

THE PRESIDENTIAL AND LOCAL DISTRICT COUNCILS ELECTIONS LAW 2001 (Law No. 20/2001) as amended in 2009, 2010, 2011 & 2012 (Amendment Schedules 1 to 5):

Somalilandlaw.com Unofficial Consolidation and translation:

The 2001 Election Law has been amended extensively by 5 Schedules from 2009 to 2012. This is a consolidated copy of the Law with all the relevant amendments that have not since been repealed inserted in the text of the original version of the Law. The changes affected 37 Articles (57% of the Law), but many of the initial amendments in Schedules 1st and 2nd which related to the voter registration system have since been repealed by the 4th and 5th Schedules. A table of the articles affected by the each Amendments Schedule is attached at the back of this consolidated text. Copies of the Law as originally passed in 2001 and of all the 5 Amendments Schedules are available at the Somaliland [Electoral Laws webpage](#).

The footnotes identify the relevant amendments and also point out the links with constitutional and other legal provisions, including the 2005 House of Representatives Election Law and the Regulation of the Political Parties & Associations Law (as amended in 2011). The 2012 Election Code of Conduct for the Political Parties/Associations was finalised on 13 September 2012 and I have added the paragraphs of the Code which expand on the procedural aspects of the voting as *italicised footnotes* to the relevant Articles of the Law.

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THE PRESIDENTIAL AND LOCAL ELECTIONS LAW (LAW NO. 20/2001) AND ALL ITS AMENDMENTS (IN SCHEDULES 1 TO 5)

**THE REPUBLIC OF SOMALILAND
THE HOUSE OF REPRESENTATIVES**

Having seen: Articles 9, 22, 25, 83 and 111 of the National Constitution of the Republic of Somaliland;

Having considered: The need to move away from a (political) system based on representation through the various communities and the need to realise the long-awaited aspiration of the nation to have free contests for positions of authority in the state;

HAS HEREBY APPROVED THIS LAW:

Article 1: Definitions

Election: means the sifting of candidates running for office by means of majority votes cast by the relevant electorate.

Commission: means the highest committee responsible for the organisation of and the decision-making in respect of the elections.

- Polling Station:** means the place where a number of the members of the public who reside near each other cast their votes.
- Electoral Area:** means the area which encompasses various polling stations which are all set for voting in connection with two or more specified candidates.
- Agent:** means the person appointed by an association/party to act as its agent to follow the election activities at the polling station or the electoral offices.
- Candidate:** means the person nominated by an association/party to contest an election.
- Voter:** means the person who fulfils the conditions for voting and casts his vote.
- Local Council:** means the council elected by the voters in a district to act as the administrative and legislative local government in the district.
- Electoral Region:** means an area which covers a number of electoral districts.
- Electoral District:** means an area which includes at least one polling station.
- Seat:** means a position of authority which will be filled by one person through an election.
- Symbol/Symbols:** means a unique logo or sign which identifies one association/party.
- List/Lists:** means the names of candidates submitted by an association/party and listed in sequential order. *The sequence of the names in the list has no legal significance¹.*
- Election Campaign:** means the activities of the associations/parties and candidates in competing for the understanding and support of the voters.
- Central Office:** means the supreme headquarters for the management of the election activities to be carried out by the Commission.
- District Office:** means the office which manages the polling stations in the district.
- Regional Office:** means the office which manages the election activities in the region.
- Polling Station Office:** means the office which manages the election activities at the polling station.
- Observers:** mean the international or local inspectors accredited by the Commission, who shall check that the election activities are conducted properly.

Article 2: General Principles

This Law shall govern the election of local² Councils and the election of the President and Vice-President.

¹ This was changed by the 4th Amendments Schedule (2012). The list was previously “arranged in the order in which they are to be elected” which signified the “closed list” system of election for local councils that has now been changed to an “open list” system in which the sequence of the candidates in the list has no significance. A similar open list system was adopted in the 2005 House of Representatives Election Law (see Articles 1 and 12 of the 2005 Election Law).

² The law covers the elections of the local district councils only. See also the definition of a “local council” in Article 1 which confines the term to district councils. The Regional Councils currently consist of appointed persons and the mayors of the elected district councils – Article 12 of the Regions and Districts Law (law No. 23/2002, as amended)

Article 3: Term of office

The term of office of the elected candidates shall be:

- a) Five years for the President and the Vice-President.³
- b) Five years for the Local Councils.⁴

Article 4: Membership of the local councils

The total membership of the Local Councils to be elected⁵ shall be:

- a) The Local Council of the Capital City, 25 members.
- b) The Local Councils of category A Districts, 21 members.
- c) The Local Councils of category B Districts, 17 members.
- d) The Local Councils of category C Districts, 13 members.
- e) The Local Councils of category D Districts, 09 members.

Article 5: Conditions relating to voters⁶

1. He⁷ must be a patrial citizen⁸ of Somaliland.

³ Article 88 of the Constitution already sets out that the term of office of the President/Vice-President is five years “beginning from the date that they are sworn into office”.

⁴ This is also set out in Article 111(7) of the Constitution and in Article 20 of the Regions and Districts Law (Law No. 23/2002).

⁵ The districts and their assigned categories are set out in Article 6 of the Regions and Districts Law (Law No. 23/2002) as amended in 2007, and are as follows: 6 Category A districts, other than the capital city; 5 B districts; 11 C districts and 19 D districts (42 in total). Before its amendment, Article 7(e) of the Regions & Districts Law stated clearly that “with the exception of the residents of Hagal District who shall vote in the District of Berbera of the Sahil Region, all the residents of the new (Grade D) districts shall cast their votes in the first local elections for the local councils of the districts out of which the new districts have been gauged”. This express confirmation of where the votes of the residents of “D” districts would go has to be inferred now from the amended Article 7(4) to 7(7) which state that until the “D” districts have been assessed and their borders delineated, the Government shall appoint for them a small administration unit consisting of Chairman, Deputy and an Executive Secretary; that theirs borders would be confined to those of the districts they were separated from; and that they would have district councils after their borders are delineated and their assessments are undertaken within 12 months of the implementation of the Law in 2007. No such delineations or assessments have been made thus far (as at August 2012), and as they shall have no district councils yet, then the assumption is that their residents shall continue to vote for their previous A to C districts.

Similar considerations apply to the 16 “D” districts created by Presidential Decrees on 23 March 2008 as all the Decrees made it clear that the announcements would have no effect on the “forthcoming” elections. This was a reference to the local district councils’ elections that have since been delayed and are now to be held in November 2012.

⁶ This Article’s Clauses were enumerated in numerical order (1, 2 etc) when the law was first passed but a t draft copy of the original law recently published by the House on its website lists the Clauses of this Article, as well as Articles 15 and 16 in alphabetical order. I have retained the numerical order, which is also used in the Amendments Schedules.

⁷ It is trite to state that ‘he’ includes ‘she’ throughout this Law. Note also Article 8 of the Constitution which gives all citizens equality of rights and obligations before the law regardless of gender, birth, status etc.

⁸ Article 22(2) of the Constitution also states that “every citizen who fulfils the requirements of the Law shall have the right to be elected (to an office) and to vote”. Article 4 of the Constitution defines citizenship on grounds of patriality (i.e. descent from a person residing in Somaliland on 26 June 1960 or earlier) and confirms that the law shall determine the acquisition and loss of Somaliland citizenship. The Somaliland Citizenship Law (Law No. 22/2002) sets out both the patriality principle and the rules relating to naturalisation (i.e. ten years residence, surrender of other nationality, etc.). Naturalised citizens and others, like wives who acquire citizenship under the Citizenship Law, have, as citizens, the right to vote. Any differential treatment of citizens in

2. He must not be less than 16 years of age during the year⁹ the elections are being held.
3. He must be free and not in prison.
4. *Deleted.*¹⁰
5. The candidates for the offices of President and Vice President may cast their vote at any polling station, but the electoral officers shall so register them¹¹.

Article 6: Rights of the voter

Every voter who fulfils the conditions set out in the law(s) shall have the right to:

1. *Deleted.*¹²
2. A voter who is away from the territory of the Republic of Somaliland shall cast his vote at the nearest diplomatic office of the Republic of Somaliland, but the Commission shall decide whether that is available or feasible.¹³
3. Voting shall be personal, free, direct, and secret, and all votes shall be given equal weighting.
4. Each voter shall have only one vote for each election.
5. The members of the Electoral Commission shall not be entitled to vote while in office.
6. The polling station officials, the agents of the political parties at the polling station and the members of the police force that have been formally assigned to keep the order at the polling station can vote at the station that they have been assigned on the polling day.¹⁴

Article 7: Employees of the state and of governmental bodies

connection with this basic democratic right is likely to be contrary to Article 25 of the International Covenant on Civil and Political Rights 1966 and Article 13 of the African Charter on Human and Peoples' Rights 1981. It was no surprise, therefore, that by the time the 2005 Election Law was passed, this issue was addressed and the comparable Article in that Law (Article 5(1)) includes the additional phrase "or a naturalised citizen in accordance with the Citizenship Law". This is an improvement, but it would have been more comprehensive if the change covered not just all naturalised citizens, but all persons who "acquired citizenship in accordance with the Citizenship Law", which would also cover, for example, wives who acquire citizenship through Article 9 of the Citizenship or children who acquire it under Article 10 of the same Law. [Although in the forthcoming November 2012 local districts councils election will be conducted without a voters register as confirmed by Amendment (No. 3) (2011) of the Voter Registration Law, the Voter Registration Law 2007 confined the right to cast votes to "citizens" who have registered themselves and citizens were defined as any person who fulfilled the conditions set out in the 2002 Citizenship Law. Perhaps similar words can be used when an official consolidated electoral law is finally promulgated.]

⁹ The choice of this imprecise phrase in this Law as well as in the 2005 Election Law, has, in my view, more to do with the Somali custom of identifying age by year and season, rather than by date, as there was (and is) no comprehensive birth registration.

¹⁰ Deleted by the 4th Amendments Schedule (2012).

¹¹ This Clause was inserted by the 2nd Amendments Schedule (2010). It relates to the presidential election which was based on a voters' register. It has no relevance to the forthcoming 2012 local elections when, without an electoral register, electors can cast their vote at any polling station.

¹² Deleted by the 4th Amendments Schedule (2012).

¹³ This is an enabling Clause which can be activated by the Electoral Commission when circumstances permit, but any future registration of voters abroad will require an amendment of both the 2007 Law and the two electoral laws.

¹⁴ This Clause was inserted by the 1st Amendments Schedule (2009) when votes could be cast only at the polling station that an elector was registered. In the forthcoming 2012 local elections electors may cast their votes at any polling station of their choice.

1. The employees of the state and those of the independent governmental bodies, as well as members of the armed forces of whatever rank, shall not be eligible to stand for the local or Presidential/Vice-Presidential elections unless they have submitted their written resignations 90 days¹⁵ before the date of the election.
2. Such resignation must be confirmed in writing by the office or the body which has the power to do so¹⁶.

Article 8: Timing of the elections

The Commission shall declare, in accordance with the Constitution¹⁷, the dates when elections shall be held and their declarations shall be published as Presidential Decrees.

Article 9: Polling stations

1. When the elections of the President and the Vice-President are being held, the country shall be divided in line with the respective areas of the Regions¹⁸ of the Republic of Somaliland into electoral regions, which shall be further subdivided into polling stations.
2. When the local council elections are being held, the administrative area of each district shall be recognised as an electoral district¹⁹, and shall be subdivided into polling stations where the votes will be cast.
3. The Commission shall, in consultation with the Ministry of Internal Affairs²⁰, the Chairmen of the Regions²¹ and of the Districts, set up the polling stations of the districts/regions, at the latest, 40 days before the date of the elections.
4. If serious circumstances or reasons which do not permit the holding of the election arise in any locality of the country, the Commission shall evaluate them and consult the Government and the political parties/associations.²²
5. The seats allocated for the polling stations where the election could not take place shall be distributed among the parties/associations on the basis of the

¹⁵ The first period set under the 2001 Law was 180 days which was reduced firstly to 40 days. This period was then amended many times since. It was raised to 60 days by the 2nd Amendments Schedule (2010) and then raised to 90 days by the 5th Amendments Schedule (2012). The comparable provision in the 2005 Election Law - Article 7(3) - sets a period of 4 months (over 120 days).

