the first is filled, the procedure prescribed in subsection (8) shall be followed prior to the placing on the table, of any additional ballot box.
- (10) For the purposes of subsection (5), "table" includes a desk, a box, a chair, a stool and any other object with a hard and smooth surface that can be used as a table.

### **32. A person not to vote more than once**

- (1) A person shall not vote or attempt to vote more than once at an election irrespective of the number of offices held by the person relevant to the election.
- (2) For the purposes of ensuring that no voter casts a vote more than once, a presiding officer or a polling assistant shall, before issuing a ballot paper, inspect the fingers of any voter in order to ascertain whether or not the voter has been marked with indelible ink in accordance with [section 31](#).
- (3) The presiding officer or polling assistant, as the case may be, shall refuse to issue a ballot paper to the voter referred to in subsection (2) if the presiding officer or polling assistant has reasonable grounds to believe that the voter has already voted or if the voter refuses to be inspected under that subsection.
- (4) A person who refuses to be inspected under subsection (2) and votes or attempts to vote commits an offence and on conviction is liable to a fine not exceeding twelve currency points or imprisonment not exceeding six months or both.

### 33. Polling agents of candidates

- (1) A candidate may be present in person or through his or her representative or polling agent at each polling station for the purposes of safeguarding the interests of the candidate with regard to the polling process.
- (2) Not more than two representatives or polling agents shall be appointed by a candidate under subsection (1) and the appointments shall be in writing addressed to the presiding officer of the polling station.
- (3) A representative or polling agent appointed under subsection (2) shall report to the presiding officer of the polling station on polling day and shall sit at a table provided under [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.

*[subsection (3) amended by section 10(a) of [Act 14 of 2010](#)]*

- (4) *[subsection (4) deleted by section 10(b) of [Act 14 of 2010](#)]*

### 34. No delay in voting

- (1) Every voter shall vote in accordance with [section 31](#) without undue delay and may leave the polling station as soon as his or her ballot paper has been put into the ballot box under that section.
- (2) The presiding officer may allow expectant mothers, old or sickly voters or voters with disabilities and persons required for essential duties to vote without waiting in the line of voters.

### 35. Procedure for handing ballot paper to voter

- (1) A voter wishing to obtain a ballot paper, for the purpose of voting, shall produce his or her voters' card to the presiding officer or polling assistant at the table under [section 31\(5\)\(a\)](#).
- (2) If the presiding officer or polling assistant is satisfied that the voter's name and number indicated in the voter's card correspond to the voter's name and number in the voter's register for the polling station, he or she shall issue a ballot paper to the voter.
- (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 voter's register, the presiding officer or polling assistant shall issue him or her with a ballot paper.

*[subsection (3) substituted by section 11(a) of [Act 14 of 2010](#)]*

- (3a) Where a person has a voter's card and his or her name appears in the voter's 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.

*[subsection (3a) inserted by section 11(b) of [Act 14 of 2010](#)]*

- (4) The presiding officer or polling assistant shall place a tick against the voter's name in the voters' roll for the polling station.
- (5) Subject to [section 40](#), a person shall not be permitted to vote at a polling station unless the person's name appears in the voter's roll for that polling station.
- (6) A person who contravenes subsection (5) commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.



**36. Where a voter spoils ballot paper**

A voter who has inadvertently dealt with the ballot paper delivered to him or her under [section 31\(5\)\(a\)](#) in such a manner that it has become impracticable to use it, shall return it to the presiding officer who shall —

- (a) deface it by making two diagonal lines across it and writing the word “spoilt” on it; and
- (b) deliver another ballot paper to the voter.

**37. Where two voters appear under the same name**

- (1) Where a person represents himself or herself to be a particular voter and applies for a ballot paper after another person has voted in the name or number of that person, the second person shall only be entitled to receive a ballot paper and to vote after making before the presiding officer the declaration of identity, in Form ID in the Sixth Schedule to this Act and otherwise establishing his or her identity to the satisfaction of the presiding officer.
- (2) In any case referred to in subsection (1), the presiding officer shall enter in the copy of the voters register or the voters roll, opposite the name of the voter—
  - (a) a note of the voter having voted on a second ballot paper issued under the same name;
  - (b) the fact of the declaration of identity having been made; and
  - (c) any objections made on behalf of any of the candidates.
- (3) Any person who makes a false statement in a declaration under this section—
  - (a) knowing the statement to be false; or
  - (b) in respect of which he or she is reckless whether it is true or false,commits an offence and is liable to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

**38. Assistance to illiterate voters and other voters with disability**

- (1) Where a voter is by reason of blindness, illiteracy, old age or any other disability unable to fix the authorised mark of choice on the ballot paper, that voter may report at the polling station accompanied by a person of his or her choice to assist the voter to fix the authorised mark of choice on the ballot paper if necessary, on the voter’s behalf; or the voter may, subject to sub section (4), request another person present at the polling station to assist that voter for the purpose.
- (2) It shall be lawful for any member of a voter’s family to assist a voter under subsection (1) notwithstanding the fact that the former is below the age of eighteen years.
- (3) A person shall not assist more than one voter to vote under subsection (1) in the election.
- (4) A presiding officer shall refuse to allow a person to assist a voter to vote unless that officer is satisfied that it is permitted under subsection (1).
- (5) An election officer, a candidate’s agent or an observer at any polling station is not permitted to assist any voter with disability under subsection (1).
- (6) A person is not authorised to assist any voter to mark the ballot paper under subsection (1) unless the voter has voluntarily requested that assistance.
- (7) A person who—
  - (a) pretends to have a disability for the purposes of subsection (1) when he or she does not; or

- (b) contravenes subsection (3) or (6),

commits an offence and is liable on conviction, to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

### **39. 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 areas experiencing an epidemic, disaster or insecurity.

*[section 39 substituted by section 12 of [Act 14 of 2010](#)]*

### **40. Factors which may not prevent a person from voting**

- (1) The claim of a person to vote at any election shall not be rejected by reason only—
  - (a) that one of the person’s names has been omitted from the voters’ register or from the voters roll; or
  - (b) by reason of the entry in the voters register or in the voters roll of a wrong village or of a wrongly spelt name, if, in the opinion of the presiding officer, the person is sufficiently identified.
- (2) The claim of a female voter to vote at any polling station shall not be rejected by reason only that she has changed her surname by reason of marriage and that the change has not been reflected in the voters register or the voters roll for the polling station.

