

1. This version is unofficial. The Dari and Pashto is the official version.
2. This version represents the law as issued by Decree 45 dated 4/11/1388.
3. It has been translated by UNAMA and edited by IFES

**Decree by**  
**President of Islamic Republic of Afghanistan on ratification of**  
**Electoral Law**

No. 43  
Date: 28/11/1388

**Article 1**

I ratify the Electoral Law, which has been approved by the Council of Ministers through approval number 45 dated 4/11/1388.

**Article 2**

The Minister of Justice and the State Minister for Parliamentary Affairs are assigned to submit this decree to the National Assembly within 30 days from the convening of its first session.

**Article 3**

This decree shall, together with the law, be published in the Official Gazette.

Hamid Karzai  
President of Islamic Republic of Afghanistan

# ELECTORAL LAW

[As in effect 16 August 2010]

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# Electoral Law

[As in effect 16 August 2010]

## Chapter One General Provisions

### Article 1 Statutory basis

This law has been enacted in accordance with the provisions of Article (33) of the Afghan Constitution to regulate elections-related affairs in the country.

### Article 2 Definitions

In this law, the following terms have the meaning shown:

- 1. Constituency:** the area specified for voting for candidates.
- 2. Agents:** individuals representing political parties and independent candidates who receive credentials from the Independent Election Commission to monitor the electoral process.
- 3. Observers:** national and international individuals accredited by the Independent Election Commission to observe the electoral process.
- 4. Election Campaign:** the efforts by political parties and independent candidates to draw attention of voters for receiving more votes.
- 5. Preliminary Results:** the results announced by the Independent Election Commission following the conclusion of counting votes and prior to the announcement of final results.
- 6. Final Results:** the results certified and announced by the Independent Election Commission following the investigation of complaints by the Electoral Complaints Commission.
- 7. Counting Center:** the place where voting has taken place and where votes are counted after the voting process.
- 8. Preliminary List of Candidates:** the preliminary list of registered candidates which are posted in specified places.
- 9. Final List of Candidates:** the final list of candidates that has been confirmed and published by the Independent Election Commission after adjudication of challenges by the Electoral Complaints Commission.
- 10. Quarantine:** the temporary omitting of boxes containing ballots from the counting process.
- 11. Credential:** a written document issued by the Independent Election Commission which allows monitoring, observing or making a report on the elections process by the representatives of media.

### **Article 3**

#### **Election method**

Elections shall take place through free, general, secret and direct ballots.

### **Article 4**

#### **Principle of Equal Voting Rights**

(1) Eligible voters, both men and women, shall be entitled to equal voting right in the elections.

(2) A voter is entitled to only one vote and shall use it without proxy.

### **Article 5**

#### **Principle of Free Will**

The voters and candidates shall take part in elections on the basis of their free will. The imposition of any direct or indirect restriction on the voters or candidates related to language, religion, ethnicity, gender, tribe, region, residence and social and occupational status is prohibited.

### **Article 6**

#### **Cooperation by Institutions and Individuals**

State and non-state institutions, political parties, social organizations, civil society and relevant individuals shall cooperate with the Independent Election Commission, Central and Provincial Electoral Complaints Commissions and other commissions to be formed in accordance with provisions of this law, and enforce the decisions made by these commissions within their jurisdictions.

### **Article 7**

#### **Non-interference by State Officials in Electoral Affairs**

State officials, employees of government institutions and local influential individuals shall not interfere in electoral affairs either directly or indirectly. The use of any state-owned asset, facility and resource in favor of or against a candidate or candidates is not permitted. The equal use of state and public facilities and resources shall, in accordance with provisions of this law, be exempt from the abovementioned provision.

### **Article 8**

#### **Abbreviation**

The Independent Election Commission shall hereinafter be referred to as the “Commission”.

## **Chapter Two Constituencies**

### **Article 9 Determination of Constituencies**

The constituencies for holding of Presidential, Parliamentary, Provincial, District and Village Councils, Mayors and Municipalities shall be determined as follows:

1. For Presidential elections, the whole country shall be one constituency.
2. For elections of Wolesi Jirga, each province shall be one constituency and for Kuchis, the entire territory of the country shall be one constituency.
3. For elections of Provincial Councils, the province shall be the constituency.
4. For elections of District Councils, the district shall be the constituency.
5. For elections of Village Councils, the village shall be the constituency.
6. For elections of Municipal Mayor, the city shall be one constituency.
7. For elections of Municipal Councils, the city ward or Nahia shall be the constituency.

