

REPUBLIC OF SOMALILAND

PRESIDENTIAL AND LOCAL COUNCILS ELECTIONS
(AMENDMENTS & CONSOLIDATION) LAW - Law No. 20/2001[2017]
(OFFICIAL CONSOLIDATION - AS AT JANUARY 2017)

(Somalilandlaw.com Unofficial Translation & Annotation – 30 June 2017)

The 2001 Presidential and Local Councils Elections Law was previously amended by 5 Schedules from 2009 to 2012, and has now been further amended for the sixth time by another Schedule. Although the text of the 6th Schedule was initially passed on its own by both Houses, signed into law by the President on 28 January 2017 and published initially in the Somaliland Gazette, on 4 February 2017, a consolidated text (as set out in the amendments) has now been gazetted (in Somali) on 1 April 2017. This was done because the extensive 6th Amendments Schedule also included a re-structuring of the Law (and its previous 5 amendments) and declared, in its short explanatory note, that (other than any repealed provision) the law and all its six amendments to date ‘will become a single consolidated version’. This is indeed as a very welcome and much needed step, as, without consolidation, it would have been extremely difficult to refer continuously to the 2001 text of the law as well as its six subsequent amendments to date so as to discern the up to date provisions of the law.

The re-structuring exercise of the consolidated law involved rearrangement of the law into 13 Parts (totalling 70 Articles) that commence with the general principles and the provisions relating specifically to the National Electoral Commission and then follow the elections processes from candidacy, campaigning, the various stages of the voting through to results and elections suits, penalties for contraventions of the electoral laws, and final provisions. This has improved the format of the law and would also provide a template for the soon to be revised 2005 House of Representatives (HoR) Election Law. Indeed, once the controversial issues of electoral regions’ seats allocation, quota seats for women and excluded minority groups etc. are settled, there is no reason, in my view, why the HoR elections provisions cannot be consolidated with this Law so that there is only one comprehensive Somaliland Electoral Law¹.

I set out below my (unofficial) English translation of the **official consolidated Law**, which is based, to a large extent, on my previous translations, since 2001, of the original 2001 Law and its previous 5 Schedules. I have italicised some of the main changes brought about by the 6th Amendments Schedule. I have also added, sparingly, some footnotes annotations that address mainly the changes and also point out the links with the constitutional and other relevant legal provisions, such as those in the Regulation of the Political Parties & Associations Law (as amended) and the Voters’ Registration Law (as amended) and its Regulations. It is very likely that the National Electoral Commission will update the last 2012 Election Code of Conduct for the political parties

¹ The House of Elders (HoE), which is more than likely to be indirectly s/elected, requires a separate law. The choice of the indirect election method(s) may well involve separate electoral management mechanisms and procedures that would not impinge on the timing of direct elections cycles and periodic updates of the national voter register.

and, may also, now that it has express powers under this Law, issue Regulations. I shall revise the footnotes when such codes and/or regulations are issued, but in the meantime I have referred occasionally to the last 2012 Code of Conduct (which was, by and large, similar to the 2010 Code of Conduct).

Finally copies of this consolidated text, as well as all the previous versions of this Law are available (in Somali and English) in this webpage: [Somaliland Electoral Laws..](http://www.somalilandlaw.com). For any comments, please contact me at editor@somalilandlaw.com.

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30 June 2017

**THE PRESIDENTIAL AND LOCAL DISTRICT COUNCILS ELECTIONS (AMENDMENTS
AND ADDITIONS²) LAW
(Law No. 20/2001) as Consolidated and Amended in 2017
(Somalilandlaw.com translation)**

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² In Somali, the phrase '*Wax ka Bedelka iyo Kaabista*' meaning 'Amendments and Additions' is often used by the House of Representatives without any distinction as their differences reflected within the Law. It is, however, the case that amending a law invariably involves both changes in the existing provisions and the insertion of new provisions in their place (substitution) or the insertion of new additional provisions.

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**THE PRESIDENTIAL AND LOCAL ELECTIONS (AMENDMENTS) LAW
(LAW NO. 20/2001) - As Consolidated and Amended in 2017**

**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 text of the Law (No. 20/2001) promulgated in 2001 which enabled the shift away from the communities' based representation, and the realisation of the long-awaited aspiration of the nation to have free contests for positions of authority in the state; as well as the texts of its amendments approved in July 2009, May 2010, December 2011, July 2012 and August 2012³;

Taking Note of: The experience gained from the presidential and local councils elections held in 2002, 2003, 2010 and 2012;

Convinced of: The need for the consolidation of the initial text of this Law and its amendments which have not since been repealed, and for the addition of the amendments that the National Electoral Commission considers necessary for updating the electoral activities and procedural matters on the basis of the previous experiences and in conformity with the new technical aspects of the registration⁴.

Has hereby approved this Law:

**The Presidential and Local Elections (Amendments and Additions) Law
(Law No. 20/2001)**

PART ONE: GENERAL PROVISIONS

Article 1: Title of the Law

³ These are referred to, respectively, as the 1st, 2nd, 3rd, 4th and 5th (Amendments and Additions) Schedules of the original 2001 Law, and retained the same number. This final 2017 amendments and rearrangements of the Law were also similarly referred to as the 6th Schedule Amendments.

⁴ That is primarily a reference to the new (Iris Recognition) Voters Registration. It was the 4th and 5th Amendments Schedules which removed the provisions in the Law catering for a voter register based election (brought in by the preceding Amendments Schedules from 2008-9) so that the 2012 local elections could be held without a voter register, as was the case when the Law was first introduced in 2001. These last 6th Amendments therefore re-introduced the voter register related provisions. The previous 2009/11 Voter Register was voided, after the 2010 Presidential election, by the short Voter [Registration Law \(Amendments Addendum No. 3\) 2011](#) (of 13 December 2011), which was a 'sunset' law confined to the then forthcoming 2012 local councils elections only (Art. 2) and expressly stated that a new Voter Registration would be undertaken before the House of Representatives' election and the presidential election (Art. 3). It was expected, at that time that the HoR election would come before the presidential election.

This Law shall be titled The Presidential and Local Elections (Amendment) Law (Law No. 20/2001).

Article 2: Definitions

- Election:** *means the procedure whereby voters elect their own representatives at district, regional or national levels, which is decided upon through the majority votes received by the various candidates.*
- 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 specified number of the members of the public (registered therein) cast their votes on the polling day.*
- Electoral Area:** *means the area which encompasses one or more polling stations which are put into operation on polling day.*
- Agent:** *means the member 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 any person, fulfilling the relevant conditions⁵ in accordance with this Law, who runs for an office which can be won through an election, and is, at the same time, nominated by an association/party to contest the specified election.*
- Voter:** *means the person who fulfils the conditions for voting in accordance with this Law, who shall exercise his right to vote on polling day.*
- Local Council:** *means the council elected by the voters in a district to act as the administrative and legislative local government of the district.*
- Electoral Region:** *means an area which covers a number of electoral districts.*
- Electoral District:** *means the districts comprising the regions of the Republic of Somaliland that have an elected⁶ council.*

⁵ See Part 4 (Arts. 25 to 31) of this Law for the requisite candidacy requirements.

⁶ At present (April 2017) the districts which have, by law, an 'electable' local district council still number 23 districts – the same number as the previous two nationwide local councils elections in 2002 and 2012. These are the district graded A to C under Article 6 of the [Regions & District \(Self-Management\) Law](#) (No 23/2003-7 - in Somali only). The 15 other Grade D districts also listed in Article 6 of the Law have a government appointed management consisting of a Chairman, Deputy Chairman and an Executive Office (Article 7(4)) until each of them is assessed, their borders are delineated and their councils are established (Article 7(5)&(6)) and approved by Parliament (Article 4). In the meantime each such district shall remain within the boundaries of the former Grade A to C district from which it was formed (Article 7(7)) and its residents will, for example, vote in the elections of that district. Before its 2007 amendments, Article 7 of this 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 (*i.e the 2002 elections*) for the local councils of the districts out of which the new districts have been gauged”. Although it is not stipulated as clearly as before, the position remains the same and was so applied in the last 2012 nationwide local elections.

Incidentally, since the 2007 Law, 27 new districts (graded D) have been established by presidential decrees, but, again none of these will have any bearing on the local council elections until they are approved by Parliament. The same applies to the 8 regions appointed by Presidential Decree (all but 1, in 2008), and, for electoral purposes, only the previous 6 Somaliland regions set out in Article 4 and 5 of the 2003/7 Regions and Districts Law remain relevant.

- Seat:** means *an office or membership of a council/House which is being contested during an election.*
- Symbol/Symbols:** means *a unique logo or sign or number which identifies a party/association or a candidate.*
- List/Lists:** means *the names of candidates, contesting a specified election, that are submitted by a party/association.*
- Election Campaign:** means *the activities carried out during the period before the polling day when, as permitted by the law, the associations/parties and their candidates publicise their political programmes and principles. These activities may include rallies, interviews, debates etc. aimed at gaining/meriting the support of the voters.*
- Central Headquarters:** means *the supreme headquarters for the management of the election activities, and where the National Electoral Commission undertakes its work.*
- District Office:** means *the office which manages the polling stations in a specific district.*
- Regional Office:** means *the office which manages the election activities in a specific region.*
- Polling Station Office:** means *the office which manages the election activities at a specific polling station.*
- Observers:** means *the international or local inspectors, accredited by the Commission, who shall check that the elections activities are conducted properly.*

Article 3: Scope of the Law and General Principles

1. *This Law -*
 - a) *governs the elections of the President and Vice-President, and those of the local councils⁷;*
 - b) *lays down the establishment, powers, duties and functions of the independent National Electoral Commission and the electoral offices it establishes;*
 - c) *sets out the offences against the smooth conduct and order of the elections, and their punishments.*
2. *The general principles on which this Law is grounded are:*
 - a) *The freedom of the citizens to exercise their political rights in accordance with the Constitution and the laws of the Republic of Somaliland country.*
 - b) *The conduct of free and fair elections involving neither threats, nor bribery and corruption, and managed in a manner which is independent, neutral, secure, proper and accountable.*

Article 4: Term of office

The term of office of the elected candidates shall be:

- a) Five years for the President and the Vice-President.⁸

⁷ The law covers the elections of the local district councils only - see the definition of a 'local council' in Article 2 which confines the term to local government district councils '*dawlada hoose ee degmada*'. 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. 23/2002-7)

b) Five years for the Local Councils.⁹

Article 5: Membership of the local councils

The total membership of the Local Councils to be elected 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 members¹⁰.

Article 6: Conditions relating to voters

1. He¹¹ must be a patrial¹² citizen of Somaliland.
2. He must not be less than 16 years of age *at the election polling date*¹³.
3. He must be free and not in prison.
4. *He must be a voter registered¹⁴ at the polling station that he is casting his vote unless he is a member of the polling station officials, the agents of the political parties at the*

⁸ 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”.

⁹ This is also set out in Article 111(7) of the Constitution and in Article 20 of the Regions and Districts Law (Law No. 23/2002-7).

¹⁰ Category D districts have nominated local managers, but no councils to be elected yet until they fulfil the conditions set out in the Regions and Districts Law (Law No. 23/2002-7). See more details on this issue in footnote 6 above relating to the definition of an ‘electoral district’ in Article 2 of this Law.

¹¹ 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.

¹² 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. This reference to patriality (*u dhalasho*, in Somali) was in the Law since its passage in 2001 when I had similar comments about its inclusion, but by 2005, the corresponding clause in the [2005 HoR Elections Law](#) (Article 5(1)) reads more comprehensively as ‘a patrial citizens or a naturalised citizens in accordance in accordance with the Citizenship Law’. There other ways that other ways that citizenship can also be acquired and perhaps the best words is simply ‘a citizen’ of the Republic of Somaliland’, as stated in Article 22(2). In view of this express constitutional provision, this clause should be read as applying to all citizens of Somaliland who fulfil the conditions set out in this Law. Note also under the 2007/2014 Voters’ Registration (Amendments and Additions) Law (Art. 2), ‘citizens’ is defined simply as ‘every person who fulfils the conditions set out in the Citizenship Law - Law No: 22/2002’. Indeed in the 2012 Presidential election. The esteemed long-term resident and naturalised citizen of Somaliland, the late Abbas Idris (John Drysdale) was a registered voter who cast his vote in Hargeisa.