### **41. Returning officer to have powers of justice of the peace**

- (1) During an election and throughout the campaign and polling period, every returning officer and presiding officer or any other authorised agent of the Commission is a keeper of the peace and has all the powers of a justice of the peace, and he or she may—
  - (a) require the assistance of a member of the Uganda Police Force or other persons present to aid him or her in maintaining peace and good order at the polling station;
  - (b) warn or arrest or cause, by verbal order, to be arrested, and place or cause to be placed in the custody of any police officer or other person authorised by law, any person disturbing the peace and good order at the polling station; or
  - (c) cause any arrested person to be imprisoned under an order signed by him or her until not later than an hour after the closure of the poll.
- (2) The returning officer or presiding officer shall where he or she causes the arrest of any person under subsection (1), report the arrest gives details and reasons of the arrest in a form provided under the Fifth Schedule.

**42. 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 in order 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, reasons which necessitated the request for the assistance.
- (8) For avoidance of doubt, a military personnel, a member of the Internal Security Organisation or the 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.

*[section 42 substituted by section 13 of [Act 14 of 2010](#)]*

**43. Arms and ammunition prohibited**

- (1) A person shall not arm himself or herself during any part of polling day with any deadly weapon or approach within one kilometre of a polling station with deadly weapons unless called upon to do so by lawful authority or where he or she is ordinarily entitled by virtue of his or her office to carry arms.
- (2) Any person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.
- (3) For the purposes of this section, deadly weapon has the meaning assigned to it in section 286 of the Penal Code Act.

*[subsection (3) inserted by section 5 of [Act 14 of 2015](#)]*

**44. Loud speakers prohibited at polling stations**

- (1) A person shall not, on any polling day, for the purpose of promoting or opposing any candidate, use any loudspeaker or similar communication device prohibited within hearing distance of any polling station.
- (2) Any person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

**45. Limitation on campaign period and on display of emblems etc., on polling day**

- (1) The campaign period prescribed by the Commission under [section 21\(1\)](#) shall not extend beyond midnight of the day before polling day.
- (2) A person shall not—
  - (a) post or display on or in a polling station or in a hall, window or door of a building used as a polling station, any campaign literature, emblem, ensign, badge, label, ribbon, flag, banner, card, bill, poster or device, that could be taken as an indication of support for or opposition, to a candidate; or
  - (b) while in a polling station, display on his or her person any emblem, ensign, badge, label, ribbon, flag, banner, card or device as a badge intended or likely to be taken as intended to distinguish the wearer as a supporter of any candidate.
- (3) Nothing in subsection (1) prohibits a meeting of a candidate with his or her agents and facilitators for the election.
- (4) Notwithstanding subsection (2) an agent of a candidate may, in a polling station, display on his or her person, in such form as the Commission may authorise, a label identifying his or her function and the name of the candidate he or she represents.
- (5) A person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

**46. Interruption and postponement of polling**

- (1) Where polling at a polling station is interrupted by a riot or violence or any other event while there remains, in the voters register, voters who have not completed the polling process, the presiding officer shall adjourn the polling to the next day or to any other time of the same day and shall immediately seal and transfer the box to the nearest subcounty headquarters and inform the returning officer of the fact.
- (2) Where the polling is adjourned to the following day under subsection (1), the time, procedure and manner of the subsequent polling shall be as on the original polling day.

**47. Complaints at polling**

- (1) The candidates' agents and any voter present at a polling station may raise and present in writing complaints relating to the voting at the polling station and shall have the right to obtain information from the presiding officer concerning the counting process.
- (2) A presiding officer shall not refuse to receive a complaint presented to him or her under subsection (1) and shall initial every such presentation and annex it as part of the official record of the polling station.
- (3) Subject to subsection (4), any presentation received by the presiding officer under this section shall be deliberated upon and resolved by the presiding officer and the polling assistants.
- (4) Subject to article 103(7) of the Constitution, where necessary in the opinion of the presiding officer to enable the voting process to proceed, the deliberation or resolution of a presentation under subsection (3) may be postponed until the completion of the voting process.

## Part VII – Counting of votes and announcement of results

### 48. Votes to be counted at each polling station

- (1) Votes cast at a polling station shall be counted at the polling station immediately after the presiding officer declares the polling closed, and the votes cast in favour of each candidate shall be recorded separately in accordance with this Part of this Act.
- (2) Subject to [section 55](#), no votes shall stay uncounted overnight and, where required, the presiding officer shall provide light for the purposes of counting votes.
- (3) A candidate is entitled to be present in person or through his or her representative or polling agent at each polling station throughout the voting and counting of the votes and at the place of the tallying of the votes and ascertaining of the results of the poll for the purposes of safeguarding the interests of the candidate with regard to all stages of the counting or tallying processes.
- (4) The presiding officer and the candidates or their agents, if any, shall sign and retain a copy of a declaration stating-
  - (a) the polling station;
  - (b) the number of votes cast in favour of each candidate;and the presiding officer shall there and then announce the results of the voting at that polling station before communicating them to the returning officer.
- (5) Votes cast for each candidate shall be recorded in both figures and words and countersigned by polling agents before the declaration of the results.
- (6) The following shall apply in respect of the signing of the declaration and the announcement of the results of voting under subsection (4)–
  - (a) the candidates or their agents shall sign the declaration form before the announcement of the results under subsection (4);
  - (b) where any of the candidates or their agents refuse or fail to sign the declaration form–
    - (i) the candidates and their agents refusing or failing to sign shall record on the declaration form the reasons for the refusal or failing to sign; and
    - (ii) where they refuse or fail to record the reasons, the presiding officer shall record the fact of their refusal or failure;
  - (c) where any candidate or agent is absent, the presiding officer shall record the fact of that absence;
  - (d) the refusal or failure of a candidate or agent to sign any declaration form under subsection (4) or to record the reasons for that refusal to sign as required under this subsection shall not by itself invalidate the results announced under subsection (4);
  - (e) the absence of a candidate or an agent from the signing of a declaration form or the announcement of results under subsection (4) shall not by itself invalidate the results announced.
- (7) At the commencement of the counting, the presiding officer shall, in the presence and full view of all present, open the ballot box and empty its contents onto the polling table and with the assistance of polling assistants proceed to count the votes separating the votes polled by each candidate.