### **Article 10 Disputes on Boundaries of Constituencies**

(1) In case of dispute over the attachment of a village to a district, or a township to a ward or city, the issue shall be referred for a decision by the Commission to the Independent Directorate of Local Governance.

(2) A dispute under clause (1) of this article may be considered only if it is raised 180 days before the election date.

## **Chapter Three Voters and Candidates**

### **Article 11 Voters' Qualifications**

A person with the following qualifications shall be eligible to vote in elections:

1. Has completed at least the age of 18 on the polling day.
2. Has citizenship of Afghanistan.
3. Has not been deprived of civil rights by order of a court.
4. Has been registered on the voters' list by the Commission.

### **Article 12 Candidates' Qualifications**

(1) A presidential nominee shall have the following qualifications:

1. Is an Afghan national, Muslim, born of Afghan parents and does not have citizenship of another country.

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2. Is not under age 40 on the day of nomination.
  3. Has not been convicted of crimes against humanity, crimes or deprived of civil rights by order of a court.
- (2) A candidate for the National Assembly shall have the following qualifications:
1. Is an Afghan national or has obtained the nationality of Afghanistan at least 10 years prior to the candidate registration or election date.
  2. Has not been convicted of crimes against humanity, crimes or deprived of civil rights by order of a court.
  3. The candidates for the Wolesi Jirga and Meshrano Jirga must have completed age 25 and 35 respectively on the candidate registration or election date.
  4. Has been registered on the voters' list by the Commission.
- (3) A candidate for Provincial and District Councils shall have the following qualifications:
1. Has met the conditions in clauses (2), (3), and (4) of Article 11 of this law.
  2. Has at least completed age 25 on the candidate registration date.
  3. Has at least a baccalaureate education.
  4. Has a good reputation.
- (4) A candidate for Village Council shall have the following qualifications:
1. Has met the conditions in clauses (2), (3) and (4) of Article 11 of this law.
  2. Has at least completed age 25 on the nomination date.
  3. Has the ability to read and write.
  4. Has a good reputation.
- (5) A candidate for Mayor at a provincial center shall have the following qualifications:
1. Has met the conditions in clauses (2), (3) and (4) of Article 11 of this law.
  2. Has at least completed age 30 on the candidate registration date.
  3. Has at least a Bachelor's degree.
  4. Has lived for at least 5 years in the city where nominated before the day of candidacy.
  5. Has a good reputation.
- (6) A candidate for Mayor at district outside the provincial center or Municipality Councils shall, in addition to meeting the conditions in clauses (1), (2), (3), (4) and (5), of this Article, have a baccalaureate education.
- (7) Persons who command military or militia structures (Illegal Armed Groups) or are members of those groups shall not participate in elections as candidates. The command membership of persons in the military or militia structures (Illegal Armed Groups) shall be vetted by a separate commission comprised of representatives from the Ministries of Defense, Interior, and National Directorate of Security, under the chairmanship of a member of the Commission.

### **Article 13**

#### **Restriction on Candidature**

- (1) The following persons shall not be nominated for the positions set forth in Article 12 before resigning from their posts:
1. Head, members of the Supreme Court and judges.
  2. Attorney General and Prosecutors.

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3. Ministers, Minister Advisors, Advisors to the President, Independent General Directors, Chairman and Members of Independent Commissions, Deputy Ministers and Advisors to the Ministries, Governors and their Deputies, District Governors and Diplomatic Representatives of Afghanistan Missions abroad.
  4. Military officials of Ministries of Defense, Interior, National Directorate of Security and other ministries and institutions with military structures.
  5. Civil Servants.
  6. Temporary and permanent staff members of the Independent Election Commission.
- (2) If the persons in clause (1) of this article do not win in the elections, they shall not reoccupy their previous jobs, unless they are reappointed in accordance with provisions of the law.
- (3) If a candidate of one elected post wishes to be nominated for another elected post, the person is required to resign from the current post.
- (4) No one shall be nominated simultaneously in more than one constituency or for more than one post.

