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THE UNITED REPUBLIC OF TANZANIA

ACT NO. 1 OF 2024

ENGLISH VERSION

THE INDEPENDENT NATIONAL ELECTORAL COMMISSION ACT

[PRINCIPAL LEGISLATION]

This version of the Independent National Electoral Commission Act, has been translated into English Language, and is published pursuant to section 84(4) of the Interpretation of Law Act, Chapter 1.

Dodoma,
8th July, 2024

ELIEZER MBUKI FELESHI
Attorney General

THE INDEPENDENT NATIONAL ELECTORAL COMMISSION ACT, 2024

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THE UNITED REPUBLIC OF TANZANIA



NO. 2 OF 2024

I ASSENT

SAMIA SULUHU HASSAN
President

[7th March, 2024]

An Act to provide for the composition, duties and procedures for recruitment of Members of the Commission and qualifications for the Director of the Elections, procedures for conducting meetings of the Independent National Electoral Commission and other related matters.

ENACTED by the Parliament of the United Republic of Tanzania.

PART I
PRELIMINARY PROVISIONS

Short title and
commencement

1. This Act may be cited as the Independent National Electoral Commission Act, 2024 and shall come into operation on such date as the Minister shall, by notice published in the *Gazette*, appoint.

Application

2. This Act shall apply to Mainland Tanzania as well as Tanzania Zanzibar, except that for matters relating to councillors elections it shall apply to Mainland Tanzania.

Interpretation

3. In this Act, unless the context otherwise requires-
“constituency” means a constituency for purposes of

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election to the National Assembly;

“Constitution” means the Constitution of the United Republic of Tanzania, 1977;

“Member” means a person appointed to be a member of the Commission under Article 74 of the Constitution;

“Director of Elections” means a person appointed to be the Director of Elections in accordance with the provisions of section 17 and includes a person for the time being performing any of the functions of that office;

“Chairman” means the Chairman appointed to head the Commission and includes the Vice Chairman;

“President” means the President of the United Republic of Tanzania;

“Commission” means the Electoral Commission of the United Republic established under Article 74(1) of the Constitution;

“election” means election of the President, Members of Parliament and Councillors and includes by-election of a Member of Parliament or Councillor;

“Minister” means the Minister responsible for elections matters.

PART II

ESTABLISHMENT, COMPOSITION AND RESPONSIBILITIES OF THE INDEPENDENT NATIONAL ELECTORAL COMMISSION

Establishment of Commission

4. There shall be an Electoral Commission of the United Republic established under Article 74(1) of the Constitution, which shall also be known as “The Independent National Electoral Commission”.

Composition of Commission

5.-(1) The Independent National Electoral Commission shall consist of a Chairman, Vice Chairman and other five members to be appointed by the President.

(2) The President shall appoint members of the Commission as follows:

(a) the Chairman and Vice Chairman of the Commission from amongst names

recommended by the Nomination Committee in accordance with Article 74(1)(a) and (b) and (2) of the Constitution and regulations which shall be made under this Act; and

- (b) other members of the Commission from amongst names which shall be submitted by the Nomination Committee after interview.

(3) A Chairman, Vice Chairman and members of the Independent National Electoral Commission shall hold office after being sworn in by the President.

(4) Appointment of Chairman and Vice Chairman of the Commission shall be on the basis that, where the Chairman is appointed from one part of the United Republic, the Vice Chairman shall be appointed from the other part of the United Republic.

(5) The Director of Elections shall be the Secretary and Chief Executive of the Commission.

Status of
Commission

6.-(1) The Commission shall be an autonomous and independent body and its decisions shall not be interfered with any other body or be obliged to comply with any orders from any person or any Government department or an opinion from any political party.

(2) The Commission shall be a body corporate which shall be capable of owning property and have a logo and official seal and may, by its corporate name-

- (a) acquire and own movable and immovable property;
- (b) sue or be sued; and
- (c) do or implement all matters which may be done or be implemented by a body corporate.