#### 49. Complaints during the counting of votes

- (1) A candidate or a candidate's agent or any voter present may raise any objection during the counting of the votes, and each presiding officer shall—
  - (a) keep a record, in the report book, of every objection made by any candidate or a candidate's agent or any voter present, to any ballot paper found in the ballot box; and
  - (b) decide every question arising out of the objection.
- (2) An objection recorded under subsection (1) shall be numbered and a corresponding number placed on the back of the ballot paper to which it relates, and the ballot paper shall be initialled by the presiding officer and it shall be witnessed by the polling assistants and candidates' agents.
- (3) The decision of a presiding officer in respect of an objection raised under subsection (1) is final, subject to reversal only on recount ordered by the court upon an election petition.

#### 50. Votes to be treated as invalid

- (1) A vote cast is invalid if—
  - (a) the ballot paper is torn into two or more parts; or
  - (b) where the voting is by placing a mark of choice on the ballot paper—
    - (i) the voter marks the ballot with a mark other than the authorised mark of choice; or
    - (ii) places the authorised mark of choice on the ballot paper in such a way that the choice of the voter cannot be reasonably ascertained.
- (2) A ballot paper shall not be taken as invalid under this section, irrespective of where the authorised mark of choice is placed, so long as the voter's choice can be reasonably ascertained.
- (3) A vote which is invalid shall not be counted in determining the results of the election.

#### 51. Declaration of results forms

- (1) Each presiding officer shall fill the necessary number of copies of the prescribed form for the declaration of results as follows—
  - (a) one copy of the completed form shall remain attached to the report book referred to in [section 6\(1\)\(c\)](#);
  - (b) one copy shall be retained by the presiding officer for display at a conspicuous place at the polling station;  
*[paragraph (b) amended by section 14(a)(i) of [Act 14 of 2010](#)]*
  - (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.  
*[paragraph (c) substituted by section 14(a)(ii) of [Act 14 of 2010](#)]*
  - (d) one copy shall be delivered to each of the candidates' agents or, in the absence of those agents, be retained by the presiding officer who shall transmit it to the returning officer; and
  - (e) one copy shall be deposited and sealed in the ballot box.
- (2) The presiding officer shall, in the presence of the candidates and the candidates' agents as may wish to be present, seal the ballot box with a seal provided for the purpose by the Commission.

- (2a) A presiding officer who without reasonable cause fails to cause to be posted a copy of the duly filled 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.

*[subsection (2a) inserted by section 14(b) of [Act 14 of 2010](#)]*

- (3) The sealed ballot box referred to in subsection (2) shall contain the following items—
- (a) one duly signed declaration of results form;
  - (b) the ballot papers received by each candidate, tied in separate bundles;
  - (c) the invalid ballot papers, tied in one bundle;
  - (d) the spoilt ballot papers, tied in one bundle;
  - (e) the unused ballot papers; and
  - (f) the voters' roll used at the polling station.
- (4) The declaration of results form referred to in sub-section (1) shall be signed by the presiding officer and the candidates or their agents as are present and wish to do so, and [section 48](#)(3) and (4) shall apply.

## 52. Collection of results

- (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.

*[subsection (1) substituted by section 15(a) of [Act 14 of 2010](#)]*

- (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.

*[subsection (1a) inserted by section 15(b) of [Act 14 of 2010](#)]*

- (2) Each presiding officer shall, without any delay after closing the poll, transmit or deliver to the returning officer or to the nearest results collecting centre—
- (a) the sealed ballot box;
  - (b) the duly filled and signed declaration of results form;
  - (c) the report book filled in and signed by the presiding officer and the polling assistants.

## 53. Safekeeping of election materials and records

- (1) The returning officer shall be responsible for the safe custody of all the election documents used in the district in connection with an election until the documents are destroyed in accordance with the directions of the Commission; but the Commission shall not give such directions before the settlement of disputes, if any, arising from the election.
- (2) A returning officer shall, on the receipt of each ballot box—
- (a) take every precaution for its safe custody;
  - (b) examine the seal affixed to the ballot box, with a view to ensuring that the box is properly sealed, and
  - (c) if the box is not in good order, record his or her observations and affix a different seal supplied by the Commission.

#### 54. Tallying of results by returning officer

- (1) After all the envelopes containing the declaration of results forms have been received, the returning officer shall, in the presence of the candidates or their agents or such of them as wish to be present, open the envelopes and add up the number of votes cast for each candidate as recorded on each form.
- (2) The returning officer may open the envelopes and add up the number of votes cast even though some of the envelopes have not been received, if the candidates or the candidates' agents and a police officer not below the rank of inspector of police are present.
- (3) Where any envelope under subsection (1) does not contain the results of the poll, the returning officer may, for the purpose of finalising a statement of the poll, use the declaration of results form in the presiding officer's report book.
- (4) If the report book does not contain the declaration of results form duly filled by the presiding officer, the returning officer may, in the presence of a police officer, not below the rank of Inspector of Police and any of the candidates or candidates' agents who wish to be present, open the ballot box in order to obtain the declaration of results form for the purpose of adding up the results of the poll.
- (5) Where the returning officer opens the ballot box under subsection (4) he or she shall re-seal the ballot box immediately after ascertaining the results with the declaration of results forms re-sealed in the envelopes in the ballot box.

#### 55. Interruption and postponement of counting or tallying

- (1) Where counting or tallying of votes is interrupted by a riot or violence or any other reasonable cause, the presiding officer or returning officer shall adjourn the counting or tallying to the next day or to any other time of the same day and shall immediately inform—
  - (a) in the case of the presiding officer, the returning officer; or
  - (b) in the case of the returning officer, the Commission,of that fact.
- (2) Where the counting or tallying of votes is adjourned to the following day under subsection (1), the time, procedure and manner of the subsequent counting, tallying or recounting shall be as on the original occasion.
- (3) Where counting is adjourned under this section, the ballot boxes shall be kept in safe custody and the candidates or their agents shall be entitled to be present to keep watch on the boxes until counting resumes.

#### 56. Returning officer to transmit return and documents to Commission

- (1) Each returning officer shall, immediately after the addition of the votes under [section 54\(1\)](#), declare the number of votes obtained by each candidate and also complete a return in the prescribed form, indicating the number of votes obtained by each candidate.
- (2) Upon completing the return under subsection (1), the returning officer shall transmit to the Commission the following documents—
  - (a) the return form;
  - (b) *[paragraph (b) repealed by section 16(a) of [Act 14 of 2010](#)]*
  - (c) the tally sheets; and
  - (d) the declaration of results forms from which the official addition of the votes was made.



- (3) A returning officer shall compile and submit to the Commission, within seven days after the conclusion of the election, a report of the election within the returning officer's electoral district.