¹³ This change was made in the last 6th Amendments Schedule and is more precise than the previous wording which was which was being no less than 16 years of age ‘*during the year the elections are being held*’. I have previously commented that the choice in 2001 of this latter imprecise phrase had more to do with the Somali custom of identifying age by year and season, rather than by date, as there was (and still is) no comprehensive birth registration system. Now that the new voter registration is now in use, this question is more relevant at the registration stage (as in all other countries), but in Somaliland, the various delays in election polling dates have made the NEC’s voter registration of 15 years olds, reaching 16 years by the polling date, that much more difficult. However, with the establishment of a successful Voters Register, the periodic Register updating will need specific regulations addressing the identification of eligible ‘rising 16 year olds’ before each election. The NEC has now powers to make regulations both under the Voter Registration Law and now also under this Law (see: Arts. 15(2) and 68 of this Law).

*station or a member of the police force that have been formally assigned to keep the order at the polling station.*¹⁵

5. The candidates for the offices of President and Vice President may cast their vote at any polling station, but the polling officeholders shall so register them. *They must, however, cast their votes only once.*

Article 7: Rights of the voter

Every voter who fulfils the conditions set out in this law shall have the right to:

1. *cast his vote at the polling station in which he is registered as a voter.*¹⁶
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.¹⁷
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.¹⁸

Article 8: Employees of the state and of governmental bodies

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 days¹⁹ 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 so²⁰.
3. *The confirmation of resignation can neither be withheld from a candidate, nor delayed without any reason.*

¹⁴ Article 26 of the [Voter Registration \(Amendments and Additions\) Law](#) – No. 37/2007 (2014) (as further amended) re-confirms that only a person who is a citizen and registered in the Voters Register can vote at the elections and that the National Electoral Commission shall publish the final Voters Register Lists within six months of the election polling date.

¹⁵ Previously deleted by the 4th Amendments Schedule (2012) after it was decided that the 2008/9 voter register was to be annulled and the long delayed local elections be finally held in 2012 without a voter register.

¹⁶ The requirement was previously deleted by the 4th Amendments Schedule (2012) (after the annulment of the 2008/9 Voters Register) and has now been reinstated, together with all the other previous procedural provisions relating to elections based on a Voters Register.

¹⁷ 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 amendments to the voter registration laws and the electoral laws.

¹⁸ This Clause was first inserted into the Law by the 1st Amendments Schedule (2009) when votes could be cast only at the polling station that an elector was registered.

¹⁹ 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).

²⁰ Presumably, this is the governmental office or body which employed the person concerned.

Article 9: Timing of the elections

1. The Commission shall declare, in accordance with the Constitution²¹, the dates when elections shall be held and their declarations shall be published as Presidential Decrees.
2. *The Electoral Commission shall declare the date of the election 120 (One hundred and twenty) days before the polling date, and the President shall issue in a Decree the announcement of the polling date within 15 days of his receipt of the Commission declaration.*

Article 10: 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 Regions²² 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 district²³, and shall be subdivided into polling stations where the votes will be cast.
3. The Commission shall, in consultation with the Ministry of Internal Affairs²⁴, the Chairmen of the Regions²⁵ 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 *situations* 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.²⁶
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 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.
7. *If the parties/associations cannot be separated²⁷ on the basis of their respective regional votes gained, their respective total national votes gained shall be considered.*

²¹ 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".

²² These are still the six regions set out in Article 5 of the 2002 Regions & Districts Law - Law No. 23/2002 (as amended in 2007).

²³ See footnote 4, above, relating to districts in which local district elections will be held i.e districts graded A, B and C (and the capital city).

²⁴ 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.

²⁵ Otherwise known as Governors who are unelected employees of the government.

²⁶ 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 the 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.*

8. *If the election of the President and the Vice-President, which is based on the (simple) majority of the total voters of the whole nation, cannot be held in any specified polling stations or districts because of serious circumstances or situations set out in Clause 4 of this Article and the National Electoral Commission so confirms, these matters shall have no effect on the proper conduct and the result of the election.*

PART TWO: THE ELECTORAL COMMISSION OF THE REPUBLIC OF SOMALILAND

Article 11: Structure of the Electoral Commission

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

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

Article 12: Electoral Commission

1. The Commission shall consist of 7 members who are as follows:
 - a) The Chairman and 6 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 5 years, beginning from the date the House of Representatives approves its appointment²⁸, and the term of office may be renewed.
 - d) Employees of the state, any member of Parliament, members of the Council of Ministers²⁹, members of the armed forces and *any member holding a position in a party/association* 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.

²⁷ This Clause 7 addresses the need to winnow down the numerous parties/associations contesting those local elections (once every 10 years) in which newly formed political associations as well as the existing three parties compete to become one of the three new political parties, accepted under Article 9 of the Constitution, that can then exist in the country and contest the national (presidential and parliamentary elections) for the following 10 years. This is all set out in Article 6 of the [Regulation of the Political Associations and Parties Law](#) (Law No. 14/2001 as amended in 2012). This process last took place in the 2012 local council elections and with the current 10 year term of the existing three national parties that runs to 2022, the next (already delayed from 2017 to 2019?) local council elections will, unless the Law is changed before then, be contested only by the current three national parties. This means that this clause 7 and its linked provisions in the 2012 Political Parties/Associations Law will not be relevant to these forthcoming local elections. Note, however, the wording of this clause 7 is a slight modification/amendment of Article 6 of the 2012 Law.

²⁸ The first Electoral Commission appointed under this Law served a full 5 year term and a few months, from 21 January 2002 to 1 June 2007; the second served an unusual short term from 2 June 2007 to 23 October 2009 which was ended by their mass resignation; and the term of the third Commission lasted from 24 October 2009 to 28 November 2014. The current (2017) fourth Commission's 5 year term started on 29 November 2014.

²⁹ For the Council of Ministers (i.e the Cabinet), see Article 94 of the Constitution.

3. The appointment of the Commission shall be approved by the House of Representatives³⁰ on an absolute majority vote of half of their members plus one³¹, and after the House Internal Affairs Committee has ensured that the appointees fulfil the conditions³² set out in this Law.
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 of the Republic of Somaliland, *this Law* and *other relevant laws*³³. Commission meetings shall be quorate³⁴, and the decisions of the Commission shall be approved on a simple majority vote.
6. *The Commission shall have its own Rules*³⁵ *which shall conform to the provisions of this Law.*
7. The Commission shall carry out its duties independently, and shall in no way be interfered with by anyone.

Article 13: Eligibility criteria for membership of the Commission

1. He must be a patrial³⁶ citizen of Somaliland.
2. He must be no less than 40 years of age and no more than 70 years³⁷.
3. He must be a Muslim³⁸ 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, amongst the society, for respect, honour and fairness.
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 14: Dismissal of the Commission³⁹

1. A member of the Commission may be dismissed:
 - a) when he breaks one of the conditions⁴⁰ of his appointment;
 - b) when he is unable to fulfil his duties due to lack of capability or ill health;

³⁰ The appointment of all the current (May 2017) members of the Electoral Commission was approved by the House of Representatives on 29 November 2014.

³¹ That is 42.

³² The eligibility conditions are set out in the following Article 13.

³³ Such as the 2005 HoR Election Law (and its forthcoming replacement/amendments), the 2007/2014 Voters' Registration (Amendments & Additions Law Registration Law (as amended) and Regulations, and the 2001/2012 Regulation of Political Associations & Parties Law (as amended).

³⁴ The quorum set by the Commission in its Rules of Procedure is four (out of seven).

³⁵ The Commission has already its own Rules of Procedure, but this clause gives it statutory backing and the authority to develop other Rules that it considers necessary for the fulfilment of its duties and functions.

³⁶ See the comments made in connection with Article 6(1) of this Law, where this phrase is also used in connection with voters.

³⁷ Upper age raised from 60 to 70 by the 2nd Amendments Schedule (2010).

³⁸ 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.

³⁹ This is, by and large, addressing individual members of the Commission.

⁴⁰ These are mostly set out in Article 13 above.

- c) when he commits acts of wanton behaviour, theft, corruption or similar matters⁴¹.
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 dismiss⁴² the Commission⁴³ provided that the House of Representatives approves the decision on a simple majority vote.
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 appointed⁴⁴.

Article 15: Powers of the Commission

The Commission shall have the power⁴⁵ to:

1. set the date⁴⁶ of the elections, and inform the President so that he can issue a Decree⁴⁷;
2. set the number and the location of the polling stations of the districts and the regions;
3. appoint, dismiss, or discipline the staff⁴⁸ of the central office and those of the electoral districts and the electoral regions;
4. plan the budget for administering the electoral activities⁴⁹;

⁴¹ Some of these acts may well amount to criminal offences, in which case issues relating to the privileges and immunities of the Commissioners will also need to be addressed – see Article 22 of this Law and Article 63 of the 2005 Election Law which states:

‘Article 63: 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 be dealt with in line with the procedures set out in clauses 96(1), 96(4) and 96(5) of the Constitution.’

⁴² 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.

⁴³ This of course also includes individual members of the Commission.

⁴⁴ Although it is not expressly stated in the Law, as the term of the whole Commission is five years starting from the first date of confirmation of their appointments, as set out in Article 12(1)(c) of this Law, and hence any replacement of an appointee shall serve only for the remainder of the original five-year term.

⁴⁵ Unless amended in the forthcoming revision, the 2005 House of Representatives Election Law also include a few additional “general” powers and duties given to the Commission, which are not, in my view, necessarily 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 expressly refer also 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.

⁴⁶ 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.

⁴⁷ 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.

⁴⁸ 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.

5. declare the provisional results of the elections of the President and the Vice-President *before* 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 *voters can cast their votes at polling days*;
9. register voters before the date of the election;
10. *approve, direct and co-ordinate international and local agencies and other interested bodies engaged in the electoral activities*;
11. *manage the activities of raising the voters' awareness of the elections*;
12. *issue regulations, procedures, directives, (and) codes of conduct which shall not be in conflict with this Law and the other relevant electoral laws; (and)*
13. *lay down administrative procedures relating to the overseeing, investigating and checking compliance, by the parties/associations and their candidates, with the electoral codes of conduct; and to take the administrative steps, including administrative fines,⁵⁰ which can be taken against the contraventions of the provisions of the Codes of Conduct.*

⁴⁹ See also the additional duty under Article 31 of the 2005 House of Representatives Election, which (if not amended in the forthcoming revision of this Law) reads as follows:

'Article 31: The Schedule of the Election Activities

1. Without prejudice to the duties and powers⁴⁹ of the Commission as set out in the Elections Law (Law No: 20/2001), it shall also be the duty of the Commission to publish officially a schedule with time frames, which sets out clearly the plan of its activities. Copies of the schedule shall be sent to the parties and shall, at the same time, also be publicised in the various media.
2. After the publication of the schedule, any changes to the plan of the activities considered to be necessary by the Commission shall be communicated to the parties and shall, at the same time, be publicised in the media.'

⁵⁰ Unless amended in the forthcoming revision, Article 64 of the [2005 House of Representatives Election Law](#) gives power to the Commission to '*discipline anyone who commits an act which is contrary to the administration of the election or to electoral law and procedures*'. Note that this Law now sets out in Article 67 below the electoral criminal offences and the Penal Code may cover also election related acts which may amount to crimes, but the 'discipline' by the Commission referred to in this Article 15(13) of this Law which is more of an administrative power is covered, to some extent, by Article 64 of the 2005 Law which reads as follows:

'Article 64: Disciplinary Action for Contraventions of the Electoral Law and Procedures

1. As the Commission has the primary responsibility for ensuring the proper conduct of the election, it shall have the power to discipline anyone⁵⁰ who commits act which is contrary to the administration (of the election) or to the Electoral Law and procedures. Therefore, whilst taking into consideration the gravity and effect of any such contravention, the Commission may take the following disciplinary action:
 1. Criticism and condemnation, and/or
 2. severe warning which shall be recorded, and/or
 3. a fine
 - a) if the wrong or contravention is committed by a responsible person in a party or by a candidate, a fine of Sl. Sh 5,000,000 to 10,000,000 may be imposed on the party;
 - b) if the wrong or contravention is committed by an electoral officeholder, a fine of Sl. Sh 200,000 to 400,000 may be imposed;
 - c) if the wrong or contravention is committed by an ordinary citizen, a fine of Sl. Sh 300,000 to 500,000 may be imposed.
3. If the contravention is a serious one which merits a criminal punishment or which may jeopardise the conduct of the election or the public order or may damage the good order and the acceptance of

14. *The Commission shall also have the other powers set out in the other laws⁵¹ in force.*

Article 16: Budget of the Electoral Commission

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 Accountant General.⁵²

Article 17: Polling station office

1. The electoral Polling Station Office shall consist of a chairman, *a deputy chairman, a scrutineer and a secretary*.⁵³
2. The chairman, *the deputy chairman*, the secretary and the scrutineer shall be appointed by the Commission which, if required, can switch⁵⁴ their respective roles.

the procedures by all, then the Commission or those responsible for electoral offices shall order that the culprit be detained so that he can be dealt with by the competent court.’