(3) Where the Commission sues or is being sued, it shall notify the Attorney General to be party to the suit for purposes of adherence to the provisions of the Government Proceedings Act.

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Qualification of
Members of
Commission

7.-(1) A Chairman or Vice-Chairman of the Commission shall be a Judge of the High Court or Justice of the Court of Appeal or a person with qualifications to be an advocate and has held such qualifications for a period of not less than fifteen years.

(2) Other five Members shall have the following qualifications:

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- (a) a citizen of the United Republic by birth in accordance with the Tanzania Citizenship Act;
- (b) a person with honesty and integrity;
- (c) a person with experience in leadership, administration or matters relating to elections; and
- (d) a person who may duly perform his duties.

Tenure of service

8.-(1) A Member of the Commission shall hold office for a term of five years.

(2) A Member of the Commission shall cease to be a member in the occurrence of any of the following:

- (a) upon the expiration of five years since his appointment;
- (b) upon death;
- (c) upon resignation;
- (d) where anything happens which, had he not been a member of the Commission, would have disqualified him for appointment as a member of the Commission; or
- (e) upon removal by the President.

(3) The President may remove a member from office due to-

- (a) inability to discharge his functions due to illness or any other reason;
- (b) misconduct which affects code of conduct of a member of the Commission or which contravenes the Public Leadership Code of Ethics Act; or
- (c) loss of the qualifications for appointment as a member.

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(4) Where the question of removal of a member of the Commission arises, the President may appoint a Committee which shall make inquiry and advise him accordingly.

(5) The Committee referred to under subsection (4) shall consist of the following members:

- (a) a Justice of the Court of Appeal who shall be

- the Chairman;
- (b) the Commissioner of the Commission for Human Rights and Good Governance;
- (c) the Commissioner of the Ethics Secretariat;
- (d) the Chairman of the Zanzibar Public Leaders Code of Ethics Commission;
- (e) two members with experience in election matters, one from Mainland Tanzania and the other from Tanzania Zanzibar; and
- (f) one member as the President deems fit, having regard to gender.

(6) Subject to subsection (5), the Chairman of the Inquiry Committee shall nominate a senior public officer to be the Secretary to the Committee.

(7) In the performance of its duties, the Inquiry Committee shall regulate its own procedures.

Nomination
Committee

9.-(1) Where at any time a member or members of the Commission need to be appointed, the President shall convene the Nomination Committee.

(2) The Committee convened under subsection (1) shall consist of the following members:

- (a) the Chief Justice of the United Republic who shall be the Chairman;
- (b) the Chief Justice of Zanzibar who shall be the Vice-Chairman;
- (c) the Chairman and Vice-Chairman of the Commission for Human Rights and Good Governance; and
- (d) one member appointed by the President, having regard to gender.

(3) The Secretary to the Nomination Committee shall be a senior public officer who shall be appointed by the President.

(4) Members of the Committee shall, prior to commencing execution of their functions, take oath before the President.

(5) The Nomination Committee shall, within fourteen days after being convened, issue a notice to the public through at least two newspapers with wide circulation in the country and via other media to invite

citizens intending to apply to be nominated as members of the Commission to submit their applications before the Committee.

(6) The Nomination Committee shall, upon receipt and scrutiny of applications for appointment as members of the Commission, interview the applicants and recommend to the President names of persons with qualifications to be appointed as members of the Commission.

(7) Subject to subsection (6) and section 5(2), the procedure for-

(a) obtaining names of persons recommended for appointment as Chairman and Vice-Chairman; and

(b) the nomination process of other members of the Commission, shall be as prescribed in the regulations.

(8) The Nomination Committee shall submit to the President four names in excess of the number of positions to be filled.

(9) The tenure of the Nomination Committee shall expire immediately after the President appoints Members of the Commission.

