

## ELECTIONS COMMISSION ACT

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| Description and short title             | 1. (a) This Act is to make provision for the functions, duties, powers, composition and qualifications of members of the “Elections Commission” appointed under the Constitution of the Republic of Maldives.<br><br>(b) This Act shall be cited as the “ <i>Elections Commission Act</i> ”.  |
| Legal status                            | 2. The Elections Commission is a separate legal entity having a common seal, with power to sue and be sued in its own name and make undertakings in its own capacity.   |
| Composition of the Elections Commission | 3. The Elections Commission shall comprise of five members.   |
| Appointment of members                  | 4. (a) In accordance with article (b), members of the Elections Commission shall be appointed by the President.<br><br>(b) Whenever it is necessary to appoint members or a member to the Elections Commission, the President shall submit to the People’s Majlis nominations in numbers of at least the required number of membership positions to be filled.<br><br>(c) The nominations submitted to the People’s Majlis in accordance with article (b) shall be respondents from the general public. When submitting these nominations, the President shall also submit the names of the remaining respondents from the general public.<br><br>(d) The President shall appoint to the Elections Commission those persons approved by a majority of the People’s Majlis from the names submitted to the People’s Majlis by the President as specified in article (b).<br><br>(e) A person appointed to Elections Commission shall possess the education qualifications, experience and recognized competence necessary to |

discharge the functions of the Elections Commission, and shall possess the qualifications specified in Article 5.

- Qualifications of Members
5. A person elected as a member of the Elections Commission shall have the following qualifications:
- (a) be a Muslim;
  - (b) be a citizen of the Maldives;
  - (c) be twenty five years of age;
  - (d) not have been convicted of an offence, during the past five years, for which a *hadd* is prescribed in Islam;
  - (e) not be a person holding an elective office or political position under the Constitution or laws of the Republic of Maldives;
  - (f) not hold any other office or employment, in government or private sector;
  - (g) not have been convicted of a criminal offence and sentenced to a term of more than twelve months, unless a period of five years has elapsed since his release, or pardon for the offence for which he was sentenced;
  - (h) not be a member of any political party or engage in any of its activity.
- Term of office
6. (a) A member of the Elections Commission shall be appointed for one term of five years from the date of his appointment.
- (b) Despite the provisions of article (a), the People’s Majlis can approve the renewal of the appointment for an additional term of not more than five years, except for members removed from office in accordance with Article 14.
- President and Vice-President of the Elections Commission
7. There shall be a President and a Vice-President of the Elections Commission appointed from among the members, by the members. Within forty eight hours of appointment of the President and Vice-President, the Elections Commission shall inform the President and the People’s Majlis the names of the persons appointed.

- Duties of president 8. The President of the Elections Commission shall preside over all its sessions and designate members to discharge its functions.
- Duties of vice-president 9. If the office of the President becomes vacant or if the President is unable to or refuses to discharge the duties of his office, the Vice-President shall assume the duties and exercise the powers of the President. He shall also perform such duties as the President may designate.
- Vacancy of post 10. (a) The office of a member shall be deemed vacant on the happening of any of the following event:
1. expiration of term of office;
  2. his resignation;
  3. his removal from office in accordance with Article 14;
  4. if he runs for a political position under the Constitution or any law of the Republic of Maldives;
  5. death;
  6. failure to fulfill any qualifications of a member specified in this Act.
- (b) The office of the President or Vice-President shall be deemed vacant under the same circumstances where a member's post becomes vacant, or if the President or Vice-President resign from his post.
- Filling a vacancy 11. (a) In the event of an expiration of term of office of the President or Vice-President or a member in accordance with Article 10 (a) (i), the advice of the People's Majlis shall be sought fifteen days prior to such an event, in the manner specified in Article 4.
- (b) In the event the office of the President or Vice-President or a member shall become vacant in accordance with Article 10 (a) (2), (3), (4), (5) and (6),

the vacancy shall be filled within sixty days from the date of vacancy.

- (c) The President shall submit to the People’s Majlis, the nominations for the office of the President, Vice-President and members of the Elections Commission made vacant in the event of article (a), sixty days prior to the expiration of term of office.