*[subsection (3) inserted by section 16(b) of [Act 14 of 2010](#)]*

## **57. Declaration of results of presidential election**

- (1) The Commission shall ascertain, publish and declare in writing under its seal the results of the presidential election within forty-eight hours from the close of polling.
- (2) The declaration under subsection (1) shall be in Form B or Form C as specified in the Seventh Schedule to this Act as the case may be.
- (3) The results shall be published in the national media and the Commission shall as soon as practicable, cause them to be published in the *Gazette*.
- (4) A candidate shall not be declared elected as President unless the number of votes cast in favour of that candidate at the presidential election is more than fifty percent of the valid votes cast at the election.
- (5) Where at a presidential election there are more than two candidates and no candidate obtains the number or percentage of votes specified in subsection (4), a second election shall be held within thirty days after the declaration of the results in which election the two candidates who obtained the highest number of votes shall be the only candidates.
- (6) Subject to article 103 of the Constitution the candidate who obtains the highest number of votes in an election under subsection (5) shall be the elected President.
- (7) A declaration executed by the Commission under subsection (1) and bearing the seal of the Commission shall be evidence that the person named in the declaration has been elected President.
- (8) The Commission shall, as soon as practicable after each presidential election, produce a detailed report on the conduct of the election.
- (9) For the purposes of a report under subsection (8), every candidate at an election and every agent of any candidate has the right to send to the Commission a statement in writing containing any complaint that he or she may wish to make with respect to the conduct of the election or of any election officer and any suggestions with respect to such changes or improvements in the law or in the administrative arrangements as he or she may consider desirable.
- (10) Sub-sections (7), (8) and (9) shall, with the necessary modifications, apply to an election in which an unopposed candidate is declared elected under [section 19](#).

## **58. Assumption of office of elected President**

- (1) A person elected President during the term of a President shall assume office within twenty four hours after the expiration of the term of the predecessor and in any other case, within twenty four hours after being declared elected President.
- (2) Before assuming the duties of the office of President a person elected President shall take and subscribe the oath of allegiance and the presidential oath specified in the Fourth Schedule to the Constitution.

# **Part VIII – Challenging presidential election**

## **59. Challenging presidential election**

- (1) An aggrieved candidate may petition the Supreme Court for an order that a candidate declared elected as President was not validly elected.

- (2) A petition under subsection (1) shall be in a form prescribed by the Chief Justice under subsection (11) and shall be lodged in the Supreme Court registry within ten days after the declaration of the election results.
- (3) The Supreme Court shall inquire into and determine the petition expeditiously and shall declare its findings not later than thirty days from the date the petition is filed.
- (4) Where no petition is filed within the time prescribed under subsection (2), or where a petition having been filed, is withdrawn by the person who filed it or is dismissed by the Supreme Court, the candidate declared elected shall conclusively be taken to have been duly elected as President.
- (5) After due inquiry under subsection (3), the Supreme Court may—
  - (a) dismiss the petition;
  - (b) declare which candidate was validly elected; or
  - (c) annul the election.
- (6) The election of a candidate as President shall only be annulled on any of the following grounds if proved to the satisfaction of the court—
  - (a) non-compliance with the provisions of this Act, if the court is satisfied that the election was not conducted in accordance with the principles laid down in those provisions and that the non compliance affected the result of the election in a substantial manner;
  - (b) that the candidate was at the time of his or her election not qualified or was disqualified for election as President;
  - (c) that an offence under this Act was committed in connection with the election by the candidate personally or with his or her knowledge and consent or approval.
- (7) Nothing in this section confers on the Supreme Court power to convict a person for a criminal offence when hearing an election petition.
- (8) Where upon hearing a petition and before coming to a decision, the Court is satisfied that a recount is necessary and practical, it may order a recount of the votes cast.
- (9) Where it appears to the Supreme Court on hearing an election petition under this section that the facts before it disclose that a criminal offence may have been committed, it shall make a report on the matter to the Director of Public Prosecutions for appropriate action to be taken and shall state in the report the name of the person, the nature of the offence and any other information that the court considers relevant and appropriate for the Director of Public Prosecutions.
- (10) Where an election is annulled, a fresh election shall be held within twenty days from the date of the annulment.
- (11) The Chief Justice shall, in consultation with the Attorney General, make rules providing for the conduct of petitions under this Act.

## **60. Witnesses in election petition**

- (1) At the trial of an election petition—
  - (a) any witness shall be summoned and sworn in the same manner as a witness may be summoned and sworn in civil proceedings;
  - (b) the court may summon and examine any person who in the opinion of the court is likely to assist the court to arrive at an appropriate decision;
  - (c) any person summoned by the court under paragraph (b) may be cross-examined by the parties to the petition if they so wish.

- (2) A witness who in the course of the trial of an election petition wilfully makes a statement material to the proceedings-
- (a) which he or she knows to be false; or
  - (b) which he or she does not know to be true; or
  - (c) which is false and in respect of which he is reckless whether it is true or false,
- commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

#### **61. Withdrawal of election petition**

- (1) An election petition shall not be withdrawn except with leave of the court and after such notice has been given as the court may direct.
- (2) On the hearing of the application for withdrawal, any candidate who might have been a petitioner in respect of the election to which the petition refers may apply to the court to be substituted as a petitioner for the petitioner who desires to withdraw.
- (3) The court may substitute as a petitioner any applicant under subsection (2) and may further, if the proposed withdrawal has been, in the opinion of the court, induced by any corrupt bargain or consideration, by order, direct that any security given on behalf of the original petitioner shall remain as security for any costs that may become payable by the substituted petitioner and that the original petitioner shall be liable to pay the costs.
- (4) If a petition is withdrawn the petitioner shall be liable to pay the costs of the respondent.

#### **62. Petition to abate on death of petitioner**

An election petition shall abate at the death of the sole petitioner or of all the petitioners.

#### **63. Saving in respect of vacation of office**

Where as a result of the determination of an election petition the election of a person as President is set aside, the determination shall not invalidate anything done by that person prior to the determination, in the purported exercise of the functions of the office of President.

### **Part IX – Illegal practices**

#### **64. Bribery**

- (1) A person who, either before or during an election with intent, either directly or indirectly to influence another person to vote or to refrain from voting for any candidate, gives or provides or causes to be given or provided any money, gift or other consideration to that other person, commits the offence of bribery and is liable on conviction to a fine not exceeding seventy two currency points or imprisonment not exceeding three years or both.
- (2) A person who receives any money, gift or other consideration under subsection (1) also commits the offence under that subsection.
- (3) Subsection (1) does not apply in respect of the provision of refreshments or food—
  - (a) offered by a candidate or candidate's agent who provides refreshments or food as an election expense at a candidates' campaign planning and organisation meeting; or
  - (b) offered by any person other than a candidate or a candidate's agent who, at his or her own expense provides the refreshments or food at a candidates' campaign planning and organisation meeting.