In my 2005 comments of this Article 63, I commented that *‘[t]he Commission may well choose (wisely in my view) to refer all infringements (that amount to criminal offences) by the members of the public to the police and the courts. So far as parties are concerned, any [administrative] penalty imposed on them could be challenged at the Supreme Court under its general review power to deal with the decisions of administrative bodies. The Commission will therefore need to adopt a transparent procedure which, at a minimum, separates the investigation of the allegations from the decisions to impose a penalty, gives the accused party full details of the allegations and a chance to defend the allegations and to make any representations; and provides reasons for any decisions’.*

Incidentally, these 2005 Law disciplinary powers of the Commission were utilised, through the broadly similar 2010 and 2012 Electoral Codes of Conduct for the political parties/associations, by the NEC’s delegation of the monitoring/investigation of such contraventions and recommendations to the NEC for action being delegated to independent Electoral Monitoring Committee(s). The Commission can now rely on this administrative power, under this new Article 15(13), which applies to all elections organised by the Commission to set up any such independent monitoring committees.

⁵¹ Such as the [Voters’ \(Amendments and Additions\) Law](#) (No. 37/2007 (2014)) and the Voters’ Registration Implementation Regulations (No. 01/2015). Also note that under Article 25(8) (as amended) of the Regulation of Political Associations and Parties Law, if the (extended) term of the office of the Registration of Political Associations and Approval of National Parties Committee which is due to expire on 4 October 2017 is not extended again, then the National Electoral Commission shall take over the functions of ‘regulating’ the three national political parties whose current 10 year registration as parties expires in December 2022.

⁵² Other than the laws on the management of public finances and public procurement that apply to all public bodies, note that there is also a specific duty imposed on the Commission under Article 33 of the 2005 House of Representatives Election Law which states –

‘Article 33: Contracts for Provision of Electoral Equipment and Materials

1. To avoid corruption, personal interests and injustice, the Commission shall offer contracts for the supply of electoral equipment and materials through competitive tendering.
2. The Commission shall enter into a comprehensive agreement with the successful bidder, which shall set out clearly the details of the contract, the period and the time for the supply of the equipment and materials, the method of payment etc.
3. Members of the Commission or their families or businesses shall not be issued with a contract, nor shall they benefit, in any other way, from their responsibilities.’

⁵³ In the past, there were provisions setting out, at various times, two scrutineers (one of whom was to act as a secretary) and, at one stage between 2010 and 2012, a help desk officer.

⁵⁴ I preferred to use ‘switch’ (or ‘re-shuffle’) instead of ‘transfer’ so as to reflect better the Somali phrase ‘isku-bedel’. The word ‘transfer’ has a wider meaning of moving into or out of a specific role. See also Article 18(2) which uses similar wording.

3. If, due to an urgent matter, it becomes necessary to replace a scrutineer or a secretary while the voting is in progress, the chairman of the polling station can replace him with someone selected from the persons present at the polling station who are eligible to vote in accordance with the law.⁵⁵
4. The Polling Station Office has the responsibility for conducting the election activities at the station.

Article 18: 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, a *secretary* and a scrutineer⁵⁶ and *two counting officers*.
2. The chairman, the deputy chairman, the scrutineer, the secretary and the counting officers shall be appointed by the Commission which has the power to switch their respective roles.⁵⁷
3. The District Electoral Office has the responsibility for conducting the electoral activities in the district.

Article 19: 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 a secretary appointed by the Commission.
2. The Regional Electoral Office has the responsibility for conducting the election activities in the region.
3. *The National Electoral Commission shall have the power to increase, if required, the number of the persons engaged to work at a polling station, at district level and/or at regional level.*

Article 20: Electoral officeholders

1. The persons appointed by the Commission to hold electoral offices must be informed of their appointments at least *15 days*⁵⁸ before the date of the election.⁵⁹

⁵⁵ Although, in general, there is a presumption that the power to appoint may also include the power to dismiss, electoral officeholders are not like National Electoral Commission employees whose dismissal is addressed in Article 15(3) above. Nevertheless occasions may arise that an officeholder may have to be dismissed for good and sufficient reasons before the polling date or, in exceptional cases, replaced on polling day. The Commission needs to address these situations in Regulations. This exceptional clause may only be necessary in polling stations outside main towns, where 'contingencies' replacements might not be so readily available. Therefore, the Commission ought to address the mechanics of meeting the eventuality set out in this clause, including the obvious role of the parties' agents to observe and verify the nature of the urgency and the choice of the replacement (as well as the contingency arrangements for 'trained' standby officeholders, especially in towns where replacements can be deployed quickly without recourse to these exceptional provisions in this clause) in regulations/guidance. The additional criteria the person chosen under this clause must meet such as no active support of any party etc., and the transparency of the selection procedures, should likewise be addressed.

⁵⁶ Amended by the 2nd Amendments Schedule (2010).

⁵⁷ Amended by the 2nd Amendments Schedule (2010).

⁵⁸ This 15 day period was in the first 2001 text of the Law and was since then increased to 60 days by the 2nd Amendments Schedule (2010) and has now been returned to the previous period.

⁵⁹ Unless amended in its forthcoming revision, Article 32 of the 2005 House of Representatives Election Law states, in respect of office holders states as follows:

'Article 32: Electoral Officeholders

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 (public⁶⁰ oath) 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 organised⁶¹ in ways similar to those of the armed forces, the chairmen of the regions, districts and local councils, *members of the Houses of Parliament* 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 that it requires.
7. State employees, members of the national armed forces, and any member of an a party/association 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, with the exception of age⁶², be the same as those for the appointment of the members of the Commission⁶³.
8. The age (*of the electoral officeholders*) must be no less than 36 years and no more⁶⁴ than 70 years.

Article 21: 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.

Without prejudice to the matters set out in Articles 19 and 20 of the Elections Law (Law No: 20/2001 – *i.e this Law with these articles now being re-numbered as Articles 17 and 18*) which relate to officeholders, it shall be the duty of the Commission to:

1. check thoroughly that the officeholders entrusted to undertake the heavy responsibilities of the election are proficient and able to fulfil these responsibilities;
2. to 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. to prepare transport for undertaking the activities and communication equipment for the electoral offices and the inspectors.
4. If the need arise, the Commission shall have the power to increase the number of officeholders at the polling stations and the district and regional electoral offices.’ *This last clause is now covered by Article 19(3) of this Law.*

⁶⁰ The oath is administered publicly in groups.

⁶¹ 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.

⁶² The age limits are set out in the following clause 8 of this article and are different in respect of the requisite lower age limit.

⁶³ See Article 13 of this Law, above.

⁶⁴ Inserted by the 2nd Amendments Schedule (2010).

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.⁶⁵

Article 22: 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 status⁶⁶ of public officers⁶⁷.
2. Candidates, electoral officeholders and the agents of the parties⁶⁸ shall not be detained⁶⁹ 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 privileges⁷⁰ 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 Constitution⁷¹.

⁶⁵ This Clause was previously (in 2001) numbered 3 clauses, but the then clause 2 (which related to allowances for public employees serving as electoral officeholders) was deleted by the 2nd Amendments Schedule.

⁶⁶ The privileges of ‘public officialdom’ listed in this Article are also balanced by the potential offences relating to unlawful exercise of the duties/powers of a public officer – see the following footnote.

⁶⁷ For criminal law matters, a ‘public officer’ is defined in Article 245(1) of the Penal Code, as ‘*any person who, permanently or temporarily, gratuitously or for reward, voluntarily or under obligation, performs any public legislative, administrative or judicial function, on behalf or in the interest of the State or of any other public Body*’. Note, therefore, that if any of these electoral officer commit any ‘public officer’ offences, under the Penal Code, in the performance of their duties, they could be charged under these provisions, such as corruption for performing an official act (Article 245); omitting or delaying to do an act relating to their public office or performing an act contrary to such duties (Article 246); abusing the powers of the office (Article 250); disclosure of secret or confidential information (Article 253) etc. Furthermore instigation of corruption of public officer by a person is an offence under Article 249. See also the specific electoral offences set out in Article 67 of this Law.

⁶⁸ Political Associations will also have similar privileges during the local elections (once every 10 years) that they are allowed to contest on par with the then existing three national parties.

⁶⁹ 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. “*

⁷⁰ See also Article 63 of the 2005 HoR Election Law ‘Allegations against the Electoral Commission’ - quoted in footnote 41 above.

⁷¹ 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.’

PART THREE: THE ELECTION PROCESS

Article 23: The Local Elections system

1. *The local elections system shall be proportional representation system with seats allocated in proportion to the total votes cast for each party/association in a region⁷² or a district.*
2. *In the elections of the district councils, every party/association shall produce the list of persons it wants to stand as its candidates for the district election.*
3. 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 System⁷³. The National Electoral Commission shall allocate to each candidate a unique symbol⁷⁴ which will be his/her mark.
4. The sequence of the names in the (*candidates'*) open lists for the local council elections shall have no legal effect on outcome of the elections. 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 each party/association shall succeed (*in gaining a seat won by their party/association*) on the basis of the higher number of votes cast for each candidate.⁷⁵

⁷² As the regional councils are not currently elected and consist, in the interim, of appointed officials and the elected mayors of the districts in the region (see Article 12 of the Regions and Districts Law – No. 23/2002&2006), it only the main districts (graded A to C) in each region that are elected.

⁷³ 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 the then Article 46 – now Article 47) 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 officeholders.

⁷⁴ There were considerable discussions about the nature of the symbol and whether or not it should be a number, which was the final option adopted. See also Article 29 below for the conditions relating to the candidates symbols.

⁷⁵ The Open List system was used in both the 2005 House of Representative election and the 2012 local council elections and the 2002 Local Councils election was the only Somaliland election (other than the

5. 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.⁷⁶
6. *The number of seats won by each list of candidates contesting the local council elections shall be calculated on the basis of the proportional representation (open list) system.*
7. Voting shall not be held in any district where there is only one list submitted and there is no contest. The seats of the district shall then be allocated to the top corresponding number of nominated candidates in the list⁷⁷.

Article 24: System for election of the President and the Vice-President

The system for electing the President and the Vice-President shall be that set out in Clauses 1 to 4 of Article 83 of the Constitution⁷⁸, and is the simple ‘majority system’⁷⁹ as indicated in the Constitution⁸⁰.

1960s four elections (with 2 combined) held in 1963, 1964 and 1969) where a closed list PR system used. In the open list elections, each voter cast his single 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 party/association under the proportional representation system. A division of the total valid votes cast in the district by the number of seats in the district shall give the quotient for each seat. The number of seats gained by each party/association can then be calculated on the basis of that quotient and then later on the basis of the largest remainders for the seats left. The seats won by each party/association are then allocated to the candidates on its list on the basis of the highest votes cast for each of them. In contrast, when the 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, and subsequently the ballot papers were much smaller and easier to follow.

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).

⁷⁶ 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) which makes it clear that any vacancy shall be filled by the top reserve candidate (of the party that won the seat at the election) who received the highest number of votes. Note that even if the seat was originally won by a political association that did not become a party and therefore all its successful candidates had, by law, to join one of the three political parties, the vacancy will still be filled by the top reserve candidate of the former political association (Art. 27(3) of the 2002 Law).

⁷⁷ In this highly unlikely situation where no election will be held, the sequence of the names in the list will have legal effect.

⁷⁸ 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.

PART FOUR: CANDIDATES

Article 25: Conditions relating to candidates for local councils

1. He must be a patrial⁸¹ citizen of the Republic 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. S/he must not be less than 25 years of age⁸².
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 years⁸³.
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.
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 26: 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 parties⁸⁴.

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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.’

⁷⁹ 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 a joint ‘ticket’.

⁸⁰ 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.”

⁸¹ See the earlier comments on the phrase ‘partial citizen’ (i.e *muwaadin u dahashay Jam. Somaliland*) in the footnote to Article 6(1) above, which are applicable here is well.

⁸² 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. This clause previously ended with the phrase ‘during the year the election is taking place’ which has been removed which tightens up the qualifying condition to reaching 25 years of age on or before the election date.

⁸³ This period is twice that applying to candidates for both Houses of Parliament – Articles 41 and 59 of the Constitution.