¹⁶ Presumably, this is the governmental office or body which employed the person concerned.

¹⁷ In the case of Presidential elections, Article 83(2) of the constitution states that the election shall "take place a month before the end of the term of office of the outgoing President".

¹⁸ These are still the six regions set out in Article 5 of the Regions & Districts Law 2002, as amended in 2007.

¹⁹ See footnote 4, above, relating to districts in which elections will be held i.e districts graded A, B and C (and the capital city).

²⁰ Note also Article 11(1) of the 2005 Election Law includes the additional stipulation that the Commission shall also consult the national parties about the setting up of the polling stations, and Article 11(2) sets a different deadline for their establishment as being no later than 60 days before the polling day for the election of the House of Representatives.

²¹ Otherwise known as Governors who are unelected employees of the government.

²² Clauses 4 to 6 of this Article have been inserted by the 5th Amendments Schedule. *In paragraph 17 of the 2012 Code of Conduct, the parties/associations and the NEC agreed that in Buhodle District, the parties/associations shall contest 7 of the 17 seats and in Hudur district, 5 out of the 13 seats. The remaining seats in both districts shall then be divided up among the parties in accordance with the provisions of this Article.*

proportion of total valid votes each party/association gained in the (relevant) district.

6. If, however, the election cannot take place throughout one district, the seats for that district shall be divided among the parties on the basis of the proportion of the total valid votes each party/association gained in the (relevant) region. The seats (of each party/association) shall then be distributed among its candidates in the sequential order their names appear first on the candidates' list.

THE ELECTORAL COMMISSION OF THE REPUBLIC OF SOMALILAND

Article 10: Structure of the Electoral Commission

The structure of the offices of the Electoral Commission shall be as follows:

1. Polling Station Electoral Office.
2. District Electoral Office.
3. Regional Electoral Office.
4. Central Electoral Office.

Article 11: Electoral Commission

1. The Commission shall consist of seven members who are as follows:
 - a) The Chairman and six members.
 - b) The Commission shall elect from among its members the Chairman and the Deputy Chairman.
 - c) The term of office of the Commission is five years, beginning from the date the House of Representatives approves its appointment, and the term of office may be renewed.
 - d) Employees of the state, members of Parliament, members of the Council of Ministers²³, and members of the armed forces and persons who hold positions in associations/parties cannot become members of the Commission.
2. The Electoral Commission shall be appointed by the President of the Republic of Somaliland after he has received the (following) nominations:
 - a) 2 members selected by the House of Elders.
 - b) 2 members selected by the registered opposition associations/parties.
 - c) 3 members selected by the President.
3. The appointment of the Commission shall be approved by the House of Representatives²⁴ on an absolute majority vote of half of their members plus one, and after the House Internal Affairs Committee has ensured that the appointees fulfil the conditions²⁵ set out in this Law.

²³ For the Council of Ministers, see Article 94 of the Constitution.

²⁴ The appointment of all the current members of the Electoral Commission was approved (on a vote of 65 for, none against and no abstentions) by the House of Representatives on 24 October 2009 after the mass resignation of the previous Commission. In my view, this wholesale change of the Commission was not the same as filling individual vacancies under Article 13(4) of this Law and therefore the term of office of the Commission, as set out in Article 11(1)(c), is 5 years from the date of their House confirmation i.e up 24 October 2014. The previous Commission's term office lasted from 2 June 2007 to 23 October 2009 and the first Commission served before them for a full term (plus a few months) from 21 January 2002 to 1 June 2007.

²⁵ The conditions are set out in Article 12.

4. The central office of the Electoral Commission shall have its headquarters at the capital city.
5. The Commission shall fulfil its duties in accordance with the Constitution and this Law²⁶. Commission meetings shall be quorate²⁷, and resolutions of the Commission shall be approved on a simple majority vote.
6. The Commission shall carry out its duties independently, and shall in no way be interfered with by anyone.

Article 12: Eligibility criteria for membership of the Commission

1. He must be a patrial²⁸ citizen of Somaliland.
2. He must be no less than 40 years of age and no more than 70 years²⁹.
3. He must be a Muslim³⁰ and must behave in accordance with Islamic religion.
4. He must be educated to at least secondary school level or equivalent.
5. He must not be a member of a political association/party and must be independent of all of them.
6. He must be renowned for respect, honour and fairness towards (all) the members of the society.
7. He must never have been convicted by a court for a crime.
8. He must be physically and mentally able to fulfil his duties.

Article 13: Dismissal of the Commission (*Members*)

1. A member of the Commission may be dismissed:
 - a) when he breaks one of the conditions of his appointment;
 - b) when he is unable to fulfil his duties due to lack of capability or ill health;
 - c) when he commits acts of wanton behaviour, theft, corruption or similar matters³¹.
2. When it is suspected that the matters set out above have happened, the President shall appoint an investigation committee which shall report on the issues so that he can reach a decision thereupon.
3. The President has the power to dismiss³² the Commission³³ provided that the House of Representatives approves the decision on a simple majority vote.

²⁶ And, of course, also the 2005 Election Law (and the 2007 Voter Registration Law, which, as set out in the 3rd Amendments Schedule or Addendum (2011) of that Law shall not be used in the 2012 local elections).

²⁷ The quorum set by the Commission in its Rules of Procedure is four.

²⁸ See the comments made in connection with Article 5(1) of this Law, where this phrase is also used in connection with voters.

²⁹ Upper age raised from 60 by the 2nd Amendments Schedule..

³⁰ This religion condition is also found in the Somaliland Constitution (i.e. Article 41(1) relating to members of the House of Representatives). Somalilanders are Muslims, but the interpretation of the second part of the requirement relating to behaviour has not arisen, so far, in any proposed appointment.

³¹ Some of these acts may well amount to crime, in which case issues relating to the privileges and immunities of the Commissioners will also need to be addressed – see Article 21 of this Law and Article 63 of the 2005 Election Law.

³² This power to dismiss is circumscribed by Clause 1 of this Article, which lists the circumstances in which a Commissioner may be dismissed, and Clause 2 which sets out the investigatory process which must be followed by the President before a dismissal can be put to the Representatives for approval.

³³ This of course also includes individual members of the Commission.

4. When a vacancy arises in the Commission due to dismissal, death or resignation, it shall be filled in accordance with the procedure adopted when the outgoing member was initially appointed³⁴.

Article 14: Powers of the Commission

The Commission shall have the power³⁵ to:

1. set the date³⁶ of the elections, and inform the President so that he can issue a Decree³⁷;
2. set the number and the location of the polling stations of the districts and the regions;
3. appoint, dismiss, or discipline the staff³⁸ of the central office and those of the electoral districts and the electoral regions;
4. plan the budget for administering the electoral activities³⁹;
5. declare the provisional results of the elections of the President and the Vice-President pending their confirmation by the Supreme Court;
6. inspect the polling stations and any other places connected with their duties either randomly or in a planned fashion;
7. adjudicate on the disagreements relating to the elections, which have been forwarded to them by their electoral offices;
8. conduct research into how the country can have polling stations where candidates can compete for votes;
9. register⁴⁰ voters before the date of the election.

Article 15: Budget of the Electoral Commission

³⁴ Although it is not expressly stated in the Law, the term of the whole Commission is five years starting from the first date of confirmation of their appointments (or of the first group, if not all) as set out in Article 11(1)(c) of this Law, and hence any replacements of the original appointees shall serve only for the remainder of the original five-year term. This should have been made clear in this Law.

³⁵ Note also the additional “general” powers and duties given to the Commission under the 2005 Election Law, which, in my view, are not just confined to the House of Representatives election. These are set out in Article 31 (schedule of electoral activities) and Article 32 (electoral officeholders) – both Articles, because they expressly refer to this Law. There are also Article 63 (allegations against the Commission), Article 64 (disciplinary action) and Article 33 (contracts offered by the Commission) which all relate to the Commission and arguably are no more confined to the House elections than the other general provisions relating to the Commission which are included in this Law relating to presidential and local elections.

³⁶ This Law does not set the minimum period between announcement of the dates of the elections and the polling date, but note that under Article 26 the lists of candidates should be submitted to the electoral offices 75 days before the polling day, and, therefore any announcement must predate this deadline. Previously, this period used to be 45 days.

³⁷ The comparable provision in the 2005 Election Law is Article 8. In practice, the Commission consults widely before deciding on a date and the President’s role is confined to issuing the decision as a Presidential Decree.

³⁸ The phrase staff (or employees), *‘shaqaalaha’* in Somali, is used in this Clause, and does not extend to officeholders appointed by the Commission to cover the electoral offices at the regions, districts and polling stations, who are covered primarily by Article 19 of this Law and Article 32 of the 2005 Election Law.

³⁹ See also the additional duty under Article 31 of the 2005 Election Law to “publish officially a schedule with time frames, which sets out the plan” of its electoral activities.

⁴⁰ There will no voter registration for the coming 2012 local district council elections (see the 3rd Amendments Schedule (or Addendum) (2011) of the Voter Registration Law)

1. The Commission shall have its own budget, which is prepared by it and submitted to the President. When an agreement is reached on the budget, it shall be forwarded to the House of Representatives for approval.
2. The Commission shall utilise the elections budget independently, and shall submit quarterly accounts to the Accountant⁴¹ General.

Article 16: Polling station office⁴²

1. The Polling Station Electoral Office shall consist of a chairman and two scrutineers. The older of the two scrutineers shall act as deputy chairman. The Office shall also have a secretary.⁴³
2. The chairman, the secretary and the two scrutineers shall be appointed by the Commission which, if deemed necessary, has the power to transfer them.
3. If, due to urgent matters, it becomes necessary to replace a scrutineer or the secretary while the voting is in progress, the chairman of the polling station shall replace him with someone selected from the persons present at the polling station and meeting the criteria for eligibility for voting set out in this Law.
4. The Polling Station Office has the responsibility for conducting the election activities at the station.

Article 17: District Electoral Office

1. There shall be a District Electoral Office at the headquarters of each district. The Office shall consist of a chairman, a deputy chairman and a scrutineer.⁴⁴
2. The District Electoral Office shall also have a secretariat and two counting officers.
3. The chairman, the deputy chairman, the scrutineer, the secretary and the counting officers shall be appointed by the Commission which has the power to change their roles.⁴⁵
4. The District Electoral Office has the responsibility for conducting the electoral activities in the district.

Article 18: Regional Electoral Office

1. There shall be a Regional Electoral Office at the headquarters of each region. The Office shall consist of a chairman, a deputy chairman and secretary appointed by the Commission.
2. The Regional Electoral Office has the responsibility for conducting the election activities in the region.

Article 19: Electoral officeholders⁴⁶

⁴¹ In my previous translations, I used “Comptroller”, but this office is better known as the Account General.

⁴² This was referred to as the “Polling Station Electoral Office” in Article 10(a) above. This Article and the preceding Article have their Clause numbered numerically and not alphabetically – see footnote 6, above for the reasons.

⁴³ There was a last sentence which was previously added by the 2nd Amendments Schedule (2010) and referring to a polling station “help desk officer” and was deleted by the 4th Amendments Schedule (2012).

⁴⁴ Amended by the 2nd Amendments Schedule (2010).