- (4) An offence under subsection (1) shall be an illegal practice.
- (5) Every candidate or candidate's agent who, by himself or herself or any other person, directly or indirectly, before the close of polls on polling day offers, procures or provides or promises to procure or provide any alcoholic beverage to any person commits an illegal practice.
- (6) A person who during the campaign in respect of an election, solicits from a candidate or a candidate's agent any money, gift, alcoholic beverage or other consideration in return for directly or indirectly influencing another person to vote or refraining from voting for a candidate or in consideration for his or her voting for the candidate or not voting for another candidate, commits an illegal practice.
- (7) A candidate or an agent of a candidate shall not carry out fundraising and the giving of donations during the period of campaigning.

*[subsection (7) inserted by section 17 of [Act 14 of 2010](#)]*

- (8) A person who contravenes subsection (7) commits an illegal practice and is liable on conviction to the penalty prescribed in [section 68](#).

*[subsection (8) inserted by section 17 of [Act 14 of 2010](#)]*

- (9) For the purpose of this section, fundraising shall not include the soliciting of funds for a candidate to organise for elections or donations given by the President in the ordinary course of his or her duties.

*[subsection (9) inserted by section 17 of [Act 14 of 2010](#)]*

#### **65. Procuring prohibited persons to vote**

A person who votes or induces or procures any person to vote at an election, knowing that that person is prohibited by law from voting at that election, commits an illegal practice.

#### **66. Publication of false statements as to illness, death or withdrawal of candidate**

A person who, before or during an election, publishes a false statement of the illness, death or withdrawal of a candidate at that election for the purpose of promoting or procuring the election of another candidate knowing that statement to be false or not knowing or believing it on reasonable grounds to be true, commits an illegal practice.

#### **67. Obstruction of voters**

A person who, at an election, or on nomination days, wilfully obstructs a voter, or an aspiring candidate either at the polling station or nomination centre or on his or her way to or from, the polling station, or nomination centre, commits an illegal practice.

#### **68. Penalty for certain illegal practices, under sections [64](#), [65](#), [66](#) and [67](#)**

A person who commits an illegal practice under [sections 64](#)(4), (5), (6) or (8) or [section 65](#), [66](#) or [67](#), commits an offence and is liable to a fine not exceeding forty eight currency points or imprisonment not exceeding two years or both.

*[[section 68](#) amended by section 18 of [Act 14 of 2010](#)]*

## Part X – Other election offences

### 69. False statements concerning character of candidates

- (1) A person who, before or during an election for the purpose of effecting or preventing the election of a candidate, makes or publishes or causes to be made or published by words whether written or spoken, or by song in relation to the personal character of a candidate, a false statement—
- (a) which he or she knows or has reason to believe to be false or
  - (b) in respect of which he or she is reckless whether it is true or false,
- commits an offence and is liable on conviction to a fine not exceeding twelve currency points or imprisonment not exceeding six months or both.

### 70. Misconduct at candidates' meetings

- (1) A person who, at any candidates meeting relating to an election, acts in a disorderly manner for the purpose of disrupting and preventing the transaction of the business for which the meeting is held commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.
- (2) The chairperson of a meeting to which this section applies may direct any person who, in the opinion of the chairperson, is preventing the transaction of the business for which the meeting is being held to leave the place; and if the person fails or refuses to leave, the chairperson may cause that person to be removed from that place using such force as may be reasonably necessary.
- (3) A person who has in accordance with subsection (2), left or who has been removed from a place in which a meeting to which this section applies is taking place, shall not, without the permission of the chairperson of the meeting, return to that place while the meeting is still in progress.
- (4) A person who contravenes subsection (3) commits an offence and is liable on conviction to a fine not exceeding twelve currency points or imprisonment not exceeding six months or both.

### 71. Failure by presiding officers to furnish election returns

A presiding officer who fails without lawful excuse to furnish the returns of the election to the returning officer within the time in which that person is required to furnish those returns commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

### 72. Offences relating to voting

A person who—

- (a) forges or fraudulently defaces or destroys any document relating to the holding of an election, or alters any such document or delivers to the returning officer any document, knowing it to be forged;
- (b) forges, counterfeits or destroys any ballot paper or the official mark on any ballot paper;
- (c) without authority supplies any ballot paper to any person;
- (d) without authority sells or offers to sell any document relating to the holding of an election to any person or purchases or offers to purchase any such document from any person;
- (e) not being a person entitled under this Act to be in possession of any document relating to the holding of an election, has any such document in his or her possession without reasonable cause;
- (f) knowingly and intentionally puts into a ballot box anything other than the ballot paper which he or she is authorised to put in;

- (g) without authority, takes out of a polling station any ballot paper or other official document relating to an election or is found in possession of any ballot paper or such document outside a polling station;
- (h) without due authority, destroys, takes, opens, or otherwise interferes with a ballot box, ballot documents or other property in use or intended to be used for the purpose of an election;
- (i) without due authority, prints any ballot paper or what purports to be or is capable of being used as a ballot paper at an election; or
- (j) not being authorised to do so under this Act, makes any mark on a ballot paper issued to a person, other than the person making the mark, with intent that the ballot paper shall be used to record the vote of that other person,

commits an offence and is liable on conviction to a fine not exceeding one hundred and twenty currency points or imprisonment not exceeding five years or both.

### **73. Unauthorised voting or voting more than once**

A person who knowingly—

- (a) votes at an election at which that person is not entitled to vote; or
- (b) votes more than once at an election,

commits an offence and is liable on conviction to a fine not exceeding one hundred and twenty currency points or to imprisonment not exceeding five years or both.