#### **Article 14** **Place to vote**

- (1) A voter shall vote in the constituency where his or her name is registered in the voters' list.
- (2) The Commission shall provide special voting facilities for nomads, refugees, internal displaced people, disabled, military officials of Ministries of Defense, Interior, National Directorate of Security, and other ministries and institutions with military structures, government employees, staff of the commissions and prisoners who are not deprived of their civil rights.

#### **Article 15** **Verification of Voter Identity**

A voter shall present a registration card or document issued by the Commission for verification of his or her identity to receive a ballot paper,

#### **Article 16** **Form and Number of Ballot Papers**

The form and number of ballot papers shall be determined by the Commission.

## **Chapter Four Presidential Elections**

### **Article 17 Election of the President**

(1) The President shall be elected by receiving majority votes of over 50 percent by the voters through free, general, secret and direct votes.

(2) If none of the candidates receives the majority votes of over 50 percent in the first round, a runoff shall be held within 2 weeks from the announcement date of elections results, and only the two highest voted candidates during the first round shall participate in the runoff. In case more than two candidates receive the same number of votes in the first round, a committee composed of two members from the Supreme Court and two members from the Commission chaired by the Head of the Supreme Court, shall select two candidates for the runoff considering who is the most qualified against the criteria within a maximum of 48 hours. The candidate who receives the majority of votes in the runoff shall be elected as President. If the two candidates receive the same number of votes in the runoff, the winner shall be determined by a committee composed of two members of the Supreme Court and two members of the Commission considering who is the most qualified against the criteria within a maximum of 48 hours.

(3) If one of the Presidential candidates dies during the first or second round of voting, or after the elections and before the announcement of elections results, the elections shall be held again in accordance with provisions of the law.

(4) If one of the candidates does not participate in the elections runoff or boycotts the elections, the other candidate shall be declared as winner, in accordance with provision of the law.

### **Article 18 Taking Office by President**

The elected President shall take office 30 days after the announcement of elections results.

## **Chapter Five Wolesi Jirga Elections**

### **Article 19 Number of Wolesi Jirga Members**

The Wolesi Jirga shall have 249 seats out of which 10 seats are allocated to the nomads and the remaining 139 seats are assigned to the provinces in proportion to their population. Out of the total number of seats for each province, on average, at least two females shall be elected members of the Wolesi Jirga.

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## **Article 20**

### **Allocation of Seats**

- (1) The Commission shall allocate 239 seats to the provinces in the following order:
1. The total number of populations of provinces shall be divided by the 239 allocated seats to determine the population quota for each seat.
  2. The population of each province shall be divided by the population quota for each seat to determine the number of seats for each province.
  3. Each province is allocated a number of seats equal to the whole number from the division under clause (2) of this paragraph.
  4. The seats that are not allocated under clause (3) of this paragraph, shall be allocated in the descending order of the remaining decimal fraction of the division mentioned in clause (2) of this paragraph.
  5. If less than 2 seats are allocated for one or more provinces as result of this calculation, then two seats shall be allocated for that province.
  6. The total seats and number of population of the provinces to which extra seats are allocated under clause (5) of this paragraph, shall be subtracted from the total of 239 seats and total population of all the provinces. For the remaining provinces, a new quota for allocation of seats shall be calculated and repeated, in accordance with the procedures described in clauses (2) and (5) of this paragraph.
- (2) The Commission shall be required to publish the calculations used for allocation of seats set forth in this Article.

## **Article 21**

### **Verification of Census**

The Central Bureau of Statistics shall provide the latest official census of each province to the Commission within the period set by the Commission.

## **Article 22**

### **Assignment of Provincial Seats**

- (1) The seats in each province shall be assigned to the candidates who receive the greatest number of votes. The allocated seats for women candidates are exempt from this provision.
- (2) If two candidates receive equal votes, the winner shall be determined within a maximum of 15 days by a committee composed of one member of the Supreme Court as the head, and two members of the Commission as members, considering the highest qualifications.
- (3) If the elected candidate cannot occupy his or her seat, or for any reason relinquishes his seat during the tenure of office in Wolesi Jirga, dies, resigns, or is dismissed or is disabled permanently so that the person cannot discharge his or her duty, the seat shall be assigned to the candidate of same gender (male or female) on the prepared list of the Commission, with the next highest number of votes, provided that at least one year remains to the end of term of the Wolesi Jirga. If there is no candidate from the same

gender the seat shall, regardless of gender, be assigned to the next candidate who has secured the most votes on the list of candidates.