⁴⁵ Amended by the 2nd Amendments Schedule (2010).

⁴⁶ Note also Article 32 of the 2005 Election Law which, in respect of electoral officeholder, places a duty on the Commission to:

1. Persons appointed by the Commission to hold electoral offices must be informed of their appointments at least 60 (sixty) days⁴⁷ before the date of the election.
Save for the age qualification of no less than 36 years⁴⁸ and no more than 70 years⁴⁹, the qualifying conditions for appointment of the chairmen of the District and Regional Electoral offices shall be the same as those applicable to the appointment of the national commission.
2. No one appointed to serve in an electoral office may be excused from the appointment unless there is a true reason which satisfies the Commission.
3. Persons appointed to the membership of the polling stations, district or regional electoral offices shall have administered to them the following oath of office by Chairman of the District Court:
"I SWEAR BY ALLAH THAT I SHALL FULFIL MY ELECTORAL DUTIES IN A CONSCIENTIOUS AND HONEST WAY AND THAT I SHALL BE IMPARTIAL IN RESPECT OF THE ASSOCIATIONS/PARTIES AND THE CANDIDATES AND THAT I SHALL WORK IN ACCORDANCE WITH THE LAW AND JUSTICE."
4. The members of the Commission shall have the above oath administered to them by the Chairman of the Supreme Court.
5. Members of the armed forces, members of organisations which are organised⁵⁰ in ways similar to those of the armed forces, the chairmen of the districts, regions and local councils, and candidates standing for elections cannot be appointed to electoral offices.
6. The term of office of the members of the polling station, district and regional electoral offices shall come to an end when the results of the elections are declared. The Commission may, however, extend the term of office of any of them, if it considers necessary.
7. State employees, members of the national armed forces, and members of associations/parties are not eligible to serve as chairmen of the district and regional electoral offices. The eligibility criteria for the appointment of the chairmen of the district and regional electoral offices shall be the same as those for the appointment of the members of the Commission⁵¹.

Article 20: Allowances for officeholders

1. The allowances payable to electoral officeholders shall be set by the Commission. The allowances shall be based on the varying responsibilities of each officeholder.

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1. check thoroughly that the officeholders entrusted to undertake the heavy responsibilities of the election are proficient and able to fulfil these responsibilities;
 2. provide the officeholders with adequate training and, at the same time, ensure that the officeholders can fulfil their duties properly, before the polling day;
 3. prepare transport for undertaking the activities and communication equipment for the electoral offices and the inspectors.

⁴⁷ Period increased by the 2nd Amendments Schedule (2010).

⁴⁸ See Article 12 – the lower age for commissioners is 40.

⁴⁹ Inserted by the 2nd Amendments Schedule (2010).

⁵⁰ This is likely to cover the police, the corrections service, and any other uniformed public services. Article 23 of the Constitution (freedom of movement and association) outlaws any (private) associations which are military in nature or are armed.

⁵¹ See Article 12 above and clause 1 of this Article.

2. Officeholders who are assigned to work at (*electoral*) offices which are away from their place of residence shall be entitled to subsistence allowance during their absence. Such allowance shall be set by the Commission.⁵²

Article 21: Privileges of the Commission, candidates and officeholders

1. All officeholders working at the electoral offices and agents of associations/parties set out in this Law shall enjoy the legal status of public officers.
2. Candidates, electoral officeholders and the agents of the parties shall not be detained⁵³ during the elections unless they have been caught *in flagrante delicto* in respect of an offence punishable by imprisonment for three years or more.
3. Any offences committed by the above persons shall be pursued after the election has taken place and the persons concerned are relieved of their responsibilities.
4. The members of the Commission shall, during their term of office, have privileges⁵⁴ similar to those enjoyed by the members of the Council of Ministers, and their privileges may be removed in line with Article 94(8) and Article 96(4) of the Constitution⁵⁵.

THE ELECTION PROCESS

⁵² This Clause was previously numbered 3, but the preceding Clause 2 which related to allowances for public employees serving as electoral officeholders was deleted by the 2nd Amendments Schedule.

⁵³ Paragraph 11 of the 2012 Electoral Code of Conduct adds that:

1. *The Government is prohibited from using the security forces such as including the police, custodial corps, intelligence service and the national armed forces to oppress the political parties/associations and their candidates and supporters.*
2. *No person may be imprisoned without warrant of arrest from a court, except for cases where the law permits the Police to detain a person suspected of committing a criminal offence.*
3. *... same provisions as Clause 21(2) of this Law ...*
4. *The police, custodial corps, and the national armed forces must not get involved in political matters and must be impartial and confine themselves to the performance of their duties. "*

⁵⁴ See also Article 63 of the 2005 Election Law:

"Allegations against the Electoral Commission: If a member (or members) of the Electoral Commission commits an act which may amount to a serious crime or may jeopardise the conduct and order of the election or the public order in the country, the allegations against the member, the removal of his privileges and the prosecution shall all be dealt with in line with the procedures set out in Clauses 96(1), 96(4) and 96(5) of the Constitution."

⁵⁵ These Articles relating to the Council of Ministers state the following:

"94(8): No Minister or Deputy Minister may be detained unless caught *in flagrante delicto* in respect of an offence punishable by imprisonment for three years or more, or the President has removed his privileges after having been satisfied by proposals put to him by the Attorney General.

96(4): If the Attorney General charges a Minister or a Deputy Minister with an offence set out in Clause 1 of this Article (i.e. Article 96(1) relating to high treason and contravention of the Constitution), he shall forward the details of the charges to the President. If the President is satisfied with the details provided by the Attorney General, he shall remove the privileges of the Minister or Deputy Minister. But if he is not so satisfied he shall order the Attorney General to drop the charges.

See also Article 63 of the 2005 Election Law for acts which "may amount to a serious crime or may jeopardise the conduct and order of the election or the public order in the country" and the procedures for removal of privileges and immunities in such cases.

Article 22: The Election system⁵⁶

1. Every party/association which intends to participate in the elections of the district councils shall submit to the National Electoral Commission a list of the candidates it has chosen to contest the election in each district. The list shall be based on the exact number of seats allocated to each district and shall be set out in sequential order in the manner of the Open List System. The National Electoral Commission shall allocate to each candidate a unique number which shall serve as his symbol.

The election of the President and the Vice-President shall, however, be based on a 'majority system'⁵⁷ as set out in the Constitution⁵⁸.

2. The seats of each electoral district shall be won by the parties/associations under a proportional representation system on the basis of the (number of) seats and the votes cast for each party/association in that district, and the candidates of the each party/association shall succeed (in gaining the seat won by their party/association) on the basis of the number of votes cast for each candidate.⁵⁹

⁵⁶ This Article has been amended initially by the 3rd Amendments Schedule 2011 which changed the closed list PR system to an open list PR system and added that each candidate should be allocated a unique "symbol" for use in the ballot paper. The National Electoral Commission and other commentators have pointed out the considerable logistical problems this would pose in an election which is to be contested by nine political parties/associations for electoral districts involving seats from 13 to 25. The 25 seats for the Hargeisa City Council will, for example, involve putting in a single ballot paper the details of 325 candidates and those of their parties/associations. The disagreements were, in the end, about what information other than the name of each candidate and the name and symbol of his party/association should be noted on each ballot paper and whether, in addition, each candidate should also have a unique symbol, as set out initially in the 3rd Amendments Schedule or a unique number. When considering the 4th Amendments Schedule, the House of Representatives initially agreed to replace the requirement of symbols with numbers for each candidate, but the House of Elders insisted, with a large majority, that candidates should have individual symbols which can be recognised more easily by people who are not literate. The Representatives then agreed with the Elders' changes and the Amendments bill was signed by the President. With NEC's advice supported by the parties/associations and the President, the 5th Amendments Schedule which again proposed numbers (rather than symbols) was finally passed by both Houses in Extra-ordinary sittings in early August 2011, which were called by the President under Article 46(2)(a) and Article 71 of the Constitution. The NEC undertook pilot polling tests previously and were of the opinion that using numbers in a (still) large ballot paper is feasible and preferable to symbols. The Law has been amended also (see Article 46) to allow persons having difficulties with the ballot paper to be helped (in the presence of party/association representatives) by other persons who they trust or by the members of the polling station staff.

⁵⁷ This English language phrase 'majority system' is used in parenthesis in this Clause in the original Somali version. This is a first past the post or "majoritarian" system with the presidential and vice-presidential candidates of each party running in joint "tickets".

⁵⁸ See Article 83:

1. The President and the Vice-President shall be elected jointly through a direct general election by means of a secret ballot.
2. The joint election of the President and the Vice-President shall be based on the list system and shall take place a month before the end of the term of office of the outgoing President.
3. ...
4. The two candidates in the list which obtains the highest number of votes cast in the Presidential and Vice-Presidential election shall be recognised as the successful candidates.
5."

⁵⁹ As in the 2005 House of Representative election, each voter can vote for only one candidate and that vote is counted first for the party/association in deciding how many valid total votes each party/association received, which will indicate how many seats can be allocated to that

3. The unsuccessful candidates in the district elections shall act as reserve candidates and shall be called upon, on the basis of their higher votes, when a member of the District Council vacates his seat.⁶⁰

Article 23: Procedure for declaration of candidates

1. The list of candidates for election to the local council shall be declared by the district committee of each association/party and shall show clearly the names of each candidate in full (three names)⁶¹, their place of birth and year of birth. If there are candidates whose full names are the same, then they shall be differentiated through the addition of their nicknames (if they have them) and their fourth name⁶². The list shall also confirm clearly the district in which the candidates are standing for election.
2. The list of candidates shall be accompanied by the following:
 - a) Confirmation of resignation from public service appointments as set out in Article 7 of this Law.
 - b) Four (4) copies (of the list) which show clearly the emblem/symbol of the association/party.
 - c) Declaration by each candidate to the effect that he accepts his candidacy and that he fulfils the relevant conditions.
 - d) Receipts for payment of the deposits of the candidates issued by the Ministry of Finance as set out in Article 25 of this Law.
3. *Deleted.*⁶³

party/association under the proportional representation system. Although it is not set out in this Clause, a division of the total valid votes cast in the district by the number of seats in the district shall give the quotient for a seat. The number of seats gained by each party/association can then be worked out on the basis of that quotient and the largest remainders. The seats of each party/association are then allocated to the candidates on the basis of their highest votes cast for them. In contrast, when closed lists were used in the 2002 local elections, the seats, at this stage were allocated to the candidates on the basis of how high up their name was in the party/association candidate's list, as voters cast their votes for a party/association and not a candidate.

Under Paragraph 18 of the 2012 Code of Conduct agreed by the political parties/associations and the NEC:

- a) *In the unlikely event that two or more candidates of two parties/associations in a district receive the same number of votes, they shall be separated on the basis of the total votes garnered by their respective parties/associations in the relevant Region. (Editor's Note: It is difficult to see the relevance of the votes for candidates from different parties in this sentence (see (b) below) and it is possible that the reference was to the votes of two or more parties/associations in a district being equal which would make it difficult to distribute the seats in that district and hence the tie breaker of taking into consideration each such party/associations' Regional total votes."*
- b) *If two candidates of the same party/association receive an equal number of votes in their district, then they shall be separated by a lot drawn by the NEC (sortition) in the presence of the candidates and their party/association representatives.*
(Editor's Note: In both cases, the separation of the tie will only arise when a seat has to be allocated on the PR system).

⁶⁰ This Clause was inserted by the 3rd Amendments Schedule. Additional procedures for filling the vacancies at local district councils are set out in Article 27 of the Regions & Districts Law (No. 23/2002).

⁶¹ To reflect the patrilineal nomenclature of Somalis, a full name (be it male or female) consists of the (first) name of the person followed by the (first) name of his/her father and then the (first) name of his/her grandfather.