⁸⁴ This Article has already been modified and strengthened by Article 24(1) of the Regulation of Political Associations and Parties Law (Law No. 14/2011 as amended) 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 council elections, the successful local council candidates belonging to the three out of the six contesting political associations (SAHAN, HORMOOD and ASAD) that

Article 27: 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 82⁸⁵ 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 28: 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 name of each candidate in full *four* names⁸⁶, 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). The list shall also confirm clearly the district in which a candidate is standing for election.
2. The lists of candidates *of the party/association* shall also be accompanied by the following:
 - a) Confirmation of resignation from public service appointments as set out in Article 8 of this Law.
 - b) 4 copies (of the list) which show clearly the symbol and the stamp 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 30 of this Law.

did not become one of the new three political parties were obliged to join the three new parties. The November 2012 local elections were contested by two parties (Kulmiye and UCID) and 5 new political associations, and the top three to become national parties (for the next 10 year period) were the two previous political parties and the new political association, Wadani (see Article 6 of the Political Associations & Parties Law 2011). The successful councillors belonging to the losing 4 political associations (Umada, Dalson, Rays and Xaqsoor) were then obliged to join one of the new three national 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.

⁸⁵ 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.'

⁸⁶ 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 and, for the election matters, the (first) name of his/her grandfather. Prior to these last 2017 6th Schedule amendments, the fourth name was required only in cases where two or more candidates had the same first three names.

3. Any disagreements within a party/association about the declaration and submission of a list of candidates shall be resolved by the *Executive* Committee of that association/party.
4. Every candidate standing for election to the offices of President or 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 30 days before the polling date.
5. The Party *of the (resigned)* candidate for election can substitute him only during the period *preceding* 20 days before the polling date.⁸⁷
6. In the event that one of the political parties' candidate 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 20 days before the polling date.
7. If, however, a candidate dies within the last 20 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 Constitution⁸⁸ shall be followed accordingly.
8. If a political party does not substitute, before the 20 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 candidate⁸⁹.

Article 29: Symbols of the lists of candidates

1. *The symbols of the presidential and vice-presidential election candidates shall be those of the national parties that submitted them as candidates.*
2. *When declared, the symbols of the associations/parties' lists of candidates for local council elections, of the open list type, must be different from each other⁹⁰. The National Electoral Commission shall issue regulations setting out the procedures for distributing such symbols and the conditions governing their usage.*
3. *The Electoral Commission shall allocate to each candidate⁹¹ a unique symbol which distinguishes him/her from other candidates.*
4. *Symbols must be different from each other, easily recognisable and must not show governmental, tribal, sectarian or religious signs⁹²; and should conform to the*

⁸⁷ Clauses 3 to 7 were inserted by the 2nd Amendments Schedule (2010).

⁸⁸ 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, under Article 89(1), 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. In the case of the death of the vice-presidential candidate during the campaigning period mentioned in this clause 28(7), the successful president shall, subject to confirmation by the House of Representatives, appoint a member of the House as vice-president (Article 89(3) of the Constitution).

⁸⁹ The clause fails to mention what happens if this party then wins the election, but 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).

⁹⁰ The differentiation of the symbols in an open list system is not only between the symbols of the various political associations/parties but also between the symbols of each candidate which, as stated in the following clause 3 of this Article will be allocated by the Electoral Commission. This has a considerable effect on the size of the ballot papers, as was seen in the 2012 local elections.

⁹¹ This is again in reference to candidates in open list local council elections.

*provisions of the National (Electoral) Commission regulations referred to in clause 2 of this Article.*⁹³

Article 30: Deposit

Candidates for office shall pay the following non-refundable deposits⁹⁴:

- a) Sl. Sh. 100,000,000 (*One hundred million Shillings*)⁹⁵ in respect of each candidate for presidential⁹⁶ office.
- b) Sl. Sh. 5,000,000 (*five million Shillings*)⁹⁷ in respect of each candidate for a local council.

Article 31: Receipt of the list of candidates

1. The lists of candidates for President and Vice-President shall be submitted to the Commission office⁹⁸ *before six o'clock (6 p.m) in the afternoon of the day which is 45 days before the polling day*, and those for the local councils shall be submitted to the District Electoral Offices before six o'clock (6 p.m) in the afternoon of the day which is 75 days⁹⁹ before the polling day. The lists shall be accompanied by all the attachments set out in this Law¹⁰⁰.
2. The Commission office or the District Electoral Offices¹⁰¹, shall ensure that the candidates in the lists fulfil all their requisite conditions¹⁰², and any candidate who does not fulfil these conditions shall be referred back to the association/party, which submitted his candidacy, *for a substitute to be submitted within a set period not exceeding 72 hours*.

Article 32: Publicising the lists of candidates

⁹² Note Article 2 of the Regulation of Political Associations and Parties Law (Law No. 14/2011 as amended) sets out clearly that parties/associations must comply with provisions of the Constitution, must not damage the unity and territorial integrity of the country, and must not be based on 'clanism, single gender or on any other issue that divides the society'. Article 9(3) of the Constitution also states that it is unlawful for any political party (or a political association) to be based on regionalism or clanism.

⁹³ This article (previously numbered 24) dealing mostly with local council election candidates' symbols was previously amended by the 4th and 5th schedules, but the matter is now left largely to the National Electoral Commission regulations.

⁹⁴ The level of deposits was previously raised by 2nd Amendments Schedule (2010).

⁹⁵ In the last 2010 presidential election, the deposit was Sl. Sh. 5,000,000 (five million Shillings)!

⁹⁶ 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 27 of this Law.

⁹⁷ In the 2012 local elections, the deposit was Sl. Sh. 1,000,000 (one million Shillings).

⁹⁸ This is presumably the Central Electoral Office as set out in Article 11(1) above.

⁹⁹ Period increased previously by the 4th Amendments Schedule. In contrast, the 2005 HoR Election Law sets 60 days (Article 16(1)) but is likely to be raised in the current revision of the law.

¹⁰⁰ See Article 28(1) & (2) above of this Law.

¹⁰¹ As appropriate with the Commission Central Office dealing with presidential candidates' lists and District Electoral Offices dealing with local election candidates' lists.

¹⁰² The requisite substantive conditions for presidential candidacy are set out mainly in the Constitution (Article 82 – see footnote 85 above) and those for local district council candidacy are mainly set out in Article 25 of this Law, and the procedural conditions for both are set out in various articles of this Law.

1. The Commission and each District Electoral Office shall prepare the methods of *publicising* the (list of) candidates and shall ensure that the sequential order of the candidates in the lists is kept and their symbols are shown.¹⁰³
2. The Commission and all its Polling Station Electoral Offices shall prepare *in writing the ways in which the lists of district (council) candidates shall be publicised* and shall display them in the polling stations of the district.
3. The Commission and its offices shall display 30 days¹⁰⁴ before the polling day the lists of district (council) candidates at public meeting places, notice-boards, local government offices, etc.^{105, 106}

PART FIVE: ELECTION CAMPAIGNS

Article 33: The beginning and end of the election campaign¹⁰⁷

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.
2. *The National Electoral Commission shall decide¹⁰⁸, on the basis of their assessment of the prevailing current conditions¹⁰⁹, the campaigning periods of the Presidential elections and the local council elections, and shall have a duty to allocate the contesting parties/associations equal number of (campaigning) days¹¹⁰.*
3. *The schedule of the election campaigning shall be issued by the Electoral Commission, and the total election campaigning period shall not be less than 21 days.*

Article 34: The holding of meetings and demonstrations

¹⁰³ Note that, as set out in the preceding Article, the Commission shall be dealing with presidential election lists and the District Electoral Offices shall be dealing with the district council elections.

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

¹⁰⁵ 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’.

¹⁰⁶ This clause previously included an additional requirement that they shall also ‘publicise the lists, if possible, through radio broadcast or publication in the press’ which has now been removed.

¹⁰⁷ 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* (and the previous 2010 Electoral Code) went into much detail of these matters. Paragraph 16 of the Code covers the use of the publicly owned media, as well as private media 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.

¹⁰⁸ This Law previously covered in the corresponding article to this one specified periods for the elections – 3 weeks in the case of the 2010 presidential election 4 weeks less 1 day (i.e 29 days) for the 2012 nation-wide local council elections. This Law now leaves it to the Commission to decide the length of the campaigning periods and their start dates, but this Article 33 set out two requirements – the campaigning period must not be less than 21 days (3 weeks) and it must end 48 hours (2 days) before the polling day. The Commission has already adopted a procedure of consulting the three political parties (and when relevant the new political associations) and its decisions on campaigning periods will, no doubt, be made after consultation with all the parties/associations. It is a generally accepted principle of administrative law that a public body shall be expected to follow the procedures that it has set for itself and continue to act accordingly in that manner unless the procedures were changed and such changes are communicated, in good time, to those affected by them.

¹⁰⁹ The main factor considered, in the past, was the fasting month of Ramadan.

¹¹⁰ These allotted days are usually for campaigning that involves public street rallies, processions or demonstrations in any specified towns or locations. See also the provisions of the following Article 34 below.

1. The National Electoral Commission shall prepare and issue a planned schedule¹¹¹ of the election campaign period demonstrations and planned public rallies of the Parties/Associations in which an equal number of days are allocated to the various Parties/Associations.¹¹²
2. *It is the duty of the Ministry of Internal Affairs, the Chairmen of the Regions and the Districts to act in accordance with schedules issued by the Electoral Commission during election campaigns.*
3. *In any town/village, only one¹¹³ party/association may hold a public demonstration¹¹⁴ each day.*

Article 35: 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 morals¹¹⁵. No taxes shall be paid for this matter¹¹⁶.
2. No election campaign boards or leaflets shall be displayed at mosques, government offices and transport, diplomatic centres, *National Electoral Commission offices* and international organisations, *community organisations, educational premises, etc.*

Article 36: Weapons and military uniforms

No weapons, military uniforms or similar materials¹¹⁷ may be carried or worn in election campaign meetings or demonstrations.

Article 37: Agents of the parties/associations

1. The central committee or the regional/district committees of each association/party may send an agent¹¹⁸ who has the right to vote to any polling station where their

¹¹¹ 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)”

¹¹² The main changes to this clause were originally 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.”

¹¹³ Changed from two to one meeting by the 4th Schedule Amendments (2012).

¹¹⁴ Or a public rally.

¹¹⁵ 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.

¹¹⁶ Meaning that no charges /taxes will be paid for the approval of the materials by the National Electoral Commission.

¹¹⁷ 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.”*

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 activities¹¹⁹, and shall submit any concerns or *complaints (if any)* 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 days¹²⁰ before the polling day. The Commission or its offices shall issue each agent with a written permission allowing him to enter and exercise his duties at his designated polling station.
4. The agents of the Parties/Associations shall be selected on the basis of the following criteria¹²¹:
 - a) S/he shall be a partial¹²² 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.
 - e) *S/he must comply with the laws¹²³ and with the electoral legislation which relate to his/her functions.*

PART SIX: ELECTORAL PREPARATORY ACTIVITIES

Article 38: Polling station materials

1. The National Electoral Commission shall prepare for each polling station the following materials:
 - 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) *The official list of the polling station voters.*¹²⁴
 - g) Three forms to record the voting activities.
 - h) A tabulated form.
 - i) Enough ballpoint pens for marking the ballot papers.
 - j) At least five posters showing how voters can mark the ballot papers.
 - k) A bottle of indelible ink for marking the voters.
 - l) The various written materials that may be required.
 - m) *The official list of the voters who are assigned to cast their vote at the polling station.*¹²⁵

¹¹⁸ Two agents in the 2005 Election Law – Article 28(1).

¹¹⁹ 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.

¹²⁰ 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 was 21 days in the 2005 Election Law – Article 28(3).

¹²¹ Clause inserted by the 4th Amendments Schedule (2012).

¹²² On the use of ‘patriality’, see the above footnote comments relating to its use in Article 6(1).

¹²³ This refers to the wider legislation, civil or criminal, that may be relevant to the functions of a party/association agent.

¹²⁴ This is covered in more detail in sub clause (m).

- n) *A ruler which is not shorter than the length of the tabulated list containing the details of the voter.*
2. If two elections are being held jointly, the materials referred to in sub clauses 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/regional (*electoral office*¹²⁶) 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 election¹²⁷ activities of the District/Region Electoral offices.
 - d) Tabulation forms.
 - e) Various stationery.
 4. The materials for each electoral office shall be placed in a separate container which shall be closed and sealed. The Commission shall send the materials 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. *The Commission shall match the number of ballot papers for each polling station with the total number of voters set out in the official list of voters for that polling station and the (additional) number of persons working at the polling station which consists of the polling station officials, party agents of the polling station, and the members of the police force who are officially assigned to safeguard the conduct of the election at the polling station.*
 6. *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 referred to in clause 5 of this Article, and shall note in a special register in the possession of the National Electoral Commission their ballot 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 polling station.*
 7. *The additional ballot papers shall only be used to replace ballot papers spoilt before they are cast, provided that the chairman and the agents of the parties/associations present 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.*¹²⁸
 8. *The Commission shall prepare for its district/regional offices additional ballot papers in sealed packages so that they can be given to the electoral office that requests them and provides the reasons for the request, in which case the additional ballot papers shall be handed to the polling station chairman.*¹²⁹

¹²⁵ This sub clause was previously deleted in 2012 when the local council elections were held without a Voters Register.