Responsibilities of members 12. The responsibilities of members of the Elections Commission include the following:

- (a) to attend each of its session;
- (b) to discharge his duties.

Oath of office of members 13. The members of the Elections Commission shall assume office upon taking, before the President, the oath as follows:

“I ... (name of person) ..., do swear in the name of Almighty Allah that I will respect the religion of Islam, that I will uphold the Constitution of the Republic of Maldives, that I will bear true faith and allegiance to the Maldives, that I will uphold the fundamental rights of the Maldivian citizens and will discharge the duties and responsibilities of membership of the Elections Commission honestly and faithfully in accordance with the Constitution and laws of the Republic of Maldives.

Removal from office 14. A member of the Elections Commission shall be removed from office for the reasons specified in article (a), and in the manner specified in article (b):

- (a) If a member is deemed in violation of Article 17 subsection a), or on the ground of misconduct, incapacity or incompetence;
- (b) A finding to the effect by a committee of the People’s Majlis pursuant to article (a), and upon the approval of such finding by the People’s Majlis by a majority of those present and voting, calling for the member’s removal from office, such member shall be deemed removed from office.

Resignation 15. (a) A member of the Elections Commission may resign from office by writing under his hand addressed to the President, and the office shall become

vacant when the resignation is received by the President.

- (b) The President of the Elections Commission may resign from his office by writing under his hand addressed to the Elections Commission, and the office shall become vacant when the resignation is received by the Elections Commission. The Vice-President of the Elections Commission may resign from his office by writing under his hand addressed to the President of the Elections Commission, and the office shall become vacant when the resignation is received by the President of the Elections Commission.
- (c) Resignation of the President or Vice-President of the Elections Commission in accordance with article (b), shall not be deemed as a resignation from the membership of the Elections Commission.

Salary and allowances

- 16. (a) The President and Vice-President of the Elections Commission shall be paid such salary and allowances as determined by the People's Majlis.
- (b) The salary or allowances paid to the President, Vice-President and members of the Elections Commission shall not be reduced during their term of office.
- (c) The salary and allowances of the employees of the Elections Commission shall be determined by it, with the advice of Ministry of Finance and Treasury.

Code of conduct

- 17. (a) The members of the Elections Commission shall follow the following code of conduct in discharging their duties and responsibilities.
  - 1. shall perform all duties and responsibilities in accordance with provisions of the Constitution and laws;
  - 2. shall promote the rule of law, and protect the rights and freedoms of all people;
  - 3. shall be guided in their actions by considerations of national

interest and public welfare foremost;

4. shall not discriminate against anyone on the basis of race, colour, sex, mental or physical disability, political or other opinion, property, birth or other status, native island, language, socio-economic status, or position;
  5. shall perform all duties and responsibilities impartially in accordance with provisions of the Constitution and laws of the Republic of Maldives, free from all prejudice, without favor to and intimidation from any person or persons or candidate or political party or any person with political or other opinion;
  6. shall not, directly or indirectly, perform any activity to support or oppose any candidate or political party;
  7. shall be free from any activity or engagement or speech or expression which affects or may affect his independence and the independence and fairness of the Elections Commission.
  8. shall not use their position or any information entrusted to them by virtue of their office to improperly benefit themselves or any other person.
  9. shall not disclose any information entrusted to them by virtue of their office, unless to discharge their duties and responsibilities.
  10. shall not actively engage in a business or in the practice of any profession, or any other income generating employment or be employed by any other person;
  11. Shall at all times maintain socially acceptable standards of conduct and protect their dignity;
- (b) Where the Elections Commission determines that a member, who participated in deciding an outcome of the Commission, has committed an act that contravenes article (a), the Elections Commission has the discretion

to review the said decision.

- (c) Where a member of the Elections Commission is found guilty of an act which contravenes the law, the Court has the discretion to make the Commission accountable as it deems fit and take action against the member in accordance with the law.
- (d) Every year, each member of the Elections Commission shall submit to the Auditor General a statement in format determined by him of all property and monies owned by the member, business interests and all assets and liabilities. Before assuming the duties of his office, each member shall submit to the Auditor General a statement of all property and monies owned by the member, business interests and all assets and liabilities. If the Auditor General finds fault with the statement submitted by members, he has the discretion to submit the case to the People's Majlis.