### **74. Making wrong returns of an election**

An election officer, or other person having any duty to perform in relation to an election who—

- (a) makes in any record, return or other document which he or she is required to keep or make under this Act, any entry which he or she knows or has reasonable cause to believe to be false;
- (b) permits any person whom he or she knows or has reasonable cause to believe not to be a person with disability under subsection (1) of [section 38](#) to vote in the manner provided for such persons under that subsection;
- (c) refuses to permit any person whom he or she knows or has reasonable cause to believe to be a person with disability under subsection (1) of [section 38](#) to vote in the manner provided for such a person under that subsection; or
- (d) wilfully prevents any person from voting at the polling station at which he or she knows or has reasonable cause to believe that person is entitled to vote; or
- (e) wilfully rejects or refuses to count any paper which he or she knows or has reasonable cause to believe is validly cast in favour of a candidate; or
- (f) wilfully counts any ballot paper as being validly cast in favour of a candidate which he or she knows or has reasonable cause to believe was not validly cast for that candidate; or
- (g) without reasonable cause acts or omits to act in breach of his or her official duty,

commits an offence and is liable on conviction to a fine not exceeding one hundred and twenty currency points or imprisonment not exceeding five years or both.

### **75. Personation**

- (1) A person who votes as some other person, commits the offence of personation whether that other person is living or dead or is a fictitious person.

- (2) A person who commits the offence of personation is liable, on conviction, to fine not exceeding one hundred and twenty currency points or imprisonment not exceeding five years or both.

## **76. Offence of undue influence**

- (1) Where a person—
- (a) directly or indirectly in person or through any other person—
    - (i) makes use of, or threatens to make use of, any force or violence;
    - (ii) inflicts or threatens to inflict in person or through any other person any temporal or spiritual injury, damage, harm or loss upon or against any person, in order to induce or compel that person to vote or refrain from voting, or on account of that person having voted or refrained from voting; or
  - (b) by abduction, duress or any fraudulent device or contrivance, impedes or prevails upon a voter either to vote or to refrain from voting,
- that person commits the offence of undue influence.
- (2) A person who commits an offence under subsection (1) is liable on conviction—
- (a) in case of an offence under subsection (1)(a) or in case of an offence under subsection (1)(b) where the offence involves abduction, to a fine not exceeding one hundred and twenty currency points or imprisonment not exceeding five years or both; or
  - (b) in the case of an offence under subsection (1)(b) which does not involve abduction, to a fine not exceeding forty eight currency points or imprisonment not exceeding two years or both.

## **77. Prohibition of certain activities on polling day**

- (1) Without derogation from any other provision of this Act or any other enactment, a person shall not, within one hundred metres from any polling station on any polling day—
- (a) convoke or take part in any gathering of more than twelve persons;
  - (b) canvass for votes;
  - (c) utter any slogan;
  - (d) distribute leaflets or pamphlets for or on behalf of any candidate;
  - (e) organise or engage in public singing or dancing; or
  - (f) use any band or any musical instrument.
- (2) During the hours when a polling station is open on a polling day no person shall, within two hundred metres of any polling station—
- (a) seek to influence, in any manner, any person to vote for any candidate or to ascertain for which candidate any voter intends to vote or has voted; or
  - (b) sell any intoxicating liquor.
- (3) A person who contravenes subsections (1) or (2) commits an offence and is liable, on conviction, to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

## **78. Defacement of notices and posters**

- (1) A person who, without lawful excuse, destroys, mutilates, defaces or removes any notice which is exhibited under the authority of this Act or any document which is made available for inspection

under any provision of this Act commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

- (2) A person who maliciously defaces or removes or tears any election poster of any nominated candidate, commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.
- (3) A court which convicts a person of an offence under subsection (1) shall, within fourteen days after the conviction, report the conviction in writing to the Commission.

#### **79. Obstruction of election officers**

A person who wilfully obstructs or interferes with an election officer in the execution of the officer's duty commits an offence and is liable on conviction to a fine not exceeding seventy two currency points or imprisonment not exceeding three years or to both.

### **Part XI – General**

#### **80. Prior consent of the Director of Public Prosecutions to prosecute**

- (1) A person shall not be prosecuted for an offence under this Act without the consent in writing of the Director of Public Prosecutions.
- (2) Subsection (1) shall not prevent a person from being—
  - (a) charged with an offence under this Act;
  - (b) arrested with or without warrant in respect of any such offence; or
  - (c) remanded on bail or in custody in respect of any such offence;without the consent of the Director of Public Prosecutions.
- (3) In a prosecution for an offence under this Act in relation to a ballot paper or other document, the property in the ballot paper or other document, as well as the property in the counterfoil of any ballot paper, shall be stated to be vested in the Commission.

#### **81. Time within which criminal proceedings must be commenced**

Proceedings against a person in respect of any offence under this Act shall be commenced within three months after the offence which is alleged to have been committed or within one month after a court finds, on trial of a petition, that an offence may have been committed.

#### **82. A person not to be required to divulge how he or she voted**

No person who has voted at an election shall in any legal proceedings, whether taken to question the election or return or otherwise, be required to state for whom he or she has voted.

#### **83. Penalty for interruption**

A person who wilfully interrupts, obstructs or disturbs any proceeding taken under this Act in connection with an election, or disturbs the peace and good order of any such proceedings, commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

#### **84. Service of notice and documents**

- (1) A public notice required to be given by any person under this Act shall, except where it is expressly directed to be published in the *Gazette* or in any other particular manner, be sufficiently given if it



is published in a newspaper circulating in the constituency or area intended to be affected by the notice or if it is posted outside the principal outer door of every magistrates court office in that constituency or area or in such other place or places, if any, as the Commission may determine.

- (2) Except as otherwise specially provided in this Act and without derogation from the Interpretation Act, when any notice or other document is required to be served on any person under this Act, it may be served—
  - (a) by delivering it to the person to whom it is addressed or his or her authorised agent;
  - (b) by leaving it at his or her last known place of residence or any place of residence stated on a voters roll as his or her place of residence; or
  - (c) by sending it to any place of residence referred to in paragraph (b) through the post by registered letter marked upon the outside “electoral notice letter”; and, unless the contrary is proved, the notice or other document shall be taken to have been served at the time at which the registered letter would have been delivered in the ordinary course of post.

#### **85. When appointed dates fall on weekend or public holiday**

Whenever under this Act anything is required to be commenced, concluded or done on a particular day, and that day happens to fall upon a Saturday or Sunday or public holiday, that thing shall be commenced, concluded or done on the day next succeeding the Sunday or public holiday or, if the last mentioned day is also a Saturday or Sunday or a public holiday, then on the day next succeeding the Sunday or public holiday.

#### **86. Publications in media**

Whenever any matter is required to be published in the *Gazette*, it shall also as soon as practicable, be published in a newspaper circulating in the relevant area.