Functions of
Commission

10.-(1) Subject to the provisions of Articles 74(6), 75 and 78 of the Constitution, the Commission shall have the following functions:

(a) to supervise and coordinate registration of voters in Presidential and Parliamentary election in the United Republic and the Councillors election in Mainland Tanzania;

(b) to supervise and coordinate the conduct of Presidential and Parliamentary elections of United Republic and Councillors elections for Mainland Tanzania;

(c) to supervise and coordinate the conduct of local government elections in villages, mtaa and kitongoji subject to procedures to be prescribed in the law to be enacted by Parliament;

(d) to review the boundaries and demarcate the

United Republic into various areas for the purposes of Parliamentary elections;

- (e) to nominate and declare Members of the Parliament for women special seats in the United Republic and Councillors women special seats in Mainland Tanzania;
- (f) to prepare and administer the Electoral Code of Conduct;
- (g) to provide voters' education within the country;
- (h) to coordinate and supervise organisations and institutions which provide voter's education;
- (i) to invite and accredit election observers;
- (j) to employ or appoint employees and staff of the Commission as may be required subject to the provisions of the Public Service Act and other conditions as provided by the Commission; and
- (k) to perform any other functions as prescribed in the Constitution or any other written law.

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(2) The Commission may delegate its functions or part of its functions to the Director of Elections, employee or any other staff of the Commission.

Code of ethics for
members of
Commission
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11. For the purpose of effective discharge of the functions of the Commission, every Member of the Commission shall comply with the Public Leadership Code of Ethics Act and code of ethics and conduct made under this Act.

Meetings of
Commission

12.-(1) Subject to the provisions of Article 74(7) of the Constitution, the Commission shall make its official decision on the implementation of its functions through meetings.

(2) The Commission shall hold at least four ordinary meetings per year.

(3) Without prejudice to the provisions of subsection (2), the Commission may hold extra-ordinary meetings at any time where it appears necessary to do so.

(4) The Commission shall hold its meeting at a place and time to be determined by the Commission.

(5) The Chairman shall ensure that every Member of the Commission is given notice of the meeting as soon as possible before the meeting takes place.

(6) Subject to the provisions of this Act, the Chairman shall preside over all meetings of the Commission and in the absence of the Chairman, the Vice-Chairman shall preside, or if both are not present, the members present may elect one member from amongst them to be a temporary Chairman of the respective meeting.

Quorum at
Commission
meetings

13. The quorum at any meeting of the Commission shall be at least four members.

Decision of
Commission

14.-(1) A decision at any meeting of the Commission shall be reached by way of consensus of the majority members.

(2) Where at any meeting of the Commission a decision has to be made by voting, the Chairman, Vice-Chairman or the temporary chairman presiding at a meeting shall, in the event of equality of votes, have a casting vote in addition to his deliberative vote.

Allowances and
entitlements for
members of
Commission

15.-(1) Members of the Commission shall be paid allowances and other entitlements according to the laws, regulations, procedures and directives issued by the respective authority.

(2) Members of the Commission shall be paid gratuity upon completion of tenure of service.

Relationship
between
Commission and
Electoral
Commission of
Tanzania Zanzibar

16. Subject to the provisions of Article 74(13) of the Constitution, the Commission shall, from time to time, consult with the Electoral Commission of Tanzania Zanzibar in the performance of its functions.

PART III

SECRETARIAT OF THE INDEPENDENT NATIONAL ELECTORAL
COMMISSION

Director of
Elections

17.-(1) There shall be a Director of Elections who shall be appointed by the President upon recommendation by the Commission.

(2) The Director of Elections shall hold the following qualifications:

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(a) a citizen of the United Republic by birth in accordance with the Tanzania Citizenship Act;

(b) a person with honesty and integrity;

(c) possesses a bachelor degree from a legally recognised higher learning institution; and

(d) a senior public officer.