⁶² The fourth name shall be that of the great grandfather (see above).

⁶³ Clause deleted by the 4th Amendments Schedule.

4. Any disagreements within an association/party about the declaration and submission of a list of candidates shall be resolved by the central Committee of that association/party.
5. Every candidate standing for election to the offices of President and Vice President has the right to withdraw from his candidacy provided that he has informed formally in writing his party that he was standing for and the National Electoral Commission at least 20 days before the polling date. The Party that he was a candidate for election can only substitute him during the period up to 7 days before the polling date.⁶⁴
6. In the event that one of the political parties' candidates for the offices of President or Vice President dies after the submission of the candidates' list, the relevant party shall have the right to submit another candidate up to 7 (seven) days before the polling date. If, however, a candidate dies within the 7 days before the polling date, the relevant party shall have no right to submit another candidate and the provisions relating to the vacancies of the office of President or Vice President set out in Article 86 and 89 of the Constitution⁶⁵ shall be followed accordingly.
7. If a political party does not substitute, before the seven days period set out in clauses 5 and 6 of this Article, the candidate whose candidacy was vacated on grounds of the reasons set out in these clauses, the election shall be contested with the name of the vacating candidate⁶⁶.

Article 24: Symbols of the lists of candidates

1. The numbers allocated to the candidates of the Associations/Parties shall be different from each other when they are made public and the procedures laid down for them by the Commission shall be followed.⁶⁷
2. A party/association shall use the same symbol when declaring candidates for elections at local or Presidential/Vice-Presidential level.

Article 25: Deposit

Candidates for office shall pay the following non-refundable deposits⁶⁸:

⁶⁴ Clause 3 to 7 inserted by the 2nd Amendments Schedule (2010)

⁶⁵ The election will go ahead and so following the provisions of Articles 86 and 89 of the constitution would mean that if the relevant party wins, then in the case of the death of the presidential candidate, the vice-presidential candidate shall act as a temporary president and the election of the president (and presumably also the vice-president as Article 83 makes their election as a joint election on one ticket) will be held within 6 months and in the case of the death of the vice-presidential candidate, the president shall, subject to confirmation by the House of Representatives, appoint a member of the House of as vice-president.

⁶⁶ The clause fails to mention what happens if this party then wins the election, but perhaps the preceding clause 6 points the only possible answer – i.e the application of Article 86 and 89 of the Constitution dealing with the vacancies of the office of President and Vice-President (see also the preceding footnote).

⁶⁷ This single Clause 1 was inserted by the 4th and 5th Amendments Schedules (in place of the following three Clauses, which may well be needed again for the next Presidential elections:

“1. The symbols shown in the lists of candidates declared by the associations/parties shall be different from each other. 2. No association/party shall use a symbol which has been used previously in an election by another association/party. 3. Symbols shall be unique and shall show a recognised sign, but shall not show a governmental, tribal or sectarian sign.”

⁶⁸ The level of deposits was raised by 2nd Amendments Schedule (2010). This was the only increase since the 2001.

- a) Sl. Sh. 5,000,000 (five million Shillings) in respect of each candidate for presidential⁶⁹ office.
- b) Sl. Sh. 1,000,000 (one million Shillings) in respect of each candidate for a local council.

Article 26: Receipt of the list of candidates

1. The lists of candidates for President and Vice-President shall be submitted to the Commission office⁷⁰ and those for the local councils to the District Electoral Offices before six o'clock in the afternoon (6 p.m.) of the day which is 75 days⁷¹ before the polling day⁷². The lists shall be accompanied by the attachments set out⁷³ in this Law.
2. The Commission office or the District Electoral Offices shall ensure that the candidates in the lists fulfil the relevant conditions, and the name of any candidate who did not fulfil the relevant conditions shall be referred back to the association/party which submitted it for a substitution to be made by that association/party within a set period.

Article 27: Publicising the lists of candidates

1. The Commission and each District Electoral Office shall prepare the methods for publicising the (list of) candidates and shall ensure that the sequential order of the candidates in the lists is kept and their symbols are clearly shown.
2. The Commission and all its Polling Station Electoral Offices shall prepare written publicity of the lists of district candidates and shall display them in all the polling stations of the district.
3. The Commission and its offices shall display 30 days⁷⁴ before the polling day the lists of district candidates at public meeting places, notice-boards, local government offices, etc.⁷⁵, and shall also publicise the lists, if possible, through radio broadcast or publication in the press⁷⁶.

ELECTION CAMPAIGNS

Article 28: The beginning and end of the election campaign⁷⁷

⁶⁹ There are no specific deposits to be paid by vice-presidential candidates. This may be because each party's candidate list will include both a presidential and a vice-presidential candidate – see Article 83(2) of the Constitution and Article 26 of this Law.

⁷⁰ This is presumably the Central Electoral Office as set out in Article 10 above.

⁷¹ Period increased by the 4th Amendments Schedule. The 2005 Election Law sets 60 days – Article 16(1).

⁷² For the forthcoming 28 November 2012 local elections, the National Electoral Commission has announced that the deadline for submission of candidates' list shall be 6.00 pm on 14 September 2012.

⁷³ See Article 23 above.

⁷⁴ 45 days in the 2005 Election Law – Article 20(3).

⁷⁵ The abbreviation '*iwm*' in Somali is used in this Clause in the Somali version and is the same as 'etc.' In this context, it can be read to refer to 'other similar places'.

⁷⁶ Amended by the 4th Schedule Amendments (2012).

⁷⁷ It should be noted that the 2005 Election Law includes in its "Election Campaigns" Part a number of articles dealing with the use of public resources by any party during the elections and equitable access to publicly owned media (Article 26), the Movement of Transport at the polling day (Article 27). The *Electoral Code 2012* goes into much detail in these matters and makes them applicable also to the local elections (and previously also to the 2010 Presidential election). Paragraph 16 of the Code covers the use of the publicly owned media, as well as private media

1. Election campaigns shall start when the publicity set out in Article 27 is carried out and shall end 48 hours before the polling day.⁷⁸
2. If the election campaign period falls in the blessed month of Ramadan, the election campaign shall start 60 (sixty) days before the polling date and end 48 hours before the polling date, so as to allow any party wishing to do so to undertake the bulk of its campaigning before the month of Ramadan.⁷⁹
3. The *current* presidential (the presidential election of 2010) campaign period shall be three week (21 days). The campaign shall start 23 days before the polling date and end 48 hours before the polling date⁸⁰. If, however, the election campaign period falls in the month of Ramadan, Clause 2 of this Article, which was in the Amendments Schedule to this Law passed by the House of Representatives on 26/07/2009, shall be followed.⁸¹
4. The current campaign of the District Councils elections contested by Parties/Associations shall last for a total period of four weeks less one day (27 days). The campaign shall start 29 days before the polling day and shall end 48 hours before the polling day. The Schedule of the election campaign shall be issued by the National Electoral Commission.⁸²

Article 29: The holding of meetings and demonstrations

1. The National Electoral Commission shall prepare and issue a planned schedule⁸³ of the election campaign period demonstrations and public rallies of the Parties/Associations in which an equal number of days are allocated to the various Parties/Associations.⁸⁴
2. No more than one⁸⁵ meeting and a demonstration can be held in a town or village in any one day.

during the election period. It also covers the abuse of public property and assets for electioneering and a ban on the use of foreign funds or the assets of non-governmental or charitable organisations.

The 2005 Law also gave the NEC powers under Article 64 to take administrative disciplinary action against parties for contravention of the electoral law and code. This has also been extended through the 2012 Code to the forthcoming local elections and the monitoring/investigation of such contraventions and recommendations to the NEC for action are delegated to the independent Electoral Monitoring Committee set up under the Code.

⁷⁸ Following the announcement that the local district councils' election polling date shall be 28 November 2012, the NEC announced that the campaign period shall start on 29 October 2012 and end on 25 November 2012.

⁷⁹ Clause inserted by the 1st Amendments Schedule (2009).

⁸⁰ Clause inserted by 2nd Amendments Schedule (2010).

⁸¹ Clause inserted by the 4th Amendments Schedule (2012).

⁸² This Clause was inserted by the 4th Amendments Schedule (2012).

⁸³ Article 18(2) of the 2012 Electoral Code of Conduct:

"The National Electoral Commission shall prepare and issue the schedule of planned public rallies and demonstrations and rallies of the parties/associations during election campaign period, setting out an equal allocation of days for all the parties/associations. It is incumbent on the Ministry of Internal Affairs, the Regional Governors and the Districts' Mayors to implement the NEC's schedule during the election. The sequence of the parties/associations' allocated days for public rallies/demonstrations shall be decided by the drawing of lots (sortition)"

⁸⁴ The Changes to this Clause were made in the 4th Amendments Schedule. Previously the Clause read: "Persons organising meetings and demonstrations relating to the election campaign shall inform in writing the Chairman of the District and the relevant police station 48 hours before the event. The Chairman of the District may ban the holding of such meetings or demonstrations if he is satisfied that they might damage the health, morals or general peace etc., and it is incumbent on him to order that the meetings or demonstration may be held at places and times set by him."

⁸⁵ Changed from two to one meeting by the 4th Schedule Amendments (2012).

Article 30: Display of boards

1. The board displays, election campaign leaflets and election campaign messages of a party/association/candidate shall be approved by the National Electoral Commission which shall also stop their use if they are contrary to the laws and to the public morals⁸⁶. No taxes shall be paid for these materials.
2. No election campaign boards or leaflets shall be displayed at mosques, government offices and transport, diplomatic and international organisations centres, etc.

Article 31: Weapons and military uniforms

No weapons, military uniforms or similar materials⁸⁷ may be carried or worn in election campaign meetings or demonstrations.

Article 32: Agents of the parties/associations

1. The central committee or the regional/district committees of each association/party may send an agent⁸⁸ who has the right to vote to any polling station where their candidates are standing for election. They may also send a substitute if the agent is absent.
2. Agents sent by the associations/parties shall be present when the electoral office is conducting its activities⁸⁹, and shall submit any concerns or requests for clarification that they may have, which shall be recorded.
3. The names of the agents of the associations/parties shall be submitted to the Commission or its offices 20 days⁹⁰ before the polling day. [The Commission or its offices shall issue each agent with a written permission allowing him access into and freedom to exercise his duties at his designated polling station.]⁹¹

⁸⁶ Changed by the 4th Schedule amendments (2012). Previously the Clause read: "Board displays and election campaign leaflets shall be submitted to the office of the Chairman of the District 48 hours before they are displayed. No fees shall be charged for these submissions". The independent NEC has now charge of these issues.

⁸⁷ Besides other laws relating to possession of weapons, Article 23(4) of the Constitution makes unlawful any association which is military in nature or is armed. Paragraph 10 of the 2012 Electoral Code adds "*Candidates, members of Political Parties/Associations, their agents and their supporters are prohibited from carrying any type of weapons at public gatherings, meetings, polling stations and at any places where other parties/associations' election campaigns are being conducted.*"

⁸⁸ Two agents in the 2005 Election Law – Article 28(1).

⁸⁹ Note, however, that under Article 42(5) of this Law, the electoral activities will not be hampered if a party fails to assign an agent to a polling station.

⁹⁰ Changed from 10 to 20 days by the 2nd Amendments Schedule (2010), and the same change is repeated in the 4th Amendments Schedule (2012) even though the 3rd Amendments Schedule had no bearing on this Clause. The period is 21 days in the 2005 Election Law – Article 28(3).

⁹¹ It is unclear whether the changes to the first sentence of this Clause, which related only to the period of 20 days were also meant to replace this second sentence, as they start with the phrase that "Clause 32(3) has been changed to ...". In my view, it is more than likely that the change was only meant to affect the period from the previous 10 days to 20 days and that the rest of the Clause [in square brackets inserted by me]is still current. In any case, it is essential that the NEC deals with the accreditation cards of agents which will enable the agents to exercise their duties laid down in this Law and, as a matter of good practice, there is nothing stopping the NEC from undertaking this essential task.