Protection

- 18. No criminal or civil action shall be filed against the President or Vice-President or a member of the Elections Commission for any act or omission taken in good faith, in the discharge or purported discharge of responsibilities or powers of, or conferred on the Elections Commission by law.

Meetings of the Elections  
Commission

- 19. A meeting of the Elections Commission shall be held at least once a month.

Quorum and Voting

- 20. (a) The majority of the members of the Elections Commission shall constitute a quorum.
- (b) Any decision of the Elections Commission shall be taken by a majority of votes of the members present and voting.
- (c) A member shall not involve themselves in deciding an outcome of a matter that concerns their self-interest, personal involvement or financial gain, and shall inform other members of the Elections Commission as soon as he becomes aware of the said connections, and refrain from inquiring into the matter or in deciding its outcome.

Duties and powers of the  
Elections Commission

- 21. The Elections Commission shall have the following duties and powers:

- (a) conduct, manage, supervise, and facilitate all elections and public referendums, to ensure proper exercise of the right to vote, and to ensure that all elections and public referendums are conducted freely and fairly, without intimidation, aggression, undue influence or corruption;
- (b) prepare, maintain, and update electoral rolls and to make all arrangements for holding elections and public referendums;
- (c) hold and declare results of those elections and public referendums within periods prescribed by law;
- (d) compile and revise the register of voters in each constituency, to revise it as such periods as shall be determined by law and to provide for publication of the register in the Government Gazette;
- (e) fix, vary, demarcate and continuously review the boundaries and names of constituencies or voting units in all elections in accordance with principles specified by law and to provide for publication of any amendments in the Government Gazette;
- (f) register political parties and perform those actions responsibilities relating to political parties as specified by law;
- (g) educate and create awareness among the general public on the electoral process and its purpose;
- (h) formulate electoral policies for all elections, public referendums and those elections assigned to the Elections Commission by the Constitution and law;
- (i) conduct training for employees and delegates.;
- (j) plan and implement electoral logistics and delivery of equipment;
- (k) accredit domestic and international observers;
- (l) determine polling stations for elections and public referendums; and give timely notice to the landlord or person in charge in case of failure to



corporate with the Elections Commission, and discharge its duties;

- (m) make all arrangements for Maldivian people residing abroad to cast vote;
- (n) publish a report for public inspection after each election and public referendum as specified by law;
- (o) perform such additional functions as may be prescribed by the Constitution and law.

Management and supervision of elections and public referendums

22. (a) The Elections Commission and its delegates shall conduct, manage and supervise the referendum elections and those elections assigned to them by the Constitution and laws of the Republic of the Maldives.
- (b) The Elections Commission shall have the power to establish and recruit temporary and permanent employees to administrative and electoral offices for the purpose of implementing and enforcing its duties and powers.

Elections supervised by the Elections Commission

23. (a) The Elections Commission shall conduct and supervise the following elections.
1. presidential elections;
  2. parliamentary elections;
  3. elections of council created for decentralised administration;
  4. public referendum elections.
- (b) The Elections Commission shall conduct and supervise the by-elections of those elections specified in article (a) 2 and 3.
- (c) In addition to elections specified in article (a), the Elections Commission shall conduct and supervise those elections assigned to them under the Constitution and any laws of the Republic of Maldives

Voting and recording of results

24. (a) Voting in all public elections or public referendums conducted by the Elections Commission, shall be by secret ballot.

- (b) Immediately after the close of the polls, the presiding officer who is appointed by the Elections Commission shall, in the presence of such candidates or their representatives if present, and any other persons authorized by the law to be present, count at that polling station the ballot papers of that station, and record and publicly declare the votes cast in favour of each candidate or question in a public referendum.

Elections petitions

- 25. A person may challenge a decision of the Elections Commission concerning an election or a public referendum, or may challenge the results of an election, or contest the legality of any other matter related to an election, by means of election petition presented to the High Court.

Appointment of secretary general and employees

- 26. (a) The Elections Commission shall appoint a Secretary General for its administration. The administration of the Elections Commission shall be carried out by the Secretary General in accordance with the regulation formulated by it.
- (b) The Elections Commission shall have the power to recruit and dismiss its employees.