Code of conduct
for Director of
Elections
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18. The Director of Elections shall take oath before the President before commencement of his functions and shall comply with the Leadership Code of Ethics Act and code of ethics and conduct made under this Act.

Functions of
Director of
Elections

19.-(1) The Director of Elections shall be the chief executive and principal supervisor of day-to-day operations of the Commission.

(2) The Director of Elections shall be the accounting officer of the Commission and shall perform such function in accordance with the financial laws, regulations and procedures.

(3) Without prejudice to subsection (1), the Director of Elections shall perform the following functions:

(a) preparing and coordinating meetings of the Commission;

(b) supervising and coordinating voters' registration;

(c) supervising and coordinating the conduct of elections;

(d) providing expert advice to the Commission in the performance of its functions;

(e) preparing the budget and calendar of the

Commission's activities;

- (f) keeping record of Commission meetings;
- (g) preparing various Commission documents;
- (h) collaborating with local and foreign institutions undertaking activities relating to elections, democracy and good governance;
- (i) supervising the implementation of the directives issued to electoral staff in carrying out their functions as directed by the Commission;
- (j) managing the human resources and assets of the Commission;
- (k) conducting researches relating to elections; and
- (l) performing any other functions as may be directed by the Commission in accordance with this Act.

(4) The Director of Elections shall perform his functions and be assisted by staff who are public officers or other qualified persons as may be required.

Employees and
staff of
Commission

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1 of 2024

20.-(1) For the purposes of this Act, an officer employed, appointed or seconded to the Commission shall, in the course of discharging the functions of the Commission, be deemed to be an employee of the Commission and shall be required to comply with the Constitution, this Act, the Presidential, Parliamentary and Councillors Election Act and any other written law relating to the performance of the Commission's functions.

(2) Any person employed for the purpose of performing functions of the Commission, if not employed in the public service, shall receive reasonable remuneration for the service as the Commission may deem fit to authorise.

PART IV FINANCIAL PROVISIONS

Funds for
management of
Commission

21. Funds for management of the operations of the Commission shall be paid out of the Government

budget.

Expenses to be
paid out of
Consolidated
Fund

22. All expenses incurred-
- (a) in the preparation of the register, the issue of voter's card and in doing such other matters or things as may be required to be done for the purpose of carrying out the provisions of this Act;
 - (b) by the Commission, the Director of Elections, Returning Officers and any other person employed in the conduct of an election;
 - (c) in the payment of the officers specified in section 20(2); and
 - (d) for the payment made to any public officer in any official activity in relation to or arising from election,

shall be a charge on and paid out of the Consolidated Fund.

Accounts and
audit

23.-(1) The Director of Elections shall keep books and records of accounts and other records relating to the operations of the Commission and prepare the annual financial statement in accordance with the Public Finance Act.

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(2) The accounts of the Commission shall be audited by the Controller and Auditor General.

Annual report

24.-(1) The Commission shall, within three months after the end of the financial year, prepare and submit an annual report in respect of the preceding financial year and submit such report to the Minister who shall lay it before the National Assembly.

(2) The annual report shall contain-

- (a) detailed information on the performance of the Commission in the respective year;
- (b) a copy of the audited accounts of the Commission and the audit report of the Controller and Auditor General; and
- (c) any other information as the Commission may be required to provide under this Act.

PART V
MISCELLANEOUS PROVISIONS

Scheme of service
for Secretariat of
Commission

25. The Commission shall, in consultation with the Minister responsible for public service, prepare a scheme of service for the Secretariat of the Commission.

Regulations and
guidelines

26. The Commission may make regulations and guidelines, and issue directives for effective implementation of its functions.

Transitional
provisions

27. Immediately after coming into operation of this Act, any person who is the Chairman, Vice-Chairman or member of the Commission shall continue to hold office until his membership ceases.

Passed by the National Assembly on 2nd February, 2024.

NENELWA JOYCE MWIHAMBI
Clerk of the National Assembly