4. The agents of the Parties/Associations shall be selected on the basis of the following criteria⁹²:
 - a) S/he shall be a partial citizen of Somaliland.
 - b) S/he shall be aged no less than 25 years in the year the election is being held.
 - c) S/he shall be able to read and write.
 - d) S/he shall be a responsible person of good character.

ELECTION OF LOCAL COUNCILS

Article 33: Conditions relating to candidates for local councils

1. He must be a patrial citizen of Somaliland.
2. He must be actually resident in the district where he is standing for election.
3. He must be a Muslim and must be known to behave in accordance with Islamic religion.
4. He must not be less than 25 years⁹³ of age during the year the election is taking place.
5. He must be suitable for this office on the basis of his standing within the community.
6. He must not have been the subject of a final sentence for a criminal offence proven in a court within the preceding ten years⁹⁴.
7. He must be educated to secondary school level if standing for elections in districts graded Category A or B, or, at a minimum, to intermediate school level or equivalent if he is standing for election in districts graded Category C or D.
8. He must be a local district tax-payer or must have participated in a voluntary capacity in activities which are of public interest in the district.

Article 34: Association which do not become parties

Associations which do not succeed in becoming an approved party but gain seats in the local elections in some districts must join one of the three approved parties⁹⁵.

⁹² Clause inserted by the 4th Amendments Schedule (2012).

⁹³ This reduction of the qualifying age from 35 to 25 was made in the 3rd Amendments Schedule (2012) which came into force on 13 December 2011.

⁹⁴ This period is twice that applying to candidates for both Houses of Parliament – Articles 41 and 59 of the Constitution.

⁹⁵ This Article has been replaced by Article 24(1) of the Regulation of Political Associations and Parties Law (Law No. 14/2011) which states:

“Every party/association which does not succeed in the district councils elections shall join, together with its district council members that have gained seats in the district councils of the country, one of the three national parties of its choice and shall inform (their choice), in writing, the Registration Committee within a period of no more than one month (30 days).”

After the 2002 nationwide local district councils' elections, the successful local council candidates belonging to the three out of the six contesting political associations (SAHAN, HORMOOD and ASAD) that did not become one of the new three political parties were obliged to join the three new parties. This compulsory post-election floor crossing is adopted to maintain the constitutional limit of three parties in Article 9(3) of the Constitution whilst periodically new political associations can compete to become political parties once every 10 years through the nationwide local elections. The November 2012 local elections are being contested by the previous three political parties and six new political associations, out of which only the top three

ELECTION OF THE PRESIDENT AND THE VICE-PRESIDENT

Article 35: Conditions for candidacy to the offices of the President/Vice-President

1. The conditions for candidacy to the offices of the President and Vice-President shall be those set out in Article 82⁹⁶ of the Constitution.
2. Candidates standing for election to the offices of President and Vice-President must be members of and be nominated for election by an association/party which has been registered or approved.

Article 36: System for election of the President and the Vice-President

The system for electing the President and the Vice-President shall be as set out in Clauses 1 to 4 of Article 83⁹⁷ of the Constitution.

PROCEDURES FOR CONDUCT OF THE ELECTIONS

Article 37: Electoral offices equipment⁹⁸

1. The National Electoral Commission shall prepare for each polling station the following materials⁹⁹:

shall emerge as the new three political parties for next 10 years (see Article 6 of the Political Associations & Parties Law 2011). The successful councillors belonging to the losing 6 parties/associations must then join one of the new three parties. *Incidentally the period of operation of the "permissible floor crossing" amendment provision (Article 11(4)) of the Regulations of Political Associations & Parties Law – Law No. 14/2011) which allowed House of Representatives members to join the new associations or another party comes to an end when the election takes place and, therefore, under Article 24(2) any sitting Representative whose party/association fails to come through as one of the new three parties must also join one of the new parties so that he continue to serve the remainder of his term. (For further information, see my annotated text of that Law).*

⁹⁶ "Article 82: The Conditions for Eligibility for Election as President or Vice-President

To be elected as President or Vice-President, a person must fulfil the following conditions:

1. He must be a citizen of Somaliland by birth, and, notwithstanding residence as a refugee in another country, must not hold any other citizenship.
2. He must be a Muslim, and must behave in accordance with Islamic religion.
3. He must not be less than 40 years of age.
4. He must be physically and mentally able to fulfil his duties.
5. He must possess knowledge of and experience in management (public and otherwise).
6. He must not have been convicted by a court for an offence against the Somaliland nation.
7. His spouse must be Muslim.
8. He must be fully apprised of the realities of the country, having been resident in the country for a period of at least two years before the date when the election is scheduled to take place.
9. He must register his private property."

⁹⁷ "Article 83: Election Procedures

1. The President and the Vice-President shall be elected jointly through a direct general election by means of a secret ballot.
2. The joint election of the President and the Vice-President shall be based on the list system and shall take place a month before the end of the term of office of the outgoing President.
3. The outgoing President and Vice-President shall continue in office until the new President and the Vice-President assume their offices within a month (*of the election*).
4. The two candidates in the list which obtains the highest number of votes cast in the Presidential and Vice-Presidential election shall be recognised as the successful candidates."

⁹⁸ Throughout the Law, the Somali words of "qalab" (equipment) and "agab" (materials) are sometimes used interchangeably.

- a) A copy of this Law.
 - b) A sealed container which has in it the stamp of the polling station as well as ink and a stamp pad.
 - c) A sealed container which has in it the ballot papers.
 - d) The ballot boxes.
 - e) A container for carrying the ballot papers.
 - f) Three forms to record the voting activities.
 - g) A tabulated form.
 - h) Enough ballpoint pens for marking the ballot papers.
 - i) At least five posters showing how voters can mark the ballot papers.
 - j) A bottle of indelible ink for marking the voters.
 - k) The various written materials that may be required.
 - l) m) & n) *Deleted*.¹⁰⁰
2. When combined¹⁰¹ local elections are being held, the materials referred to in 1(c) to 1(g) in the preceding clause shall be provided in duplicate, but shall be marked differently.
 3. The Commission shall prepare for the Central Electoral Office and for each district/region the following materials:
 - a) A copy of this Law.
 - b) A sealed container which has in it the stamp of the District or Regional (Electoral) Office as well as ink and a stamp pad.
 - c) Three forms to record the election¹⁰² activities of the District/Region (Electoral offices).
 - d) Tabulation forms.
 - e) Various stationery.
 - f) *Deleted*.¹⁰³
 4. The equipment for each (electoral) office shall be placed in a separate container which shall be locked and sealed. The Commission shall send the equipment and the ballot boxes at the appropriate time to the electoral offices of the district/region which shall, in turn, pass them on to the polling stations.
 5. a) The Commission shall prepare for each polling station additional ballot papers the number of which shall not exceed 2% of the total number of ballot papers the Commission allocated for the polling station, and shall note in a special register in the possession of the National Electoral Commission their (serial) numbers and the polling stations to which they are sent. These ballot papers shall be placed in a special sealed box inside the election container for the relevant polling station.

⁹⁹ Various additional materials previously required for the voting based on an electoral roll were added to this Clause by the 1st Amendments Schedule (2009), but have since been removed by the 4th Amendments Schedule (2012).

¹⁰⁰ Inserted originally by the 1st Amendments Schedule (2009) and then deleted by 4th Amendments Schedule (2012) . Sub clause “n” was also deleted previously by the 2nd Amendments schedule.

¹⁰¹ The reference to combined local elections is not clear, but it may be referring to different polling stations being situated in the same place/building.

¹⁰² The Law refers here to the voting activities, but as voting only takes place at the polling stations, it is submitted that this refers to the “election” activities conducted by the District and Regional Electoral Offices.

¹⁰³ Inserted originally by the 1st Amendments Schedule (2009) and then deleted by the 4th Amendments Schedule (2012).

b) The additional ballot papers shall only be used to replace ballot papers spoiled before they are cast, provided that the chairman and the agents of the Parties/Associations at the polling station are satisfied with their use. Every occasion when such an additional ballot paper is used to cast a vote and the reasons necessitating its use shall be recorded.¹⁰⁴

Article 38: Ballot papers

An upright and rectangular symbol of each association/party shall be printed on each ballot paper. Each symbol shall have an accompanying blank space for the voter's mark.¹⁰⁵ Each ballot paper shall have a small gummed edge¹⁰⁶ so that it can be folded and sealed.

Article 39: Proper use of the official lists and the polling stations

1. Every polling station where voting is taking place shall have two small booths where voters can enter and mark their ballot papers therein and are so arranged as to ensure secret balloting.
2. The ballot boxes for holding the ballot papers shall be placed in full view of or beside the tables used by the Chairman of the polling station.
3. *Deleted.*¹⁰⁷

Article 40: Display of the list of candidates

1. A copy of the display referred to in Article 27 of this Law shall be affixed to places which can be seen by everyone and form parts of the electoral offices or are inside and outside of the polling stations.
2. A copy of the publicity referred to in Article 27 of this Law which the Commission prepared from the list of candidates in the order in which the lists were passed to it shall be affixed to visible places outside and inside the electoral offices.

Article 41: Distribution of electoral equipment

1. The District Electoral Office shall ensure that the necessary equipment shall reach each polling station, where the voting will take place, at six o'clock¹⁰⁸ in the morning (6 a.m.) before the polling day.
2. The Commission shall deliver to the district electoral offices the equipment required for voting at the latest four o'clock¹⁰⁹ in the afternoon (4 p.m.) of the day before the polling day.
3. Every polling station shall be issued with:
 - a) A note declaring the names of the polling station officers.
 - b) A note declaring (the names of) the agents of the associations/parties who shall be present at the polling station.

¹⁰⁴ These changes to this Article 5 were made by the 4th Amendments Schedule (2012). The Clauses which numbered three (a to c) were originally inserted by the 1st Amendments Schedule (2009). The previous Clause 6 of this Article was deleted by the 1st Amendments Schedule (2009).

¹⁰⁵ See also Article 22(1) for other matters that affect the design of the ballot paper in local elections.

¹⁰⁶ The practical design of the ballot papers may not allow for gummed edges which would be susceptible to tearing at the count.

¹⁰⁷ The third Clause relating to Voters Register was deleted by the 4th Amendments Schedule (2012).

¹⁰⁸ Ten o'clock in the 2005 Election Law – Article 39(1).

¹⁰⁹ Five o'clock in the 2005 Election Law – Article 39(2).

Article 42: Polling Station Office

1. When the polling station Chairman receives the equipment referred to in the preceding Article, he shall:
 - a) prepare the office and inform the scrutineers and the secretary that they are the officers of the station and instruct them in how they will fulfil the duties assigned to them;¹¹⁰
 - b) ensure that the approved agents of the associations/parties are present;
 - c) having confirmed, in the presence of officers of the station and the agents of the associations/parties, that the containers are sealed, open them, and check that the equipment are complete;
 - d) having confirmed, in the presence of officers of the station and the agents, that the envelopes containing the (polling) station stamp and the ballot papers are sealed, open the envelopes, mark the ballot papers with the polling station stamp and place them neatly in a suitable container. No person, other than those approved in writing¹¹¹, shall be present at the polling station at this stage;
 - e) ensure that the displays setting out the voting procedures and the lists of the candidates are affixed to the assigned places;
 - f) ensure that the necessary equipment assigned for the voting is utilised in the way set out in the Law so that the election activities are carried out properly.
2. He (the polling station Chairman) shall record that all the above activities have been carried out. The record shall also show the stamp of the polling station and the total number of ballot papers received by the polling station.
3. He shall then ensure that all the officers and the agents confirm through their signatures that everything is in place as planned.
4. When the Chairman of the polling station confirms that all the above activities have been carried out, he shall declare that the voting may commence.
5. If the political parties¹¹² do not assign agents to a polling station, the electoral activities shall not be hampered and the Commission officeholders at the polling station shall proceed ahead with their work.