¹²⁶ I have added 'electoral office' in brackets for clarity.

¹²⁷ The Law refers here to the voting activities, but as voting only takes place at the polling stations, this appears refers to the "election" activities carried out by the District and Regional Electoral Offices.

¹²⁸ The provisions in Clauses 7 and 8 of this Article were amended/added to by the 1st Amendments Schedule (2009) and the 4th Amendments Schedule (2012).

¹²⁹ This 'additional ballots' clause was in this Law before 2009 when there was no voter register and was then numbered Article 37(5). The 2009 Amendments Schedule replaced this clause 37(5) with a new clause 5 that consisted of 3 sub clauses (37(5)(a -c)) which now appear in this new consolidated law as

9. *The National Electoral Commission shall, on assessing the requirements of the regional or district or polling station (electoral) offices, have the power to increase, decrease or add new necessary items to the materials which is sent to the polling stations. This shall be set out in a Commission decision.*

Article 39: Ballot papers

1. 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.
2. *The Electoral Commission shall reach decisions about the other features of the ballot papers.*

Article 40: Arrangement 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 inserting the ballot papers shall be placed in full view of, or beside the tables used by the Chairman of the polling station.
3. The list of persons registered in the same polling station shall be arranged sequentially in the alphabetical order of their first names or, in the case of persons with similar names, in the alphabetical order of their (differing) second, or third or fourth names¹³⁰.

Article 41: Display of the list of candidates

clauses 38(5), 38(6) and 38(7). After the then Voter Register was annulled, the 2012 Amendments Schedule of this Law repealed, understandably, what is now clause 38(5), and was then sub clause 37(5)(a), but retained the two other sub clauses that are now 38(6) and 38(7). In these circumstances, unless the Commission considers the reinstatement of this pre 2009 clause, now numbered 38(8), to meet the highly unusual contingency where the additional 2% ballot papers set out in clause 6 of this Article might not be sufficient to meet the "pre-insertion into the ballot box" spoilt ballot papers eventuality, this clause appears redundant. The 6th and final amendments Law lists clauses 37(6), 36(7) and 37(9) with the assumption that there was a clause 37(8) and hence its inclusions in the consolidated Law.

Should the Commission consider that this clause 38(8) might be required in exceptional cases, then the current wording needs to be strengthened with more precise regulations and guidelines on the numbers of these additional contingency papers, who is authorised to hold them, how they should be registered and recorded, how they can be conveyed to the requesting polling station, and the role of the party agents in both the decision of the reasoned request and on the use of these ballot papers on each occasion. Note that Article 43(2) of this Law lays a duty on the Chairman to record (in the presence of the polling station officeholders and the parties' agents) before the polling commences, among other things, the total number of ballot papers received by the polling station which will include the additional 2%, and there must therefore be a similar duty on him/her to record in the same manner any other contingency ballot papers received. The use of any of these contingency ballot papers for casting a vote must also be subject to the recording requirement in the preceding clause 7 of this Article in respect of what necessitated its use in each specific case. Other this clause should either be repealed or not used at all, if it is, as appears to be, redundant.

¹³⁰ As set out in Article 56(1)(i) of the Voters' Registration (Amendments and) Law No. 27/2007 (2014), the first, second, third and fourth of every voter's name (representing the Somaliland nomenclature of his/her first name followed by the first names of his/her father, grandfather and great grandfather) are registered. It is often likely, therefore, that voters in a list may have identical sequence of their first 2 or 3 names.

1. A copy of the display referred to in Article 32 of this Law shall be affixed to places which can be seen by everyone and are part of the electoral offices or are inside and outside of the polling stations.
2. A copy of the display referred to in Article 32 of this Law which the Commission prepared from the list of candidates in the order in which the lists were passed to it¹³¹ shall be affixed to visible places outside and inside the electoral offices.

Article 42: Distribution of electoral materials

1. The District Electoral Office shall ensure that the necessary materials shall reach each polling station where the voting will take place at, the latest, 6 o'clock in the morning *of the polling day*.
2. The Commission shall deliver to the district electoral offices the materials required for voting at, the latest, 4 o'clock in the afternoon 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 officeholders.
 - b) A note declaring (the names of) the agents of the associations/parties who shall be present at the polling station.

PART SEVEN: START OF POLLING STATION ACTIVITIES

Article 43: Polling Station Office

1. When the polling station Chairman receives the materials referred to in Article 42, he shall:
 - a) prepare the polling station 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;
 - b) ensure that the agents of the associations/parties approved to be at the polling station are present;
 - c) having confirmed, in the presence of officeholders of the station and the agents of the associations/parties, that the containers are sealed, open them, and check that the materials are complete;
 - d) having confirmed, in the presence of officeholders of the station and the agents, that the packages containing the (polling) station stamp and the ballot papers are sealed, open them, mark the ballot papers with the polling station stamp and *safeguard them properly in a secure place*. No person, other than those assigned to the polling station, shall be present 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 materials 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 officeholders and the agents confirm through their signatures that everything is in place as planned.

¹³¹ See also Article 31 and 32 of this Law for receipt and publicising of lists of candidates by the Commission or, in local district elections, by the District Electoral Office.

4. When the Chairman of the polling station confirms that all the above activities have been carried out, he shall declare that the voting can commence.
5. If the political parties¹³² 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.
6. *The National Electoral Commission shall issue comprehensive procedures detailing the polling station tasks, and on which the station officeholders would be trained.*

Article 44: 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.
3. Police officers, *state officials, polling station officeholders, agents of the parties/associations, international and local observers*, 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 officeholders' table or in the immediate vicinity of the polling station.
4. The Chairman of the polling station and the *members of the Commission at national, regional or district level offices*¹³³ shall have the right to exercise the powers set out in this Article.

Article 45: Access to the polling station

1. Only persons managing the polling station, agents of associations/parties and voters may enter the polling station.¹³⁴
2. It is forbidden for voters to carry weapons at the polling station. Only one person at a time may enter the polling station *and persons shall proceed ahead of each other in the order of their arrival, but, consideration shall be given to allowing in, ahead of others, any disabled person, any mother who is pregnant or is holding an infant, any aged person or any person working on election activities who wishes to cast his/her ballot.*

¹³² 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 local elections the political associations are allowed to contest (currently, from 2012, once every 10 years). The 2012 Electoral Code of Conduct covers the responsibilities of the agents of the parties and association in respect of the then Article 52(2) which is now Article 53(2).

¹³³ This phrase previously referred the Chairman of the Central Electoral Office (i.e the Commission) only, but it is now referring to the members of not only the Commission, but also to the members of the Regional and District Electoral Offices. As these latter officials are only likely to be visiting a polling station when undertaking flying inspections, it is not clear whether their exercise of the similar powers given to the Polling Station Chairmen in this Article is meant to be mirrored in relation to their respective roles in the operation of the election activities at their district, regional and national offices – see below for the electoral functions of the of these offices in Part 10 (Article 57 to 64) of this Law, in which case these powers will only be likely to be exercised by the Chairmen of the electoral offices.

¹³⁴ This clause seems to overlook the right of observers and also of the Central (or Regional/District) Electoral officeholders to enter the polling stations for observation and inspection.

Article 46: Steps before voting

1. *The voter hands his voting card to the Deputy Chairman of the polling station so that he can check that the voting card is valid by confirming that the particulars in the voting card match those in the approved voters' list and that the card has not already been used for voting in the polling day. The Deputy Chairman shall also examine for any signs of indelible ink stains on the voter's left hand little finger; or, if the voter has none, on his right hand little finger; or, if he has neither, on any other visible parts of his body. He shall then pass the card on to the polling station secretary, who, together with any party agents present at the polling station, shall also cast their eyes over the card.*
2. *After the Secretary of the polling station confirms that the voting card name is in the official polling station voters' list and makes sure that the (voting) card number accords with the corresponding number registered in the voters' list, the voter shall put his left thumb mark at the appropriate place in the voters' list.*
3. *After all the steps set out in the above clause(s)¹³⁵ of this Article have been undertaken properly, in accordance with the procedures, and to the satisfaction of the officeholders and the parties' agents present at the polling station, the voter can be handed a ballot paper.*
4. *The National Electoral Commission shall limit the total number of voters that can cast their votes in one polling station and may, where the total number of voters that can vote at a polling station exceeds a limit specified by the National Electoral Commission¹³⁶ sub-divide the polling station with a view to ensuring that all the registered voters can cast their votes on the polling day.¹³⁷*

Article 47: Persons who cannot Vote

¹³⁵ This plural (clauses) reference was previously in this article (which was reinstated in this sixth schedule amendments), but the final version of this law says 'clause' (singular). It is very likely that this is a typographical error and the reference here is to both clauses 1 and 2 of this article and not just clause 2.

¹³⁶ In the 2010 election, Article 45(1) specified that 'any polling station where the voters exceed 750 shall have two ballot boxes A and B'. This was one of the 2010 changes to the Law and was only used in the 2010 presidential elections which was based on the last 2008/9 Voters Register that was abandoned in December 2011 (clause 1 of the Voters Registration (3rd Amendments Schedule) Law (No. 37/2007 & 2011). This clause now enables the Commission to set the maximum limit of potential registered voters at a polling station beyond which arrangements are to be made for establishing another staffed voting facilities within the same polling station. The Commission should then lay down detailed the procedures and guidance for ensuring that the registered voters arriving at the polling station know which queues to join immediately on their arrival. The International Observers in 2010 presidential elections picked out one of the issues arising on the polling day was that '[a] significant number of polling sites did not post the needed alphabetical division of voter's last names, which led to early confusion on where to cast votes' as posing a problem (see for example IRI report dated 27 June 2010 headed [Somaliland Holds a Credible Presidential Election](#)).

¹³⁷ This Article as initially drawn up in 2001 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 previous Voters Register on 14 December 2011 by the 3rd Amendments Schedule (2011) of the Voter Registration Law (No. 37/2007), the pre 2009 provisions were reinstated as envisaged by then Article 66 of the Law which also stated that the changes in this Law relating to the 2009/10 Voters Register would only be used in any election which is conducted on the basis of the voter registration system. Now that a new voter register has been established, this Consolidated Law re-inserts the voter register based procedural articles, like this one. With the increasing use of advances biometric identification, the identification processes at the polling station will invariably develop further.

1. Only a voter *who fulfils the voting conditions*¹³⁸ and attends the polling station in person may cast his/her vote.
2. If, due to 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.
3. 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 gained the confidence of the person, to help him cast his vote. In the absence of someone who has the confidence of the person, the Chairman may ask the polling station officeholders to help the person. *The agents of the party/association shall be shown who the voter has chosen and was marked for him*¹³⁹.
4. 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.¹⁴⁰

PART EIGHT: VOTING ACTIVITIES

Article 48: The Voting Procedure

1. On completion of the activities set out in Article 46, the *polling station chairman* shall:
 - a) hand the voter a ballot paper for casting whilst ensuring that the ballot paper's counterfoil remains and is stamped.
 - b) *pass the voter's card to the polling station scrutineer;*
 - c) *using a pen and a ruler, draw a line across the name and all the other details of the voter in the relevant row of the voters' list whilst ensuring that the crossed out name and other details of the voter are still legible.*¹⁴¹
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.
3. The voter shall then enter the small booth where the ballot papers are marked.

¹³⁸ These conditions are set out in Article 6 of this Law.

¹³⁹ The previous wording of this clause inserted by the 4th Amendments Schedule (2012) limited the involvement of the agents to only that of the party/association whose candidate has been chosen by the person with the incapacity and prior to that, there was no obligation on involving the party/association agents in these exceptional situations. As currently drawn the involvement of the party agents applies whether or not the person helping the voter has gained the latter's confidence (in contrast to the preceding sub clause 2). Therefore, in issuing regulations, the Commission may consider adding a provision which obliges the officeholders to explain to the voter his right to confidentiality and, where necessary, the 'transparency' reasons for involving the party agents who would, in effect, ensure that the choice of the voter is indeed carried out. In such situations, the likelihood is that the voter will probably state loudly his/her choice of candidate and this additional involvement of the party agents may not unduly affect the voter's right to voter confidentiality, which should always be guarded.