Financial matters

- 27. (a) In order for the Elections Commission to discharge its duties effectively, the state treasury shall provide the Elections Commission the funds from the annual budget approved by the People's Majlis every year. For this purpose, the Elections Commission shall formulate its budget with the advice of Ministry of Finance and Treasury, for it to be submitted to the People's Majlis together with the state budget.
- (b) The Elections Commission shall not utilize the financial assistance provided by persons, organization or a foreign government, except for the purpose of achieving its objectives.
- (c) A financial statement comprising the Elections Commission's income, expenditure, assets and liabilities, audited and prepared in consultation with the regulations formulated by the Elections Commission, shall be submitted to the President and the People's Majlis together with the annual report

specified in Article 28.

Annual report

28. (a) The Elections Commission shall submit to the President and the People's Majlis, before the 28<sup>th</sup> of February of every year, a report in writing regarding its activities for the previous year.
- (b) The annual report stipulated in article (a) shall contain the following;
1. information on election;
  2. information on complaints filed with the Elections Commission and its action;
  3. information on election finances;
  4. information on any changes to the electoral roll;
  5. information on any changes to the boundaries and names of constituencies;
  6. the financial statement specified in Article 27 (c);
  7. information on the management and administration of the Elections Commission and its staff;
  8. information on any changes to the registry of political parties;
  9. information on other important activities undertaken by the Elections Commission.
- (c) The Elections Commission shall publish the annual report for public inspection, within fourteen days of its submission to the President and the People's Majlis in accordance with article (a).
- (d) Despite the provisions of article (a), the Elections Commission shall have the discretion to submit a special report to the President and the People's Majlis, in the event of a special circumstance.

Composition of the

29. (a) The Elections Commission, its President, Vice-President and members

Elections Commission and its nominations

shall in accordance with the provisions of this Act, be appointed within sixty days from the date of the first sitting of the first People's Majlis elected under Article 296 of the Constitution of the Republic of Maldives.

(b) To give effect to article (a):

1. The President shall submit to the People's Majlis the nominations for appointment to the Elections Commissions, within twenty days from the date of the first sitting of the first People's Majlis elected under Article 296 of the Constitution
2. The People's Majlis shall decide on the nominations submitted by the President in accordance with article (b) 1 and 3, within twenty days from the date of submission and inform the President of its decision.
3. If the People's Majlis does not approve in accordance with this article a nomination submitted by the President, the President shall propose a nomination or nominations to the People's Majlis within five days from the date the People's Majlis informs the President its disapproval of previous nominations.

Elections Commission appointed during the transitional period

30. (a) The Elections Commission appointed in accordance with Article 276 of the Constitution shall have all the duties and powers of the Elections Commission appointed under this Act. All articles except Article 4, 6 and 29 will apply to the Elections Commission appointed in accordance with Article 276, from the date this Act comes into force.
- (b) The Elections Commission appointed pursuant to article (a) shall continue until the appointment of a new Elections Commission as specified in Article 29.
- (c) Whenever there is a vacancy among the members of the Elections Commission appointed under article (a), members shall be appointed to it in the manner specified in Article 277 of the Constitution of the Republic of Maldives.

- Commencement
31. This Act shall come into effect, when it is approved, ratified and published in the Government Gazette.
- Formulating and implementing regulations
32. (a) The Elections Commission shall formulate and enforce regulations necessary to implement this Act, within six months from the date of appointment of the Elections Commission under Article 29 (a).
- (b) Article (a) does not prevent the Elections Commission from amending any regulation formulated under article (a) or formulating a new regulation desired by the Elections Commission, after the period provided in article (a).
- (c) Nothing in article (a) prevents the Elections Commission appointed under Article 276 of the Constitution of the Republic of the Maldives from formulating regulations necessary to discharge its duties and responsibilities.
- Interpretations
33. In this Act unless the contrary intention appears:
- “**Auditor General**”, refers to the Auditor General appointed under Act No 4/2007 (Audit Act).
- “**Elections Commission**”, refers to the Elections Commission.

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9<sup>th</sup> September 2008