Article 43: Powers of the Chairman of the polling station

1. The Chairman of the polling station shall keep order during the election. He may instruct the police to remove a person from the polling station or detain a person who has committed an offence in connection with the election activities or a person who is manifestly insane.
2. The police shall not enter the polling station unless ordered to do so by the Chairman.

¹¹⁰ The rest of the sentence which was previously inserted by the 2nd Amendments Schedule (2010) was deleted by the 4th Amendments Schedule (2012).

¹¹¹ As set out in Article 41(3) of this Law.

¹¹² This Clause which was inserted by the 1st Amendments Schedule (2009) omitted to include political associations as it was passed before the impending presidential election which could only be contested by the three national political parties. Nevertheless, there is no reason why this Clause should not apply also to the new political associations in 2012 local elections. The 2012 Electoral Code of Conduct covers the responsibilities of the agents of the parties and association in respect of Article 52(2).

3. Police officers and state employees shall fulfil any requests made by the Chairman of the polling station so as to ensure smooth voting and avoid overcrowding around the polling station officers' table or in the immediate vicinity of the polling station.
4. The Chairmen of the polling stations and those¹¹³ of the central (electoral) office shall have the right to exercise the powers set out in this Article.

Article 44: Access to the polling station

1. Only persons managing the polling station, agents of associations/parties and voters may enter the polling station.¹¹⁴
2. It is forbidden for voters to carry weapons at the polling station. Voters shall proceed ahead of each other in the order of their arrival, but if there are persons who are working on election activities and who wish to cast their ballot, they may be allowed to proceed ahead of the other waiting voters. Only one person at a time may enter the polling station.

Article 45: Steps before voting

*Deleted.*¹¹⁵

Article 46: Persons who cannot Vote

1. Voters who attend the polling station in person may place their votes in the ballot box.
2. If, due to physical incapacity, a person may not be able to cast his vote, the Chairman of the polling station may allow another voter who is trusted by the incapacitated person to help him cast his vote. If there is an old person or a person who is unable to understand where to put his mark on the ballot paper, the Chairman of the polling station shall ask someone who has the trust of the person to help him cast his vote. In the absence of someone who has the trust of the person, the Chairman may ask the polling station staff to help the

¹¹³ The word used here is in the plural, but there is only one central office as set out in Article 10 above.

¹¹⁴ This Clause seems to overlook the right of observers and also of the Central Electoral officeholders to enter the polling stations for observation and inspection. Indeed, other than Article 1 which defines observers, there is no mention of the role of observers in this Law.

¹¹⁵ This Article as initially drawn up dealt with the process of confirming the identity of the voters at the polling station in elections held without a Voters' Register. It was then amended by the 1st and the 2nd Amendments Schedules when it dealt with the verification of the prospective voter's presence in the electoral register. With the abolition of the Voters Register on 14 December 2011 by the 3rd Amendments Schedule (2011) of the Voter Registration Law (No. 37/2007), the issue that arises now is how the eligibility of the perspective voters can be checked. The 1st Amendments Schedule (2009) of this Law added to Article 66 of the Law a provision to the effect that its changes which were mainly related to the voters' register would only be used in any election, which is conducted on the basis of a voter registration system. Now that these amendments have been repealed, there is nothing, in my view, stopping the NEC from using any of the pre 2009 provisions relating to the identification of voters in elections without voter registration, which can be supplemented with the use of specified acceptable identity documents. The pre 2009 Article 45(1) provision relating to identification was as follows:

"A voter may cast his vote after:

- a) he has given the particulars of his name, age and identification;*
- b) his right to vote has been verified and he has fulfilled the voting conditions after his identification, including any documents he is carrying, other witness statements or means of proof, has been checked promptly."*

person. The agent of the Party/Association whose candidate the person has indicated his intention to vote for can be present¹¹⁶.

3. The Secretary of the polling station shall record the reason why the incapacitated person was allowed to be helped in casting his vote. The record shall also show the details of both the incapacitated person and his helper.¹¹⁷

Article 47: The Voting Procedure

1. On completion of the activities set out in Article 45¹¹⁸, as amended,¹¹⁹ the Secretary shall:
 - a) hand the voter a ballot paper for casting whilst ensuring that the ballot paper's counterfoil remains and is stamped.
 - b) Deleted.¹²⁰
 - c) Deleted.
2. If, before he casts his vote, the voter notices that the ballot paper is incomplete or torn, he shall return it and ask for a replacement. Such an incident shall be recorded in writing.¹²¹
3. The voter shall then enter the small booth where the ballot papers are marked.
4. Using one of the ballpoint pens provided, the voter shall put a mark anywhere within the section of the ballot paper which is specifically for the party/candidate¹²² that he wishes to vote for, and then fold the ballot paper and leave the booth.¹²³
5. The voter shall then put his ballot paper in the ballot box.

¹¹⁶ These last three sentences referring to persons who may have difficulty in understanding how to mark the ballot paper were added by the 4th Amendments Schedule (2012) and is particularly relevant to the "open list" local districts council election voting ballot papers which will carry the names (and parties) of a considerable number of candidates.

¹¹⁷ The same procedure relating to incapacitated voters will presumably be adopted by the polling station secretary in connection with the old and other persons that may also be helped in line with new additional provision in the preceding Clause.

¹¹⁸ Note that Article 45 was deleted by the 4th Amendments Schedule (2012).

¹¹⁹ This was the wording of the 1st Amendments Schedule which changed extensively this Article and expanded it from 7 to 13 Clauses.

¹²⁰ This sub clause (b) and the following (c) were deleted by the 4th Amendments Schedule (2012). They were originally inserted by the 1st Amendments Schedule (2009).

¹²¹ Inserted by the 1st Amendments Schedule (2009).

¹²² Paragraph 18(5) of the 2012 Electoral Code of Conduct: *"Article 47(3) (sic- should read now 47(4)) is very clear and concise in connection to where the voter should place his mark on the ballot paper. However, considering the fact that many of the Somaliland people are not literate, the possibility of a large number of Somaliland populations losing their votes, because of illiteracy, cannot be ruled out. To avoid this problem, the parties/associations agreed as the following which is in accord with the procedures used in the previous elections:*

- a) Voters are permitted to place their mark at any part of the ballot paper which is particularly set aside for the party/ association he wishes to vote for.
- b) Any such mark that a voter makes writes on the voting paper such as a dot, cross, line, symbol, tick shall be accepted so long as the mark is clearly inserted in the part of the ballot paper set aside for the party/association.
- c) If the voter's mark exceeds largely the part of the ballot paper set aside for a party/association, the vote shall be considered as void. However, the vote shall be counted as correct and valid if it is apparent that the intention of the voter was to vote for a specific party/association as, for example, where the majority of the mark in the ballot paper lies within the part set aside for that specific party/association and only a small section of the mark strayed into the part set aside for another party/association. "

¹²³ Amended by the 1st Amendments Schedule (2009).

6. The voter shall then proceed to (the position of) the second scrutineer who shall mark the voter's left hand small finger with indelible ink.¹²⁴ The ink shall be marked on the voter's right hand small finger if has no left hand small finger, and if he has neither, on, preferably, any other finger in his left hand. If the voter has no hands, the mark shall be place on any other visible part of his body.
7. *Deleted*¹²⁵.
8. *Deleted*¹²⁶.
9. *Deleted*.¹²⁷
10. The Chairman of the polling station shall oversee the other polling station officials' performance of their duties and shall be free to run smoothly the activities at the station.
11. The Chairman of the polling station shall have the power to expel from the station any voter who, without any excuse, loiters at the station, and to confiscate his ballot paper. Any such expelled voter shall be allowed to vote after all the other waiting persons cast their votes.
12. *Deleted*.¹²⁸
13. The Chairman of the polling station shall order promptly that any voter, who has additional ballot papers or ballot papers which are different from the ones in use, has the ballot papers removed from him and shall, if possible, hand him over to the security forces so that he can be prosecuted. Any such incident shall be recorded in writing.¹²⁹

Article 48: Conduct of the Voting

1. Voting shall be completed within one day, beginning at seven o'clock¹³⁰ in the morning (7 a.m.) and finishing at six o'clock in the evening (6 p.m.).
2. If there are voters who are still queuing outside to vote, the finishing time shall be disregarded and voting shall continue until all such waiting voters have cast their votes.

Article 49: Decisions about Complaints at the Polling Station

The Polling Station (Electoral) Office shall reach provisional decisions about complaints (if any), such as those made orally or any arguments relating to voting activities of the polling station. These complaints and arguments shall be recorded in writing.

Article 50: Activities before the Counting of Votes

1. After all the voters have cast their votes, the Chairman of the (polling) station shall announce loudly that the voting has finished.

¹²⁴ The reference to the Voter's card has been removed by the 4th Amendments Schedule (2012).

¹²⁵ Deleted by the 4th Amendments Schedule (2012). Note, however, that Clause 7 relating to the punching of voters cards was already removed by the 2nd Amendments Schedule when the card punching plan was abandoned, and so by the time the 4th Schedule Amendments were passed, this Article consisted of 12 and not 13 Clauses. Theses deleted Clauses were originally inserted by the 1st Amendments Schedule (2009).

¹²⁶ Deleted by the 4th Amendments Schedule (2012).

¹²⁷ Deleted by the 4th Amendments Schedule (2012).

¹²⁸ Deleted by the 4th Amendments Schedule (2012).

¹²⁹ This Clause was previously amended by the 1st Amendments Schedule and has since been further amended slightly by the 4th Amendments Schedule.

¹³⁰ Six o'clock in the 2005 Election Law – Article 45(1).

2. When the Chairman of the (polling) station gathers from the table all the papers and equipment which are not necessary for the count, he shall start the following activities:
 - a) Check the total number of voters by looking at the number of ballot papers issued.
 - b) Collect and count all the ballot papers that have not been used and place them in the first envelope.
 - c) Confirm and affix his signature on the damaged or incorrect ballot papers which were returned by the voters or were seen by the officers to be so, and place them in the second envelope.

Article 51: Counting of the Votes

1. When the Chairman of the (polling) station has completed the activities set out in the preceding Article, he shall start the count of the ballot papers in the ballot box. To enable this, a scrutineer shall remove from the ballot box one¹³¹ ballot paper at a time, which he shall pass on to the Chairman. The Chairman shall open each ballot paper and announce loudly (the name of) the association/party which gained each vote. The ballot paper shall then be passed by the scrutineer to the second scrutineer and shown to the agents of the associations/parties. The Secretary shall then record the vote in the appropriate tabulated form which relates to the association/party for which the vote was cast and shall place the ballot paper in the appropriate box.
2. No ballot paper shall be removed from the ballot box while the preceding ballot paper is still being processed and placed in the (appropriate) box. Only the officers of the (polling) station shall manage these tasks.
3. When the Chairman of the (polling) station completes the count, he shall confirm the total number of ballot papers and reconcile them with the total votes cast for the associations/parties as well as the total number of disputed ballot papers or incorrect ballot papers or those which are invalid in accordance with Article 57 of this Law.
4. When the Chairman of the (polling) station completes his confirmation and affixes his signatures, he shall:
 - a) place the ballots adjudged as void and the complaints of the party agents in the envelope (numbered) 3;
 - b) place the disputed ballot papers in the envelope (numbered) 4; and
 - c) finally put all the valid and counted ballot papers in the envelope (numbered) 5.¹³²
5. If extra (unaccounted for) ballot papers or ballot papers which are different from those used in the (polling) station, such as those without the stamp or the ballot numbers of the station or are of a type different from those used in the station for voting, are found in the ballot box, the polling station officers shall separate them from ballot papers to be counted and, having shown them to the political parties/associations' agents¹³³ at the station, shall discard them and record the incident in writing.¹³⁴

¹³¹ Clause amended by the 1st Amendments Schedule (2009).