¹⁴⁰ Despite the reference in this clause to the (usually, physically) incapacitated (in Somali, '*naafada*') mentioned in clause 2 of this Article, the same recording procedure relating to incapacitated voters ought to be adopted by the polling station secretary in connection with the old and other persons that may also need to be helped in line with the preceding clause 3 of this Article. This is another point that can be covered in Commission regulations/guidance.

¹⁴¹ These reinstated sub clauses (b) and (c) were previously deleted by the 4th Amendments Schedule (2012). They were originally inserted by the 1st Amendments Schedule (2009).

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/candidate¹⁴² that he wishes to vote for, and then fold the ballot paper and leave the booth.¹⁴³
5. The voter shall then put his ballot paper in the ballot box.
6. The voter shall then proceed to (the position of) the scrutineer *who would have the voter's card pass on to him*¹⁴⁴, and would then mark the voter's left hand small finger with indelible ink. 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, the next other finger in his left hand. If the voter has no hands, the mark shall be placed on any other visible part of his body.
7. *The scrutineer shall then hand back the voter his card and, whilst observing good order, the voter must then leave quickly the polling station.*
8. *Any person who is a member of the polling station officeholders, 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 (by following the steps set out in clauses 1 to 6 of this Article) after the polling station has been made ready for voting, and the polling station officials and the party agents have confirmed that the voting card of that person is valid and has not been previously used for voting; and the following details are recorded in the relevant form provided by the National Electoral Commission:*
 - a) *His (full) name in four*¹⁴⁵ *(names).*
 - b) *The number and name of the polling station he is registered as a voter.*
 - c) *The number and name of the polling station in which he is casting his ballot.*
 - d) *His position (duties) at the polling station.*
 - e) *His left thumb print is marked on to appropriate part of the relevant form.*¹⁴⁶
9. *The voting card of every person referred to in the preceding clause 8 of this Article shall be kept by the Chairman of the polling station and can only be returned to him after the voting activities at the polling station are concluded.*

¹⁴² Paragraph 18(5) of the 2012 Electoral Code of Conduct: "Article 47(3) (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 or 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. "*

¹⁴³ Amended by the 1st Amendments Schedule (2009).

¹⁴⁴ The reference to the Voter's card has been removed by the 4th Amendments Schedule (2012).

¹⁴⁵ See the footnote to Article 28(1) about the use of four names.

¹⁴⁶ Previously deleted by the 4th Amendments Schedule (2012).

10. The Chairman of the polling station shall oversee the other polling station officeholders' 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. *If a voter presents at a polling station a voting card which is not registered at that station, the Chairman of the station shall direct him to the location of the appropriate polling station.*¹⁴⁷
13. The Chairman of the polling station shall order promptly that any voter with a voting card which does not belong to him or with additional ballot papers or ballot papers which are different from the ones in use, has the card or the ballot papers removed from him; and shall promptly hand him over to the security forces so that he can be prosecuted. Any such incident shall be recorded in writing.¹⁴⁸

Article 49: Period of Voting

1. The voting shall be completed within one day, beginning at 7 o'clock¹⁴⁹ in the morning and finishing at 6 o'clock in the evening.
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 cast their votes.
3. *When the time reaches 6 o'clock in the evening, the police officers watching the queue for voting shall identify the last person waiting at the queue, and shall allow only all those persons who are at the queue at that time to proceed to vote.*
4. *The National Electoral Commission shall reach decisions about any polling stations that face any particular circumstances.*

Article 50: Decisions about Complaints at the Polling Station

1. The Polling Station officeholders shall reach provisional decisions about complaints (if any), such as those made to them orally or any arguments relating to the voting activities of the polling station. These complaints and arguments shall be recorded in writing.
2. *In the event of insecurity which may endanger (the safety) of the polling station officeholders and the voters, the station chairman shall provisionally close the polling station and must so inform, as quickly as possible, the Electoral Commission at district, regional and national levels.*¹⁵⁰

PART NINE: COUNTING VOTES

Article 51: 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.

¹⁴⁷ Previously deleted by the 4th Amendments Schedule (2012).

¹⁴⁸ This Clause was previously amended by the 1st Amendments Schedule and has since been further amended slightly by the 4th Amendments Schedule.

¹⁴⁹ Six o'clock in the 2005 Election Law – Article 45(1).

¹⁵⁰ This contingency provision requires detailed risk assessment/security guidance/procedures.

2. When the Chairman of the (polling) station gathers from the table all the papers and materials 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 Packet¹⁵¹ (numbered) (1).
 - c) Confirm and affix his signature on the spoilt or incorrect ballot papers which were returned by the voters or were seen by the officeholders to be so, and place them in Packet (numbered) (2).

Article 52: The 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 counting of the ballot papers in the ballot box. To enable this, the Deputy Chairman shall remove from the ballot box one¹⁵² ballot paper at a time, which he shall pass on to the Chairman. The Chairman shall unfold 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 Deputy Chairman to the scrutineer who shall show it 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 Packet (*numbered*) 3 in a way which keeps separate the ballots cast for each party/association or candidate¹⁵³.
2. No ballot paper shall be removed from the ballot box while the preceding ballot paper is still being processed and placed in the Packet. Only the officeholders 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 the votes disputed (or) incorrect which are invalid, *and those which have not been used, as referred to in Article 58 51(2) of this Law*¹⁵⁴.
4. When the Chairman of the (polling) station completes his confirmation and affixes his signatures, he shall:
 - a) place the ballots adjudged as being void in the Packet (*numbered*) 4;
 - b) place the disputed ballot papers in the Packet (*numbered*) 5; and
 - c) finally put all the valid and counted ballot papers, *separated in respect of the votes cast for each party/association*, in the Packet (numbered) 3.

¹⁵¹ In my previous translations since 2001, I have used the traditional term 'envelope' (in Somali, *gal*) for these containers, but I have used now the term 'packet', which can be of any size or shape, for what is described in the Law, in Somali, as '*buqshad*', meaning a small 'parcel' or 'container'. This new Consolidation Law now lists several such Packets (*buqsho*) numbered 1 to 6, and another (not numbered) described as special packet referred to in Article 52(5). The design, shape and sizes of these containers are not set out in the Law, which gives the Commission flexibility in choosing the right containers for each task.

¹⁵² Clause amended by the 1st Amendments Schedule (2009).

¹⁵³ See also Article 52(4)(b) below which deals with placing of the storing of the valid ballot papers after the count in Packet 3.

¹⁵⁴ The reference in this last phrase to Article 58 does not seem to be correct as that article does not mention such category of 'unused' ballot papers, but mentions invalid votes. It is the preceding Article 51(2) that refers to 'unused' ballot papers which must be counted and placed in a special Packet numbered 1, and therefore their total number would have been recorded already by the Chairman.

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 polling station stamp or the numbers of the ballots 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 officeholders shall separate them from ballot papers to be counted and, having shown them to the parties/associations' agents¹⁵⁵ at the station, shall *place them in a special Packet* and record the incident in writing.

Article 53: The Closure of the Counting Activities

1. When the Chairman of the (polling) station completes the counting activities set out in Articles 51 and 52, he shall declare publicly the total number of voters, the *total valid votes*, and the number of votes cast for each party/association candidate¹⁵⁶.
2. In order to avoid the loss of the votes cast by the citizens, it is incumbent¹⁵⁷ on each party/association agent to sign the *polling station result sheet* or to submit in writing his reasons for not signing *and any other complaints by the parties/associations*, which shall (all) be placed in the Packet (numbered) 6.¹⁵⁸
3. The details of the materials in each Packet shall be noted on the outside of each Packet.
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.
6. *The National Electoral Commission shall issue comprehensive procedures dealing with the closure and the counting of the votes.*

Article 54: Spoilt 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)

¹⁵⁵ Association added by the 4th Amendment Schedule (2012).

¹⁵⁶ Candidate added by the 4th Amendment Schedule (2012). It was the move away from the 2002 'closed lists' to open lists' in 2012 local elections that prompted the change to votes being cast for one candidate in any list submitted by the contesting parties/associations, which would also count as a vote for his/her party/association in the proportional representation allocation of the available seats – see Article 58 below for the District totals results. At this stage, however, this Article is addressing the Polling Station count.

¹⁵⁷ 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.*'

¹⁵⁸ The wording of this clause before the 4th Amendments Schedule (2012) also included the following: "The envelopes (i.e *packets*) 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".

- b) the ballot paper does not show clearly the association/party¹⁵⁹ 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 officeholders of the polling station so resolve jointly. If, however, there is no such joint resolution and there is disagreement, the relevant ballot papers shall be recognised as disputed ballots.
 4. The District Electoral Office can reach decisions about the disputed ballot papers.

Article 55: The Written Records of the Polling Station

1. The record of the results of the polling station shall be kept in the form designed by the National Electoral Commission for this purpose which shall consist of an original record and *the necessary* copies¹⁶⁰, and the Chairman of the polling station shall declare publicly:
 - 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 of the parties¹⁶¹/candidates contesting the election.
2. The original form referred to in Clause 1 of this Article shall be *placed in the Packet (numbered) 7, and shall be handed* to the Chairman of the District Electoral Office.
3. Two copies of the form shall be put in *the Packet (numbered) 8* and placed in the same container which holds the sealed Packets referred to in Article 56(1 & 2) of this Law and any remaining electoral materials, and shall be forwarded to the District Electoral Office. One copy of the form shall be given to each of the agents of the parties/associations.

Article 56: The Transport and Transfer of Materials

1. The Chairman of the polling station, accompanied by at least one of the officeholders (of the polling station) and the guarding police officers, shall transport without any

¹⁵⁹ This does not address explicitly where a voter marks more than one candidate of the same party/association in an 'open list' local district council election (or the forthcoming HoR open list election) or even makes a mark which cannot be attributed to any single candidate. Article 48(4) makes it clear that voter must make a mark 'anywhere within the section of the ballot paper which is specifically for the party/candidate¹⁵⁹ that he wishes to vote for' which ensures that vote is counted for the party/association. Perhaps this needs to be addressed explicitly in the review of Article 18(5) of the 2012 Code of Conduct for the Political Parties (and also in 2010 Code) which whilst accepting the literacy difficulties of many of the voters states that '*the voter is permitted to mark anywhere in the ballot paper which is specifically for the party/association that s/he wants to vote for. Any mark that the voter makes on the ballot paper, such as a dot, cross, line, sign, tick is acceptable so long as the mark is clearly confined to the particular ballot area for that party/association*' (underling added). This issue of ascertaining the votes for the open list candidates' votes does not affect the presidential joint ticket ballot papers, nor those in closed lists as in the first (2002) Republic of Somaliland local council elections.

¹⁶⁰ Previously, 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 were sufficient copies to be given to the 9 parties/associations contesting the 2012 local elections).

¹⁶¹ And, presumably, Associations where they are contesting the local elections once every ten years. See also clause 3 of this Article which does mention parties/associations.

delay the written records and the Packets of the polling station and hand them over¹⁶² to the District Electoral Office.

2. When the containers, which have in them the Packets, 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 with¹⁶³. The Chairman of the District Electoral Office shall issue a receipt confirming transfer of the materials.

PART TEN: HIGHER ELECTORAL OFFICES' ACTIVITIES

Article 57: The Work of the District Electoral Office

1. On receipt of the materials set out in Article 56 of this Law, the Chairman of the District Electoral Office shall:
 - a) instruct the deputy chairman, the scrutineer, the secretary and the counting officers to get ready for the work;
 - b) call the Commission approved agents of the associations/parties fielding candidates at the district elections, so they can be present during the conduct of the (electoral) activities;
 - c) after s/he, the officeholders and the agents of the parties/associations have ensured that the containers are sealed and have not been opened previously, open the container(s) and check and remove the materials; (*and*)
 - d) after they¹⁶⁴ have jointly ensured that the Packets are sealed and have not been opened previously, open the Packet 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 Packets set out in Articles 51, 52, 53 and 55 of this Law are complete.

Article 58: The Counting of the Local Elections and the Declaration of the Result

On receipt of the materials set out Article 56 (of this Law) in relation to the local elections, the Chairman of the District Electoral Office shall:

- a) count and add up all the votes cast in the polling stations of the District;
- b) confirm the void votes of all the polling stations in the district;
- c) reach decisions about the disputed votes;
- d) count the number of valid votes cast for each association/party in the district election;
- e) divide the total number of valid votes cast in the district by the number of seats¹⁶⁵ of the local district, and calculate the proportion of the votes each association/party has gained;

¹⁶² The 2005 Election Law sets a time limit of 12 hours within which the handover should take place – Article 52(1).