#### **87. Modification of Act pursuant to change in political system under article 74**

- (1) Where a new political system is adopted in accordance with article 74 of the Constitution, this Act, and any statutory instruments made under it, shall have effect subject to such modifications as are practical and necessary to give effect to the adoption of the new political system under article 74 of the Constitution.
- (2) Where a new political system is adopted as referred to in subsection (1), the Minister may, with the prior approval of Parliament, make such regulations as may be necessary for giving effect to the change in the political system for the purposes of this Act and may, in particular, subject to subsection (1), where necessary, by such regulations, make different provision for campaigning than what is prescribed under this Act.

#### **88. Regulations**

- (1) The Minister may, on the recommendation of the Commission and with the approval of Parliament, by statutory instrument, make regulations for giving effect to the provisions of this Act.
- (2) Without prejudice to the general effect of subsection (1), regulations may be made under that subsection for any or all of the following matters—
  - (a) the form of any document to be used in carrying out any purposes of this Act other than forms in proceedings before a court under this Act;
  - (b) the duties of election officers, including the manner of identifying voters for issuing to them of ballot papers and the questions to be put to them;

- (c) such measures to be taken in connection with an election as may be desirable or expedient to ensure that—
  - (i) employers provide their employees with an opportunity to vote in any election;
  - (ii) candidates are afforded reasonable and equal access to the use of State-owned communication media, for the purposes of complying with article 67(2) and (3) of the Constitution and [section 23](#) (1) and (2) of this Act.
- (d) where practicable, measures necessary for ensuring that Ugandans qualified to vote but resident outside Uganda, are enabled to vote.
- (3) Regulations made under this section may provide in respect of a contravention of the regulations any penalty not exceeding a fine of twelve currency points or imprisonment not six months or both.

## 89. Power of Minister to amend First Schedule

The Minister may, with the approval of the Cabinet, by statutory instrument, amend the First Schedule to this Act.

## 90. Repeal and saving

- (1) The Presidential Elections Act is repealed.
- (2) Without prejudice to the Interpretation Act, any statutory instrument, form or other document made or issued under or existing by virtue of the Presidential Elections Act, and in force at the commencement of this Act, shall, with the necessary modifications, continue in force until revoked or replaced under this Act.
- (3) The constituencies to be used for an election under this Act shall be those used for parliamentary elections under the Parliamentary Elections Act.

## First Schedule (Section 1)

### Currency point

One currency point is equivalent to twenty thousand shillings.

## Second Schedule (Section 4)

### Certificate of completion of formal education of Advanced Level standard or of its equivalent

#### *The Presidential Elections Act*

I certify that \_\_\_\_\_ (*name*), who was born on the \_\_\_\_\_ (*date of birth*), has satisfied the National Council for Higher Education in consultation with the Uganda National Examinations Board that he/she has completed formal education of Advanced Level standard or its equivalent, in that he/she holds the following qualification/s—

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Secretary of National Council for Higher Education

Date \_\_\_\_\_

[ ] Seal of National Council for Higher Education

Serial Number \_\_\_\_\_

**Third Schedule (Section 10)****Nomination paper for presidential elections**

We, the undersigned, being registered voters, nominate the under-mentioned person as a candidate at the presidential election

<b>Candidate's Name in full</b>	<b>Other Names</b>	<b>Place of Residence and Address</b>	<b>Occupation or Profession</b>	<b>Voters' Registration Number</b>	<b>Age and Sex</b>

Proposer \_\_\_\_\_ (Name) \_\_\_\_\_ (Signature) \_\_\_\_\_ (Voters Reg. Number)

Seconder \_\_\_\_\_ (Name) \_\_\_\_\_ (Signature) \_\_\_\_\_ (Voters Reg. Number)

***Proposed candidate***

I \_\_\_\_\_ consent to my nomination as a candidate for the presidential election and my name and address for serving papers are \_\_\_\_\_

*name in full (Block Capitals)*

Address \_\_\_\_\_

I am sponsored for nomination by \_\_\_\_\_

*(state name of political party or organisation)*

whose address is \_\_\_\_\_

(state address of political party or organisation)

Signature \_\_\_\_\_

\* Attach list of names of ONE HUNDRED supporters from each of at least two thirds of all the districts in Uganda in the attached form.

***Nomination of presidential candidate***

***Registered voters supporting candidate***

***Presidential Elections Act***

We the undersigned support the candidature of \_\_\_\_\_ for election to the office of President

Name of district \_\_\_\_\_

Serial No.	Name of Supporter (surname & other names)	Signature or thumb print	Voter's Number	Age	Sex	Constituency	Parish	Village
1.								
2.								
3.								
4.								
5.								
6.								
7.								
8.								
9.								
10.								
11.								
12.								
13.								
14.								

#### Fourth Schedule (Section 10(6)(a))

##### Declaration of a person seeking to be nominated as a candidate for election as President of Uganda

I \_\_\_\_\_ solemnly and sincerely declare that—

1. I am a citizen of Uganda by birth.
2. I have attained the age of thirty five years and I am not more than seventy five years of age.

3. I am registered as a voter in the \_\_\_\_\_ constituency with voter's registration number \_\_\_\_\_.
4. I attach a certificate issued by the National Council for Higher Education, in accordance with section 4 of the Presidential Elections Act, certifying that I have completed a minimum formal education of Advanced Level Standard or its equivalent as required by articles 80 (l)(c) and 102(c) of the Constitution.
5. I do not owe allegiance to any country other than Uganda.
6. (i) I have paid all taxes due from me; or  
(ii) I have made arrangements satisfactory to the appropriate authority for the payment of my taxes.  
*\*(delete where inapplicable)*
7. I have not been adjudged or otherwise declared—  
(i) bankrupt under any law in force in Uganda from which I have not been discharged; nor  
(ii) to be of unsound mind under any law in force in Uganda.
8. I am not under sentence of death or other sentence of imprisonment exceeding nine months without the option of a fine, imposed on me by any competent court.
9. I am not disqualified by reason of my holding or acting in any office the functions of which involve a responsibility for or in connection with the conduct of an election.

I make this solemn declaration knowing and believing it to be true.

Subscribed and solemnly declared by me on this \_\_ day of \_\_\_\_ 20\_\_

\_\_\_\_\_

Candidate

Before me \_\_\_\_\_ \*

\*A Commissioner for Oaths, Magistrate, Registrar of High Court (including deputy and district registrar) or other person authorised by law to administer oaths.