¹³² Amended by the 1st Amendments Schedule (2009).

¹³³ Associations added by the 4th Amendment Schedule (2012).

¹³⁴ Clause amended by the 1st Amendments Schedule (2009).

Article 52: The Closure of the Counting Activities

1. When the Chairman of the (polling) station completes the counting activities set out in the preceding Article, he shall declare publicly the total number of voters, the correct votes cast and the number of votes cast for each association/party list and candidate¹³⁵.
2. In order to avoid the loss of the votes cast by the citizens, it is incumbent¹³⁶ on each party/association agent to sign the envelopes or to submit in writing his reasons for not signing, which will be added to the envelope.¹³⁷
3. The details of the materials in each envelope shall be noted on the outside of each envelope.
4. The counting activities shall be completed as set out (above) in a continuous manner and without interruptions or engagement in other activities.
5. The written records shall show clearly the activities set out above.

Article 53: Spoilt¹³⁸ or Disputed Votes

1. When the ballot papers are being counted, the following papers shall be considered void:
 - a) If they are different from the ballot papers which the Commission has chosen for use in the election.
 - b) If they do not have the stamp of the polling station affixed to them.
2. The counted ballot papers shall become void if:
 - a) the ballot paper contains any writing or signs or skilfully applied impressions, which are not as authorised; (or)
 - b) the ballot paper does not show clearly the association/party for which the vote was cast and this cannot be recognised; (or)
 - c) the ballot paper shows that the voter has marked the symbols of more than one party/association.
3. A vote may become void when the all the officers of the polling station so resolve jointly. If, however, there is no such joint resolution and there is disagreement, the relevant ballot paper shall be recognised as a disputed one.
4. The District Electoral Office can reach decisions about disputed ballot papers.

Article 54: The Written Records of the Polling Station

1. The record of the results of the polling station shall be kept in the appropriate form designed by the National Electoral Commission for this purpose which shall consist of an original record and eleven¹³⁹ copies. The Chairman of the polling station shall declare publicly:

¹³⁵ Candidate added by the 4th Amendment Schedule (2012).

¹³⁶ This is reinforced by Paragraph 18(4) of the 2012 Electoral Code of Conduct: *Parties and Associations must encourage their agents to either sign the envelopes or register their complaints at the polling station.*

¹³⁷ Changed by the 4th Amendments Schedule (2012). The previous wording was: "The envelopes shall then be sealed, and shall have affixed to them on the outside the stamp of the polling station and the signatures of the Chairman of the (polling) station, and those of at least one of the scrutineers and of all the agents of the associations/parties which have candidates standing for election at the polling station".

¹³⁸ It appears that various words have been used for incomplete or incorrect or spoilt ballot papers in various clauses. This Article deals with ballot papers which can be rendered void.

¹³⁹ The original 2001 text of the Law set down 3 copies, which was increased to 5 by the 1st Amendments Schedule (2009) and then to 11 by the 4th Amendments Schedule 2012 (so that there are sufficient copies to be given to the 9 parties/associations contesting the 2012 local elections).

- a) The total number of votes cast at the station.
 - b) The number of spoilt votes.
 - c) The number of disputed votes.
 - d) The number of valid votes.
 - e) The number of votes cast for each party/association/candidate contesting the election.
2. The original form referred to in Clause 1 of this Article shall be forwarded to the Chairman of the Regional Electoral Office. Two copies of the form shall be placed in the same container which holds the sealed envelopes referred to in Clauses 55(1) and (2) of this Law and, together with the remaining electoral materials, shall be forwarded to the District Electoral Office. The remaining nine copies shall be given to the agents of the parties/associations.¹⁴⁰

Article 55: The Transport and Transfer of Equipment

1. The Chairman of the polling station, accompanied by at least one of the officers (of the polling station) and the guarding police officers, shall transport without any delay the written records and the envelopes of the polling station and hand them over¹⁴¹ to the District Electoral Office.
2. When the envelopes are being handed over to the District Electoral Office, they shall be checked so as to ensure that they are sealed and have not been opened or interfered with¹⁴². The Chairman of the District Electoral Office shall issue a receipt confirming transfer of the materials.¹⁴³

Article 56: The Work of the District Electoral Office

1. On receipt of the materials set out in Article 55 of this Law, the Chairman of the District Electoral Office shall:
 - a) instruct the scrutineers, the secretary and the counting officers to get ready for the work;
 - b) call the agents of the associations/parties, which have fielded candidates at the District elections and were approved by the Commission, so they can be present during the conduct of the (electoral) activities;
 - c) after he and the officers and the agents have ensured that the containers are sealed and have not been opened previously, open the containers and check and remove the materials; (*and*)
 - d) after they¹⁴⁴ have jointly ensured that the envelopes are sealed and have not been opened previously, open the envelope which contains the stamp and check that the number on the stamp has been affixed to the written records.
2. The District Electoral Office shall then check that the written records and the envelopes set out in Articles 50, 51 and 54 of this Law are complete.¹⁴⁵

¹⁴⁰ Clause amended by the Amended by the 1st Amendments Schedule (2009), and then minor changes were made by the 4th Amendments Schedule 2012.

¹⁴¹ The 2005 Election Law sets a time limit of 12 hours within which the handover should take place – Article 52(1).

¹⁴² The 2005 Election Law says that this should be done in the presence of the party agents – Article 52(2).

¹⁴³ The third Clause in this Article was deleted by the 1st Amendments Schedule (2009).

¹⁴⁴ The Chairman, officers and agents.

¹⁴⁵ The third Clause in this Article was deleted by the 1st Amendments Schedule (2009).

Article 57: The Counting of the District Votes¹⁴⁶

On receipt of the polling station electoral materials, in the presence of the political parties' agents, the District Electoral Office shall¹⁴⁷:

1. check that the various envelopes are properly sealed;
2. check the number of the void ballot papers and add any emerging changes to the totals for the relevant competing parties/associations¹⁴⁸/candidates;
3. reach decisions about the disputed ballot papers and where it has been decided that disputed votes shall be counted, add these to the total votes of the parties/associations/candidates for which they have been cast;
4. reach decisions about the disputed polling station ballot boxes and record the results of these polling stations in the voting results record forms of these polling stations.
5. A ballot box may be:
 - a) counted if it is accepted that its votes have been cast in accordance with the law;
 - b) rendered void if it is shown that its votes have been cast in a manner not consistent with the law.
 - c) The validity of any contested ballot box must be determined on the basis of the two options set out in (the preceding) sub clauses (a) and (b) of this clause.
6. The decisions of the District Electoral Office shall be validated by a simple majority vote of the officeholders¹⁴⁹.
7. If the District Electoral Office cannot resolve finally disputes about a polling station ballot box or complaints about disputed ballot papers, or complaints are made about the checking of ballot papers adjudged by the Polling Station Office as void, it shall forward the relevant ballot box and a written report or the complaints (whichever is the case) to the Regional Electoral Office which shall strive to settle the disputes.
8. The District Electoral Office shall add up all the voting results of all the district's polling stations and shall record the district voting results in the relevant forms designed for this purpose, which consist of one original copy and eleven copies¹⁵⁰, and shall declare publicly the:
 - a) total votes cast in the district;
 - b) number of spoiled votes;
 - c) number of disputed vote;
 - d) number of valid votes; and
 - e) number of votes cast for each contesting party/association/candidate.
9. The District Electoral Office shall forward to the Regional Electoral Office the original copy of the district voting results, as well as the original voting results of the district's polling stations and the copies of all the total results of all the

¹⁴⁶ In original 2001 text of this Law, this Article was headed "The Counting of the Votes for the Presidential Election" and dealt with the count at the District Electoral Office. With the change of the heading, this Article relates to all counts at the district, including local elections, but see also Article 59 which also deals specifically with district councils elections only. Most of the changes in this Article were in the 1st Amendments Schedule (2009) (and not the 2nd Amendments Schedule) and further changes were made by the 4th Amendments Schedule (2012).

¹⁴⁷ This Article was initially amended extensively by the 1st Amendments Schedule (2009).

¹⁴⁸ Inserted by the 4th Amendments Schedule in this Clause and in the following Clause 3.

¹⁴⁹ See Article 17 for the list of the District officeholders.

¹⁵⁰ The 4th Amendments Schedule (2012).

polling stations. Two copies (of the district results) shall be placed in the box (for the regional office) and the other remaining nine copies shall be given to the agents of the parties/associations at the District Electoral Office.¹⁵¹

Article 58: The Work of the Regional Electoral Office

1. After receiving the written records¹⁵² of the polling stations, the total result of the votes as declared by the districts in the region and the total votes cast for each party as forwarded by the District Electoral Offices of the region, the Regional Electoral Office shall check the calculations of the results of the total votes.
2. The Regional Electoral office shall, in the presence of the contesting parties/associations' agents, reach decisions about any outstanding complaints or disputes which have been forwarded to it, and shall add up the voting results of all the districts in the region and produce the:
 - a) total number of votes cast in all the districts of the region;
 - b) total number of spoilt votes in all the districts of the region;
 - c) total number of valid vote in all the districts of the region ;
 - d) number of votes cast for each contesting party/association.After recording the voting results of the region in the relevant forms designed for this purpose, the Regional Electoral Office shall declare publicly the voting results of the region.¹⁵³
3. The Chairman of the Regional Electoral Office shall¹⁵⁴:
 - a) record the voting results of the region in the forms referred to in clause 2 of this article which consist of one original copy and five [eleven?¹⁵⁵] copies;
 - b) forward to the Supreme Court the original copy together with a copy of the voting results of every district in the region;
 - c) forward to the National Electoral Commission two copies, as well as the original copies of the voting results of all the districts in the region; (and)
 - d) give the remaining nine copies to the agents of the parties/associations at the Regional Electoral Office.

Article 59: The Counting of the Local Elections and the Declaration of the Result

On receipt of the materials set out Article 55 (of this Law) in relation to the local elections, the Chairman of the District Electoral Office shall:

1. count and add up all the votes cast in the polling stations of the District;
2. confirm the void votes of all the polling stations in the district;
3. reach decisions about the disputed votes;
4. count the number of valid votes cast for each association/party in the district election;

¹⁵¹ Amended by the 4th Amendments Schedule (2012).

¹⁵² Amneded slightly by the 1st Amendments Schedule

¹⁵³ Amended by the 1st Amendments Schedule (2009).

¹⁵⁴ Amended by the 1st Amendments Schedule (2009).

¹⁵⁵ Five was the number indicated in the 1st Amendments Schedule, but this should have been (and was not) changed to read "eleven" copies. If one adds up the number of copies mentioned in sub clauses (b) to (c) of this Clause, then the number of copies one starts with should be eleven. This appears to be an obvious drafting error and the NEC would be should ensure that Regional Electoral Offices are aware of this error and that eleven copies should be provided.

5. divide the total number of valid votes cast in the district by the number of seats¹⁵⁶ of the local district, and calculate the proportion of the votes each association/party has gained;
6. confirm the number of local seats each association/party is entitled to;
7. declare then the names of the candidates of each association/party who have won the election, in the sequence¹⁵⁷; of their positions in the lists as set out in Article 23 of this Law;
8. declare publicly the result of the district election and display on the notice-board of the District Electoral Office the names of the successful candidates.