¹⁶³ The 2005 Election Law says that this should be done in the presence of the party agents – Article 52(2).

¹⁶⁴ It is not clear whether the phrase refers to not only the officeholders but also to the agents of the parties/association, as in the preceding sub clause (c), but there is no obvious reason why the agents cannot observe also the confirmation of the stamps on the various records.

¹⁶⁵ 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 description about the calculation of any remaining seats, it is submitted that these will be assigned on the basis of the 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 Somali

- f) confirm the number of local district seats each association/party is entitled to;
- g) declare then the names of the candidates of each association/party who have won the election, in the order¹⁶⁶ of their positions as set out in Article 23¹⁶⁷ of this Law;
- h) 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 59: Forwarding the Records

1. The records of the activities set out in Articles 56 and 57 of this Law shall be noted on the appropriate forms designed by the Commission for each purpose, *and shall consist of the necessary copies specified by the Commission.*
2. The copies of the records shall be distributed as set out in Articles 56 and 60¹⁶⁸ of this Law.

Republic 1963 (closed list) Local Council elections and in the 1964 (closed list) National Assembly election that was unfortunately extensively modified for the (last democratic) combined March 1969 (closed list) National Assembly and Local Elections. Understandably these 1969 changes were left out of the new Republic of Somaliland PR based election laws.

The 1968 Political Elections and Local Council Elections (Law No. 13 of 6 June 1968) included new changes in Article 9(3) stating that seats allocation ‘shall be calculated on the basis of the electoral quotient and the remainders, *provided that the lists which do not reach the quotient shall be excluded also from the calculation of the remainders*’. Furthermore it added that ‘*[w]here no list reaches the quotient, the seat shall assigned to the lists which obtain the highest number of votes*’ in the remainders. This introduced an element of first past the post ‘winner takes all’ element into the PR system. This was further re-emphasised in allocation Article 53(f) to 53(i) where it is stated after allocation of seats to those lists that reached the quotient per seat, a new quotient is calculated for the remainders, ‘*with the exception of those lists which have not reached the electoral quotient, as provided in Article 9(3) of this Law ...[and] allot as many of the remaining seats as the number of the new quotients contained in the remainders of each list.*’. If there are still seats left the same procedure will be repeated until the last seat is allocated to the list which is still in the ‘game’ and has the the highest reminder, which in all probability might well be have been less than the votes garnered by the List(s) that were shut out of the remainders formula earlier. This was obviously an unfair change to the 1963 and 1964 election laws and proved to be extremely controversial and so has been studiously avoided when the first PR based Somaliland local council elections Law was passed in 2002.

In contrast, by the way, Article 7(2) of the 1963 Local Council Elections Law simply stated that ‘*[t]he representation in the Local Council shall be proportional to the votes obtained by each list and shall be calculated on the basis of the quotient and the highest remainder*’, and Article 47(f) made it clear that each list shall be allotted ‘as many seats as the number of electoral quotients contained in the electoral figure, and the remaining seats to the lists which have obtained the highest remainders, *taking into account also those lists which have not reached the quotient*’. There were also identical provisions in Article 7(3) and Article 51(e) of the 1964 Political Elections Law (Law No. 4 of 22 January 1964) relating to the first Somali Republic National Assembly Election.

it is also worth mentioning that in all these 1960s laws, if, in calculating the list with the largest remainders for the last seat, any tie in the numbers of votes between two lists (or more) shall be decided by drawing lots. Finally, none of this PR system intricacies have any relevance to the Somaliland ‘first past the post’ (majoritarian) system of presidential elections, but it is of course relevant to the Somaliland PR based House of Representative election.

¹⁶⁶ 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 23 and the definition of “lists” in Article 2 of this Law.

¹⁶⁷ The official Somali text refers here to Article 24 which appears to be a typing error as it is the preceding Article 23 that deals with local council elections lists.

¹⁶⁸ With the re-numbering of the articles in these last amendments and consolidation, the reference to other articles may have posed a drafting problem. In this clause, it could be that the reference to

Article 60: Production of the Local Elections outcomes

The District Electoral Office shall issue the outcome of the district election by means of a concise written notice setting out the names of the candidates who were successful in the local election, which shall be displayed at the administration office of the relevant local government, and copied to the Central Office of the *National Electoral Commission*.

Article 61: Tallying up the votes of the Presidential Elections

When the Chairman of the District Electoral Office is undertaking presidential election activities, he shall -

- a) *count and tally up all voting counts forwarded by the polling stations;*
- b) *confirm the void votes forwarded by the polling stations;*
- c) *reach decisions about the outstanding disputed votes, as set out in Article 54 of this Law;*
- d) *tally up the votes that each party, which fielded candidates in the district, has gained at the polling stations; (and)*
- e) *forward to the Regional Electoral Office the result of the votes cast and (if any) the complaints.*

Article 62: The Work of the Regional Electoral Office

1. After receiving the written records of the polling stations, the total result of the votes cast at 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 votes.
2. The Regional Electoral office shall, in the presence of the agents of the contesting parties, 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 votes in all the districts of the region ;
 - d) number of votes cast for each contesting parties/associations¹⁶⁹.
3. *The Chairman of the Regional Electoral Office shall forward the result of the votes cast and the complaints (if any) to the national headquarters of the Electoral Commission.*¹⁷⁰
4. The Chairman of the Regional Electoral Office shall¹⁷¹:
 - a) record the voting results of the region in the form (format) referred to in clause 2 of this Article, which shall consist of one original copy and the necessary copies.¹⁷²;

distribution of records here was to [Articles 55 and 62](#), but the important matter is that it is still easier to recognise the distribution of copies in the clauses that mention them.

¹⁶⁹ There will only be parties contesting presidential elections.

¹⁷⁰ As previous amended by the 1st Amendments Schedule (2009), there was a provision which stated that '[a]fter 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'. In any case, note below in the following clause that a copy of the forms recording the voting results for the region will be given to the agents of the political parties.

¹⁷¹ Previously amended by the 1st Amendments Schedule (2009).

- b) forward to the National Electoral Commission the regional results forms copies, as well as the original copies of the voting results of all the districts in the region;¹⁷³ (and)
- c) give one copy of the forms to each of the agents of the parties/associations at the Regional Electoral Office.

Article 63: The Work of the Central Electoral Office

1. On receipt of the materials and the written records set out in Article 59 of this Law, the Central Office of the Commission¹⁷⁴ 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 Packets are sealed and have not been opened and then open them and remove the materials therein;
 - d) after checking, together with others, that the Packets are sealed and have not been opened, open the Packet containing the stamp of the (Central) Electoral Office and note in the written record the number of the stamp.
2. The Central Electoral Office shall then confirm the receipt of the written records set out in Article 59 of this Law which are expected from the District and Regional Electoral Offices.

Article 64 Declaration of the Presidential Election Results

After receiving (*the records*) from the districts/regions electoral offices, the Central Headquarters of the Commission shall:

1. reach decisions about the claims and disagreements relating to the voting and the count;
2. count and add up (arithmetically¹⁷⁵) the valid votes and the spoilt or invalid votes that have been forwarded by the Regional Electoral Offices;
3. having confirmed fully and being satisfied that the (election) activities have been conducted properly, the Chairman of the National Electoral Commission shall declare the provisional results of the election of the President and the Vice-President.

PART 11: REVIEW AND CLAIMS

Article 65: The Review of the Local Elections

1. The Chairman of the Regional Court shall review and confirm the decision relating to (the outcome) of the local council elections. He shall reach decisions about any

¹⁷² The number of which will, presumably, be determined by the National Electoral Commission. Previously, this was 5 copies in the 1st Amendments Schedule and then later raised to 11. These matters can now be easily covered in regulations/guidances.

¹⁷³ There was previously a clause requiring copies to be sent also to the Supreme Court – i.e ‘forward to the Supreme Court the original copy together with a copy of the voting results of every district in the region’.

¹⁷⁴ This previously referred to the Chairman of the Commission.

¹⁷⁵ 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.

- disputes or complaints¹⁷⁶ which have arisen during the voting activities and have been generally forwarded to him by the District Electoral Office(s)¹⁷⁷.
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)¹⁷⁸ days beginning from the date¹⁷⁹ the district offices of the National Electoral Commission announce the district elections decisions as set out in Article 60 of this Law. Any complaint¹⁸⁰ submitted after the legal limitation period shall be null and void.¹⁸¹
 3. The Regional Court must reach a decision within 10 (ten) days beginning from the date the claim reached the relevant Regional Court registry.
 4. Any party¹⁸² (side) to the claim that is dissatisfied with the decision of the Regional Court must *register*¹⁸³ its appeal when the decision is announced and must submit

¹⁷⁶ 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.

Note that the *2010 Electoral Code* (for the 2010 Presidential Election) was very similar to the *2012 Electoral Code* in most respects, but both of them included some provisions that were relevant to their elections. For example the 2010 included Article 18(1) addressing the situation where there is a tie in the total votes of two parties that gained the highest votes whilst the corresponding clause (also numbered 18(1)) in the 2012 addressed a tie of votes by two candidates of two different parties. Also the 2012 Code addressed in its Article 17 in exceptional situations where council elections may not take place in some polling stations in a district or in most or all of a district. By the way, these latter contingency issues are also addressed in Article 10 of this Law. *The Commission will no doubt revisit both Codes, which ran to 27 articles (in 2010) and 25 articles (2012) before signature by the current three parties. Now that the Commission has a power to issue regulations, it might well be that some of the issues which are regulatory in character, such as the exercise of the Commission's administrative penalties and the prior investigation/monitoring role by independent committees can now be included, after consultation with the parties, in regulation. The Codes of Conduct which are 'soft law' can then deal with the expected and agreed commitments to be made by the parties, media, observers etc.*

¹⁷⁷ The Regional Court, like the Regional Electoral Office, covers all the districts in the region – see Article 7 of the Organisation of the Judiciary Law (No. 24/2003-6) (the 60 Articles version).

¹⁷⁸ The changes to this article have been inserted by the 4th Amendments Schedule. The previous period for claims was ten (10) days.

¹⁷⁹ In common law jurisdictions, this has been interpreted as meaning that the first day (of the action/decision) is counted, but the law and 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 act. (See Article 110 of the [1974 Civil Procedure Code](#) which lays down the general rule for calculation of time limits in civil matters. The general principle is that when calculating time limits by days, the first day shall not be considered in the calculation. Furthermore usually when the time limit expires on a holiday, the expiry date is then extended to the first working day after the holiday. As there is no express reference in this Law to the Civil Procedure Code, there is a question about the applicability of the last day holiday exception. It will make sense, therefore, for these strict limitation periods in the clause (as well as the similar ones in Article 65) to be clarified well before the elections either in Regulations under this Law or in directions issued by the Chairman of the Supreme Court.

¹⁸⁰ Complaints (cabasho in Somali) includes claims (dacwado).

¹⁸¹ Clause previously amended by the 4th Amendments Schedule (2012).

¹⁸² In the sense of a 'side' to a claim/litigation rather than in sense of a political party.

¹⁸³ 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

the appeal *in writing* within a period of 2 (two) days beginning from the date the Court announced its decision.

5. The Regional Court shall forward (*the appeal*) to the Supreme Court within 2 (two) days¹⁸⁴. If, however, the party (side) does not submit his appeal on the same day (*as the Regional Court decision*), it shall have no right for its claim to be forwarded to the Supreme Court¹⁸⁵.
6. The decisions of the Regional Court may be appealed to the Supreme Court. The Supreme Court shall issue its ruling and the final decision within ten (10) days.

Article 66: Election claims

1. The Supreme Court¹⁸⁶ shall have the jurisdiction to deal with claims relating to the elections of the President and the Vice-President. These claims must reach the Court registry within 7 days¹⁸⁷, beginning from the date when the (provisional) election results are declared¹⁸⁸. If a claim falls outside the limitation period, it shall not be considered.
2. *The Supreme Court must reach decisions about the presidential election claims within 10 days.*¹⁸⁹

seek legal advice. The same day submission is, however, still necessary, as without it, the 2 day period of appeal will not be gained.

¹⁸⁴ That is, presumably, within 2 days of its receipt of the written appeal referred to in the preceding clause 4.

¹⁸⁵ This last sentence which relates to the initial appeal registration on the same day of the decision of the Regional Court would have been better placed in the preceding clause 4 of this Article.

¹⁸⁶ Article 10(3)(f) of the [Organisation of Judiciary Law](#) (60 Articles) (Law No 24/ 2003-6 - OJLAW) also states that '*the Supreme Court shall reach decisions about the complaints and claims concerning the election of the President and the Vice-President, the election of Parliament and the election of the local councils on the basis of a procedures akin to those set out in Clauses 5, 6 and 7 of Article 14 (sic) of this (i.e the OJLAW) Law*'.