## Fifth Schedule (Section 41(2))

### Report of arrest

Date \_\_\_\_\_

Polling station \_\_\_\_\_

I, \_\_\_\_\_ being returning officer/presiding officer have arrested/caused the arrest or (particulars of person) \_\_\_\_\_ for the following reasons.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Returning Officer/Presiding Officer

## Sixth Schedule

### Forms

#### *Form EO (Section 7)*

#### *Oath of election officer*

#### *Presidential Elections Act*

I \_\_\_\_\_ having been appointed \_\_\_\_\_ swear/affirm that I will not directly or indirectly reveal to any person any matter that may come to my knowledge or notice as result of my appointment unless so authorised by law.

SWORN/AFFIRMED before me this \_\_\_\_ day of \_\_\_\_\_ 200\_\_

\_\_\_\_\_

\*Signature

\*A commissioner for oaths/magistrate, registrar of High Court (including deputy and district registrar) or other person authorised by law to administer oaths.

#### *Form ID (Section 37(1))*

#### *Declaration of identity by a person whose name and voter number have already been used by another person*

#### *The Presidential Elections Act*

I, \_\_\_\_\_ of \_\_\_\_\_ polling station \_\_\_\_\_ village \_\_\_\_\_ Constituency \_\_\_\_\_ District, solemnly and sincerely declare that:

1. I am a citizen of Uganda;
2. I am not below the age of eighteen years;
3. I am entitled to vote in this polling station because I \_\_\_\_\_ (originate from, reside in or work in gainful employment in) this electoral area;
4. I am the holder of voter card No \_\_\_\_\_
5. I have not yet voted in this particular polling station or elsewhere during this election;
6. I have not colluded with any person to vote in my name and under my voter number under the above mentioned voter number.

I make this solemn declaration conscientiously believing the contents to be true to the best of my knowledge and belief.

\_\_\_\_\_

Name and signature of voter

Subscribed and declared before me at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_

\_\_\_\_\_

Presiding Officer

#### *Form OC (Section 42(4))*

***Oath of election constable***

***The Presidential Elections Act***

I \_\_\_\_\_ being appointed to exercise the function of election constable of the Electoral Commission swear in the name of the Almighty God/solemnly affirm that I will discharge my duties in maintaining order at the polling station to the best of my abilities without fear or favour.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_

\_\_\_\_\_  
Election Constable

\_\_\_\_\_  
Presiding Officer

**Seventh Schedule (Section 19)**

**Declaration of results forms**

***Form A***

***Declaration of unopposed candidate elected president***

***The Presidential Elections Act***

WHEREAS the \_\_ day and day of \_\_\_\_\_, in the year \_\_\_\_ were appointed nomination days for the Presidential Election scheduled to be held on the \_\_\_\_ day of \_\_\_\_\_ in the year 20 \_\_\_\_

AND WHEREAS at the close on nominations on the \_\_\_\_ day of \_\_\_\_\_ in the year 20\_\_ \_\_\_\_\_  
(name of candidate) was the sole candidate nominated;

NOW THEREFORE in exercise of the powers conferred on the Electoral Commission by section 19 of the Presidential Elections Act, the commission publishes and declares that \_\_\_\_\_ (name of candidate) \_\_\_\_\_ elected as President of the Republic of Uganda with effect from the dated fixed for the poll for the presidential election namely, the \_\_ day of \_\_\_\_\_ in the year 20\_\_

DATED this \_\_\_\_\_ day of \_\_\_\_\_ in the year 20\_\_

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Deputy Chairperson

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

***Form B (Section 57)***

***Declaration of results when there is a winning candidate***



(Under Article 103 (7) of the Constitution and section \_\_\_\_\_ of the Presidential Elections Act)

Whereas a presidential election was held on the \_\_\_\_\_ day of \_\_\_\_\_, at which the candidates were \_\_\_\_\_

AND WHEREAS polling for the presidential election closed at \_\_\_\_\_ on \_\_\_\_\_ the day of \_\_\_\_\_

AND WHEREAS the electoral commission has ascertained the results of the presidential election;

NOW THEREFORE, in exercise of the powers conferred on the Electoral Commission by article 103(7) of the Constitution and section 57 of the Presidential Elections Act, the commission publishes and declares the results of the presidential election as follows –

Candidates' names (in alphabetical order, surname first)	Number of valid votes polled by each candidate	Percentage of total valid votes cast
	_____	_____
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____

Total number of valid votes cast for candidates \_\_\_\_\_

Total number of invalid votes \_\_\_\_\_ amounting to percent of the total number of votes cast.

Total number of votes cast \_\_\_\_\_ amounting to percent of the total number of registered voters.

NOW THEREFORE the candidate \_\_\_\_\_ having obtained the highest number of votes in the election and the votes cast in his/her favour being more than 50 percent of the valid votes cast at the election, the commission declares \_\_\_\_\_ elected president of the Republic of Uganda at the presidential election held on the \_\_\_ day of \_\_\_\_\_

Dated this \_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Deputy Chairperson

\_\_\_\_\_  
Commissioner

Commissioner

\_\_\_\_\_

Secretary/Electoral Commission.

***Form C (Section 57)***

***Declaration of results when there is no winning candidate***

***(Under article 103(7) of the Constitution and section 57 of the Presidential Elections Act)***

WHEREAS a presidential election was held on the \_\_\_ day of \_\_\_\_\_ at which the candidates were

\_\_\_\_\_

AND WHEREAS polling for the presidential election closed at \_\_\_\_\_ on the \_\_\_ day of \_\_\_\_\_

AND WHEREAS the Electoral Commission has ascertained the results of the presidential election;

NOW THEREFORE, in exercise of the powers conferred on the electoral commission by article 103(7) of the Constitution and section 57 of the Presidential Elections Act, the commission publishes and declares the results of the presidential election as follows —

Candidates' names (in alphabetical order, surname first)	Number of valid votes polled by each candidate	Percentage of total valid votes cast
	_____	_____
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____

Total number of valid votes cast for candidates \_\_\_\_\_

Total number of invalid votes \_\_\_\_\_ amounting to \_\_\_\_\_ percent of the total number of votes cast.

Total number of votes cast \_\_\_\_\_ amounting to \_\_\_\_\_ percent of the total number of registered voters.

No candidate obtained more than fifty percent of the valid votes cast at the election.

Dated this \_\_\_ day of \_\_\_\_\_, 20\_\_\_

\_\_\_\_\_

Chairperson

\_\_\_\_\_

Deputy Chairperson

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Commissioner

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Commissioner

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Commissioner

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Commissioner

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Commissioner

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Commissioner

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Secretary/Electoral Commission