Article 60: Forwarding the Records

1. The records of the activities set out in Articles 55, 56 and 58 of this Law shall be noted on the appropriate forms designed by the Commission for these purposes, and must kept in triplicate.
2. The copies of the records shall be distributed as set out in Articles 55 and 58 of this Law.

Article 61: Issuing Resolution Relating to the Local Elections

The District Electoral Office shall issue the resolution relating to the district elections by means of a concise written notice setting out the names of the candidates who were successful in the local elections, which shall be displayed at the administration office of the relevant local government, and copied to the Central (Electoral) Office.

Article 62: The Review of the Local Elections

1. The Chairman of the Regional Court shall review and confirm the resolution relating to the local elections. He shall reach decisions about any disputes or complaints¹⁵⁸ which have arisen during the voting activities and have been generally forwarded to him by the District Electoral Office(s)¹⁵⁹.

¹⁵⁶ This will give the quota (or quotient) of votes for each seat (the Hare Quota). Seats are then allocated for each full quota that a party/association obtains. As there is no further prescription about any remaining seats, it is submitted that these will be assigned on the basis of largest remainders. This is, in effect the 'quotient and largest remainders' proportional representation system which was set out in the first post 1991 Somaliland Elections Bill (2000) and was used in the last 1969 democratic elections in the Somali Republic. See also Article 22 of this Law.

¹⁵⁷ The sequence of names is only for the purposes of declaring the results and has no bearing on the allocation of seats in the open list electoral system- see Article 22 and the definition of "lists" in Article 1 of this Law.

¹⁵⁸ The 2012 *Electoral Code of Conduct* sets up mechanisms for conflict resolution between the parties/associations and for dealing with complaints during the election campaign through the auspices of an independent Election Monitoring Committee (EMC). The parties/associations have agreed in paragraph 19 and 20 of the Code to settle all disputes amicably and to forward any complaints relating to compliance with the Code to the EMC. Paragraph 22 of the Code deals in detail with the appointment, duties and powers of the EMC. The aim is to ensure that, as far as possible, disputes are resolved early by the EMC so that free and fair elections can be held. Also to foster better understanding and communication between the political parties/associations/NEC, Paragraph 16 of the Code states that an Inter Party/Association Advisory Committee consisting of representatives of the parties, associations and the NEC shall be set up from 1 October 2012

¹⁵⁹ The Regional Court, like the Regional Electoral Office, covers all the districts in the region – see Article 12 of the Organisation of the Judiciary Law 2003 (the 49 Article version).

2. The Regional Court has jurisdiction to deal with claims relating to the district elections, which should reach the Regional Court registry within 7 (seven)¹⁶⁰ days beginning from the date¹⁶¹ the district offices of the National Electoral Commission announce the district elections resolutions as set out in Article 61 of Law No. 20/2001 (*this Law*). Any complaints¹⁶² which are not submitted within the legal limitation period shall be null and void.¹⁶³
3. The Regional Court must reach a decision within 10 (ten) days beginning from the date the claim reached the relevant Regional Court registry. Any party¹⁶⁴ (side) to the claim who is dissatisfied with the decision of the Regional Court must submit¹⁶⁵ his appeal when the decision is announced and must register the appeal within a period of 2 (two) days of the date the Court announced its decision. The Regional Court shall forward (*the appeal*) to the Supreme Court within 2 (two) days. If, however, the party (side) does not submit his appeal on the same day (*as the decision*), it shall have no right for its claim to be forwarded to the Supreme Court¹⁶⁶.
4. The decisions of the Regional Court may be appealed to the Supreme Court, which is also the Constitutional Court¹⁶⁷. The Supreme Court shall issue its ruling and final decision within ten (10) days.¹⁶⁸

Article 63: The Work of the Central Electoral Office

1. On receipt of the materials and the written records set out in Article 60 of this Law, the Chairman of the Commission shall:
 - a) instruct the assistants and the secretariat to get ready for the tasks;
 - b) call the agents of the associations/parties so that they can be present during the conduct of the (election) activities;
 - c) check, together with others, that the envelopes are sealed and have not been opened and then open them and remove the materials therein;
 - d) after checking, together with others, that the envelopes are sealed and have not been opened, open the envelope containing the stamp of the

¹⁶⁰ The changes to this article have been inserted by the 4th Amendments Schedule. The previous period for claims was ten (10) days.

¹⁶¹ In common law jurisdictions, this has been interpreted as meaning that the first date is counted, but, the practice in Somaliland has been to count the period of 7 (or, as set out in the following sub clause the periods of 10 Or 2 days) from the day following the announcement or incident. (Article 110 of the 1974 Civil Procedure Code lays down the general rule for calculation of time limits in civil matter Article 88 of the 1963 Criminal Procedure Code deals with the same issues in criminal matters).

¹⁶² Complaints (cabasho in Somali) includes claims (dacwado).

¹⁶³ Clause amended by the 4th Amendments Schedule (2012).

¹⁶⁴ In the sense of a side to a claim/litigation rather than in sense of a political party.

¹⁶⁵ Although the word "register" is used here, as well, I have translated this immediate indication of a wish to appeal as a submission, which must be followed by a registration of the appeal at the Regional Court Registry within 2 days. It would not make sense if the immediate requirement is the same as that which can also be done with 2 days. The appealing party naturally requires time to consider its position and seek legal advice. The same day submission is, however, still necessary, as without it, the 2 day period of appeal will not be gained.

¹⁶⁶ This last sentence is very poorly drafted. It appears to relate to the initial same day submission of the appeal. It should have, in my view, come earlier in the sub clause as, for example, non-compliance with the other limitation period of 2 days for registration of the appeal will also have a similar effect.

¹⁶⁷ The reference to the Constitutional Court is irrelevant as the appeal is to the Supreme Court sitting as the Supreme Court and NOT as the Constitutional Court.

¹⁶⁸ Clause 3 and 4 were inserted by the 4th Amendments Schedule (2012).

electoral office and note in the written record the number of the stamp;
(and)

- e) pass the remaining materials on to the Secretary.
2. The Central Electoral Office shall then confirm the receipt of the written records set out in Article 60 of this Law which are expected from the District and Regional Electoral Offices.

Article 64: The Declaration of the Result of the Presidential Elections

When the Chairman of the Commission receives from the District and Regional Electoral Offices (all the written records¹⁶⁹), he shall:

- a) reach decisions about the claims relating to the voting and the count;
- b) count and add up (arithmetically¹⁷⁰) the valid votes and the incorrect or invalid votes which have been forwarded by the Regional Electoral Offices;
- c) having confirmed fully and being satisfied that the (election) activities have been conducted properly, declare the provisional results of the elections of the President and the Vice-President.

Article 65: Elections claims

1. The Supreme Court shall have (the sole) jurisdiction to deal with claims relating to the elections of the President and the Vice-President. These claims must reach the Court office within 10 days¹⁷¹, beginning from the date when the National Electoral Commission declares the provisional results. The Supreme Court must reach decisions about these claims before the expiry of the constitutional (presidential term) period¹⁷². If a claim falls outside the limitation period, it shall not be considered.
2. On receipt of the written records from the Regional Electoral Offices¹⁷³ and from the Central Office of the Commission, and having checked that the election has been conducted properly in law and in the way the calculations were done, the Supreme Court shall declare the result of the election of the President and the Vice-President.

Article 66: The use and implementation of the amendments to the Election Law No. 20/2001

1. (The original 2001 Law): This Law shall come into force when the President signs it, and it is published in the Official Bulletin of the State.¹⁷⁴
2. (The 1st Amendments Schedule): 1. The amendments to the Election Law No. 20/2001 shall be used only in every election held in the country of the Republic of Somaliland which is based on a voter registration electoral system.
2. The (1st) Amendments Schedule shall come into force when the President signs it, and it is published in the Official Bulletin of the State.¹⁷⁵

¹⁶⁹ See the preceding Article 63(2).

¹⁷⁰ This phrase which appears in parenthesis in the Somali text is presumably used to emphasise that the job involves calculating the sums only and not recounting the actual votes.

¹⁷¹ This time limit reduced from 20 days by the 2nd Amendments Schedule.

¹⁷² The period referred to here is the maximum of one month after the polling date set out in Article 83(2) and 83(3) of the Constitution.

¹⁷³ See also Article 58(3)(b) of this Law.

¹⁷⁴ The President first signed this 2001 Law on 6 December 2001 and it came into force on that date. The House of Representatives approved this Law on 14 November 2001 (Resolution of the House GW/KF 15/200/2001).

¹⁷⁵ The 1st Amendments Schedule (2009) came into force on 29 July 2009.

3. (The 2nd Amendments Schedule): The Amendments to Law No. 20/2001 shall come into force when passed by legislative houses and signed by the President.¹⁷⁶
4. (The 3rd Amendments Schedule): *Came into force when signed by the President.*¹⁷⁷
5. (The 4th Amendments Schedule): The Amendments to Law No. 20/2001 and its 1st, 2nd and 3rd Schedules shall come into force when passed by legislative houses and signed by the President.¹⁷⁸
6. (The 5th Amendments Schedule): The Amendments to Law No. 20/2001 and its 3rd and 4th Amendments shall come into force when passed by legislative houses and signed by the President.¹⁷⁹

Praise be to Allah

Mohamad Hussain Osman
General Secretary, House of
Representatives

Abulqadir H. Ismail Jirdeh
A/C Chairman, House of
Representatives

¹⁷⁶ The 2nd Amendments Schedule (2010) came into force on 17 May 2010.

¹⁷⁷ The 3rd Amendments Schedule (2011) came into force on 13 December 2011.

¹⁷⁸ The 4th Amendments Schedule (2012) came into force on 25 July 2012.

¹⁷⁹ The 5th Amendments Schedule (2012) came into force on 07 August 2012.

The Articles of the Law Amended by the 5 Amendments Schedules and inserted in this Consolidated Text of the Law and its Amendments

Art.	Schedule 1	Schedule 2	Schedule 3	Schedule 4	Schedule 5
1				1(List/List)	
5	5(4)	5(5)		5(4) deleted	
6	6(1), 6(6)			6(1) deleted	
7		7(1)			7(1)
9					9(4) to 9(6)
12		12(2)			
16		16(1)		16(1)	
17		17(1), 17(3)			
19		19(1), 19(7)			
20		20(2) <i>Previous Clause 2 deleted</i>			
22			22(1) to 22(3)	22(1), 22(2)	22(1)
23		23(5) to 23(7)		23(3) deleted	
24				24(1) to 24(3)	24(1) to 24(3)
25		25(a), 25(b)			
26				26(1)	
27				27(3)	
28	28(2)	28(3)		28(4)	
29				29(1), (2)	
30				30(1)	
32		32(3)		32(3), 32(4)	
33			33(4)		
37	37(1) l, m, n 37(3) f 37(5) a, b,c 37(6) deleted	37(1)n- deleted		37(1) l,m,n - deleted 37(3) f - deleted 37(5) a, b	
39	Heading 39(3)			39(3) deleted	
42		42(1)a, 42(5)		42(1)a - deleted	
45	45(1), (2), (3)	45(1), 45(2)		45(1) to 45(3) - deleted	
46				46(2)	
47	47(1) to 47(13)	47(7) deleted (and again in the 4 th Schedule)		47(1) b & c deleted 47(6) 47(7), 47(8)a to e deleted 47(9) & 47(12) deleted	
51	51(1), 51(4), 51(5)			51(5)	
52				52(1), 52(2)	
54	54(1), 54(2)			54(1), 54(2)	
55	55(3) deleted				
56	56(3) deleted				
57	57(1) to 57(9)			57(2) & 57(3) 57(8), 57(8)e, 57(9)	
58	58(1) to 58(3)			58(2)d 58(3) a to d	
62				62(2) to 62(4)	
65		65(1)			
66	60(1) - 60(2)	66(3)		66	66