The Clauses referred to (which incidentally relate to the Constitutional Court but apply equally to the Supreme Court under Article 10(3)(f)) are actually in Article 15 (and not 14) and state the following:

Clause 5: Anyone complaining must submit a reasoned application, in which the decision complained about, the Law or Articles on which the complaint is based and the related evidence, are set out. When these conditions are met, it is incumbent on the Court to consider the plaint.

Clause 6: The Court shall issue its decisions after it has heard and considered the evidence submitted by the opposing parties or interested parties.

Clause 7: The Court shall seek independently any evidence relating to the claim that it is considering.'

¹⁸⁷ This time limit was previously reduced from the 20 days (set out in this Law in 2001) to 10 days by the 2nd Amendments Schedule (2010) and has now been further reduced to 7 days by this Law. It is important that clear guidance is given by the Court as to the correct method of counting the 7 days deadline. This is a strict 'preemptory' time limit with no room for any extension. (See footnote 179 above). The general principle under Article 110 of the [Civil Procedure Code](#) is that when calculating time limits by days, the first day shall not be considered in the calculation.

¹⁸⁸ See Article 64 above for the declaration of the presidential election provisional result by the Chairman of the Electoral Commission.

¹⁸⁹ Previously the deadline for the Supreme Court's decisions on these electoral claims was '*before the expiry of the constitutional (presidential term) period*' i.e. before the expiry of the maximum of one month after the polling date as set out in Article 83(2) and 83(3) of the Constitution. This change is aimed at the expeditious conclusion of all the claims. The beginning of the 10 day period is not clearly set out in the Law, but presumably it commences from the date of receipt by the Supreme Court of each claim that has been submitted within the 7 day deadline of submission of such claims set out in Clause 1 of this Article. Without any detailed electoral claims procedures regulations, such as the detailed 1959 Somaliland Legislative Council (Elections Petitions) Rules 1959 (GN No. 17 of 1959)), the Supreme Court may adopt well in advance of the polling day its own detailed procedures (perhaps through Chairman's Practice

3. On receipt of the written records from the Central Office of the National Electoral Commission¹⁹⁰, and having checked the election (results) calculations and the (proper) application of the law, the Supreme Court shall declare the result of the election of the President and the Vice-President.

PART 12: INFRINGEMENTS¹⁹¹

Article 67: Punishment for Infringements

1. *Any person who, with the intention to vote, brings to a polling station a voter card¹⁹² which does not belong to him or extra¹⁹³ ballot papers commits an offence punishable with imprisonment of one to two years, or a fine of 2,000,000/- to 3,000,000/- (two to three million Somaliland Shillings).¹⁹⁴*
2. *Any person who keeps voter cards belonging to other persons with the intention of their wrongful use at the polling date commits an offence punishable with imprisonment of six months to two years and/or a fine of 500,000/- to 2,000,000/- Somaliland Shillings.¹⁹⁵*
3. *Any person who makes, distributes, takes or otherwise uses a forged voter card or a forged ballot paper, commits an offence punishable with imprisonment of three to six years and a fine of 5,000,000/- to 10,000,000/- (five to ten million Somaliland Shillings).*
4. *Campaigning at a polling station; Obstructing voters from casting their votes or denying them to vote; threatening (or) bribing (voters); or creating disorder in the polling station activities, are all forbidden. Any person who does these acts commits*

Directions) for dealing with the elections claims and based on the relevant provisions of this Law, the Organisation of the Judiciary Law and the Civil Procedure Code.

¹⁹⁰ See also Article 58(3)(b) of this Law.

¹⁹¹ This part is headed, in Somali, 'Kuxadgudubyo' which translated literally means 'contraventions' or 'infringements'. But, as the term 'contraventions' has a distinct meaning, in the Italian based 1964 Penal Code, where it means the types of less serious offences which are not classified as crimes but are akin to 'misdemeanours' in other jurisdictions, these electoral offences are, in my view, more like Penal crimes than contraventions. I have therefore preferred the term of 'infringements' for these electoral law offences.

¹⁹² The general prohibition of anyone holding more than one voting card is covered by Article 71 of the Voters' Registration Implementation Regulations (No. 01/2015) read with 44 of the Voters' Registration (Amendments and Additions) Law - No 37/2007 & 2014. The punishments for offences in this Law are, however, more severe than those in the Voter Registration legislation.

¹⁹³ That is a ballot paper(s) not issued to him/her by the polling station officeholders.

¹⁹⁴ These offences cover the unlawful use or attempted use of voting cards or ballot papers at the polling station, but the circumstances of these offences could also fall under the Penal Code if the possession of the voter cards or ballot papers also involved crimes such as theft (Article 480) or fraud (Article 496) or falsification of public documents (Article 366 to 382) etc. and s. 14 of [the Penal Code](#) covers the relationship between penal code offence and the offences in special laws such as this one. Offences in Special laws (such these electoral offences) take precedence over the Penal Code offences, but only in so far as they replace fully the latter, but the Penal Code still applies to criminal acts which are not wholly provided for in the special law.

¹⁹⁵ In contrast to the proceeding clause 1 of this Article, this clause 2 covers the possession of other persons' card for the purpose of using them unlawfully or getting others to use them and is an offence that can be prosecuted at any time before the polling day (or possibly even after, if there is sufficient evidence) so long as the intention can be shown. The Commission may wish to publicise this offence so that the public and the police and law enforcement agencies are fully aware of it. Furthermore any person who allows his voting card to be unlawfully used commits an offence by, at the very least, participating in the offence (Article 71 of the Penal Code) and facilitating its commission..

offences punishable with imprisonment of six months to three years and/or a fine of 1,000,000/- to 3,000,000/- Somaliland Shillings.

5. *Any person who uses force or threatens to use force against the polling station officeholders so as to compel to undertake corrupt acts or to stop the polling station activities, commits an offence¹⁹⁶ punishable with imprisonment of six months to five (5) years and/or a fine of 1,000,000/- to 5,000,000/- (Somaliland) Shillings.*
6. *Any officeholder who facilitates the corruption of the result of the polling stations, or engages in any falsification commits an offence punishable with imprisonment of three to five years and a fine of 1,000,000/- to 5,000,000/- Somaliland Shillings.¹⁹⁷*
7. *Any official who wilfully damages, conceals, or erases (interferes unlawfully with¹⁹⁸) ballot papers, voting results or polling station materials, commits an offence punishable with imprisonment of one to two years and/or a fine of 1,000,000/- to 3,000,000/- (Somaliland) Shillings.¹⁹⁹*

PART 13: MISCELLANEOUS PROVISIONS

Article 68: Regulations

The Electoral Commission shall have the power to issue regulations, codes of conduct, procedures, training manuals, (and) public information about the electoral procedure, for the implementation and the publicising of this Law and the elections, and which shall not conflict with (the provisions of) this Law.²⁰⁰

Article 69: Repeal

It is hereby repealed any provisions in the Presidential and Local Councils Elections Law No. 20/2001 and its amendments/additions and²⁰¹ Schedules 1, 2, 3, 4 and 5 which are contrary to the provisions of these Amendments and Consolidation.

Article 70: Coming into force

This Law (Consolidation and Amendments) shall come into force on its approval by the Houses of Parliament, signature of the President and publication in the Somaliland Republic Official Gazette.²⁰²

¹⁹⁶ These acts could also amount to offences under the Penal Code, which, depending on the nature of the threats or coercion, the use of arms and any injuries caused may well attract higher punishments.

¹⁹⁷ Again a number of Penal Code offences that cover public officials in respect of illegal acts committed during the performance of their duties.

¹⁹⁸ The Somali term used 'baabiyo' means in respect of documents 'erases' but this offence also related to the polling station materials, and so I have put in brackets 'interferes with unlawfully' which covers all acts that s/he might have done to the documents and materials which the official is not lawfully allowed to do.

¹⁹⁹ See footnote 197 above relating to the preceding clause 6. Some of these offences listed in this clause may well amount to more serious offences under the Penal Code.

²⁰⁰ This finally makes it clear that the National Electoral Commission's powers in issuing subordinate legislation (Regulations) and codes of conduct (soft law), procedures, guidance etc. in the implementation of this Law. Note also the various other clauses in this Law give Commission similar powers in respect of various specific issues, such as Articles 29(2), 34(1), 43(6) and 53(6).

²⁰¹ This should have perhaps read 'in' rather than 'and' as all the amendments and additions in the 2001 version of the Law were made in these 5 Amendments Schedules.

²⁰² This Law (in the form of a 6th Amendments Schedule) was initially passed by the House of Representatives (HoR) on 5 January 2017 and the House of Elders passed it on 8 January 2017 after making some amendments. The HoR approved the Law again on 11 January 2017 and then passed it on

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*[Translated and annotated by Ibrahim Hashi Jama, Editor www.somalilandlaw.com
30 June 2017]*

the President for signature, which was done on 28 January 2017 (Presidential Decree No. 0756/012017). The Law was initially gazetted on 04 February 2017 (Somaliland Republic Official Gazette - January Issue) in its format as the 6th Amendments Schedule of the Law and therefore, as set out in Article 70 of the Law, came into force on that date. The Amendments stated that there will also be a consolidated text of the Law and that text (which is now this translated copy) was gazetted on its own as a supplement on 1 April 2017. The consolidation ensured that there was no need for reference to both the original 2001 text of the Law and its previous 5 amendments schedules.

List of the 2017 Consolidated Law (6th Schedule) Articles and their corresponding articles in the previous text of the Law with its 5 previous Schedules up to 2012²⁰³

| Articles of (2017) Consolidation | Corresponding Articles in the Law (up to the 5 th Schedule) |
|----------------------------------|--|
| 1. | - |
| 2. | 1 |
| 3. | 2 |
| 4. | 3 |
| 5. | 4 |
| 6. | 5 |
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| 9. | 8 |
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| 35. | 30 |
| 36. | 31 |
| 37. | 32 |

| Articles of (2017) Consolidation | Corresponding Articles in the Law (up to the 5 th Schedule) |
|----------------------------------|--|
| 38. | 37 |
| 39. | 38 |
| 40. | 39 |
| 41. | 40 |
| 42. | 41 |
| 43. | 42 |
| 44. | 43 |
| 45. | 44 |
| 46. | 45 |
| 47. | 46 |
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| 50. | 49 |
| 51. | 50 |
| 52. | 51 |
| 53. | 52 |
| 54. | 53 |
| 55. | 54 |
| 56. | 55 |
| 57. | 56 |
| 58. | 57 |
| 59. | 60 |
| 60. | 61 |
| 61. | 57 (in part) |
| 62. | 58 |
| 63. | 63 |
| 64. | 64 |
| 65. | 62 |
| 66. | 65 |
| 67. | - |
| 68. | - |
| 69. | - |
| 70. | 66 |
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²⁰³ An unofficial 2012 Consolidation of text of the Law and its previous 5 Amendments Schedules is still available at this link: [Consolidated Text as at 15 /9/ 2012.](#)

NOTES: LIST OF CHANGES TO THE LAW BEFORE 2012

The Articles of the Law previously Amended by the 5 Amendments Schedules and inserted in this Consolidated Text of the Law and its Amendments (The numbering of the articles in this table relates to the Law as last amended in 2012 and set out the articles affected by the 5 previous amendments schedules and is retained here for historical purposes only. The 2016 amendments are now all incorporated in its latest text of the Law)

The “Coming into Force” Final Articles of the 2001 Law and its 5 amendments schedules read as follows:

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.²⁰⁴
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.²⁰⁵
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.²⁰⁶
4. (The 3rd Amendments Schedule): Came into force when signed by the President.²⁰⁷
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.²⁰⁸
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.²⁰⁹

Somali texts of the Law as promulgated in 2001 and all its 5 Amendments Schedules are all available at this link: www.somalilandlaw.com/presidential_local_elections.html.

Secondly, the effects **each of the 5 Amendment Schedules** had on the original 60 Articles of the 2001 Law are listed below:

| 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) | | | |

²⁰⁴ 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).

²⁰⁵ The 1st Amendments Schedule (2009) came into force on 29 July 2009.

²⁰⁶ The 2nd Amendments Schedule (2010) came into force on 17 May 2010.

²⁰⁷ The 3rd Amendments Schedule (2011) came into force on 13 December 2011.

²⁰⁸ The 4th Amendments Schedule (2012) came into force on 25 July 2012.

²⁰⁹ The 5th Amendments Schedule (2012) came into force on 07 August 2012.

| | | | | | |
|----|---|---|----------------|--|----------------|
| 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 |