

ACTS SUPPLEMENT

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Act 14 *Presidential Elections (Amendment) Act* **2010**

THE PRESIDENTIAL ELECTIONS (AMENDMENT) ACT, 2010.

ARRANGEMENT OF SECTIONS.

Section.

1. Amendment of section 3 of the Presidential Elections Act, 2005.
2. Amendment of section 6 of the principal Act.
3. Amendment of section 15 of the principal Act.
4. Amendment of section 16 of the principal Act.
5. Amendment of section 17 of the principal Act.
6. Insertion of new section 19A in the principal Act.
7. Amendment of section 22 of the principal Act.
8. Amendment of section 27 of the principal Act.
9. Insertion of new section section 28A in the principal Act.
10. Amendment of section 33 of the principal Act.
11. Amendment of section 35 of the principal Act.
12. Amendment of section 39 of the principal Act.
13. Amendment of section 42 of the principal Act.
14. Amendment of section 51 of the principal Act.
15. Amendment of section 52 of the principal Act.
16. Amendment of section 56 of the principal Act
17. Amendment of section 64 of the principal Act
18. Amendment of section 68 of the principal Act

THE PRESIDENTIAL ELECTIONS (AMENDMENT) ACT, 2010

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

DATE OF ASSENT: 5th June, 2010.

Date of Commencement: 25th June, 2010.

BE IT ENACTED by Parliament as follows:

1. Amendment of section 3 of the Presidential Elections Act, 2005.

The Presidential Elections Act, 2005, in this Act referred to as the principal Act is amended in section 3(1) by deleting the words “within twelve months before the nomination date”.

2. Amendment of section 6 of the principal Act.

Section 6 of the Principal Act is amended in subsection (2) by inserting at the end of the subsection the following—

“in any case not later than twenty four hours before polling day”.

3. Amendment of section 15 of the principal Act.

Section 15 of the principal Act is amended by repealing paragraph (c) of subsection (1).

4. Amendment of section 16 of the principal Act.

Section 16 of the principal Act is amended in subsection (3) by substituting for the words “seven days”, the words “ten days”.

5. Amendment of section 17 of the principal Act.

Section 17 of the principal Act is amended by inserting immediately after subsection (2) the following new subsection—

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

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

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

“19A. Withdrawal of candidates for election

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

7. Amendment of section 22 of the principal Act.

Section 22 of the principal Act is amended by inserting immediately after subsection (1) the following new subsection—

- (1a) “Notwithstanding subsection (1), the Commission shall consult a candidate on his or her security detail.”

8. Amendment of section 27 of the principal Act.

Section 27 of the principal Act is amended—

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

“(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.”

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

(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.

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

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

“28(A) 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.”

10. Amendment of section 33 of the principal Act.

Section 33 of the principal Act is amended—

- (a) by inserting at the end of subsection (3) the following—

“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”;

- (b) by deleting subsection (4).

11. Amendment of section 35 of the principal Act.

Section 35 of the principal Act is amended—

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

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

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

“(3a) Where a person has a voter's card and his or her name appears 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.”

12. Amendment of section 39 of the principal Act.

The principal Act is amended by substituting for section 39 the following—

“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.”

13. Amendment of S.42 of the principal Act.

The principal Act is amended by substituting for section 42 the following—

“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.”

14. Amendment of section 51 of the principal Act.

The principal Act is amended in section 51—

(a) in subsection (1)—

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

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

“(c) one copy shall be enclosed in an envelope supplied by the Commission for the purpose, sealed by the presiding officer and delivered to the sub-county headquarters or division headquarters to the

designated officer of the Commission, together with the report book for transmission to the returning officer.”;

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

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

15. Amendment of section 52 of the principal Act.

The principal Act is amended in section 52—

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

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

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

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

16. Amendment of section 56 of the principal Act

Section 56 of the principal Act is amended—

- (a) by repealing subsection (2)(b); and

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

“(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.”

17. Amendment of section 64 of the principal Act

Section 64 of the principal Act is amended by inserting immediately after subsection (6) the following new subsection—

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

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

(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.”

18. Amendment of section 68 of the principal Act

Section 68 of the principal is amended by substituting for “section 64 (4) or (6)” the following—

“Section 64(4), (5), (6) or (8)”.