(4) If a nomad candidate cannot occupy his or her seat or for any reason, relinquishes the seat during the tenure of office in Wolesi Jirga, dies, resigns, or is dismissed or disabled permanently so that the person cannot discharge his or her duty, the seat shall be assigned to the candidate from the same sex (male or female) on the prepared list of the Commission, who has the next highest number of votes, provided that at least one year remains to the end of the term of the Wolesi Jirga. If there is no candidate from the same gender the seat shall be assigned to the next candidate who has secured the most votes on the list of candidates, regardless of gender,.

### **Article 23** **Allocation of Seats to Female Candidates**

(1) To determine the minimum number of female candidates to be elected in each province, the Commission shall prepare procedures and formula based on the population of each province to ensure that the number of elected woman candidates shall be at least twice the number of provinces, as provided in Article 83 of the Constitution.

(2) The female candidates who receive the most votes in each constituency shall be assigned a seat in accordance with the formula mentioned in clause (1) of this Article,. After meeting the quota requirements, the remaining seats shall be assigned in accordance with Article 20 of this law.

(3) If there are not enough female candidates on the list to occupy the allocated seat or seats in certain constituencies, the Commission shall, in accordance with the procedures set forth in clause (1) of this Article, adopt measures to make sure the seats allocated to females (from the same gender) do not remain vacant.

## **Chapter Six** **Meshrano Jirga**

### **Article 24** **Composition of Meshrano Jirga**

The number of members in Meshrano Jirga shall be three times the number of provinces, of which one-third shall be from the Provincial Council members elected by the respective Provincial Councils for a term of four years, one-third from the District Council members elected by the respective District Councils of each province, and the remaining one-third shall be appointed from among experienced and learned people by the President for a term of five years.

### **Article 25** **Election of Provincial Representatives**

(1) Each Provincial Council shall elect one of its members for the Meshrano Jirga within 15 days of its establishment, in accordance with the provisions of this law.

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(2) The elections shall be presided over by the head of the Provincial Council. If the head himself is a candidate, the deputy shall preside over the elections. If the deputy is also a candidate, the eldest member who is not a candidate shall preside over the elections.

(3) The quorum for holding elections set forth in clause (2) of this Article shall be the two-thirds of the members of the Provincial Council present. The person who receives more than half of the votes shall be declared elected as member of the Meshrano Jirga. If no candidate receives more than half of the votes in the first round, a run-off shall be conducted between the two most voted candidates. In this case the candidate who receives the majority of votes shall be considered the winner.

(4) If two candidates receive the same number of votes, the winner shall be elected within 20 days by a committee composed of a member of the Supreme Court as head and two members from the Commission as members, considering the highest qualifications.

(5) If an elected member cannot occupy his/her seat, or for any reason relinquishes the seat, dies, resigns or is dismissed or disabled permanently so that the person cannot discharge his or her duty, the respective Provincial Council shall elect another person from among its members in accordance with the provisions of this law, provided that one year remains to the end of the said Council.

## **Article 26**

### **Election of District Councils Representatives for Meshrano Jirga**

(1) The Commission shall, within 5 days of establishing the District Councils, provide a list of the elected members of Councils to the respective Provincial Council so that one of the members from the total elected members of the Councils may be elected as member of Meshrano Jirga.

(2) The head of the Provincial Council is responsible for summoning the District Councils' members in the province to a place accessible to the members where they may gather and hold the elections within 15 days of establishing the District Councils.

(3) The quorum for holding the elections shall be the presence of at least two-thirds of the members of the Provincial Councils, and the person who receives more than half of the votes of the members present shall be declared the winner. If no candidate receives more than half of the votes in the first round, a run-off shall be conducted between the two most voted candidates, and the candidate who receives the majority of votes in the run-off shall be recognized as a member of the Meshrano Jirga.

(4) If two candidates receive the same number of votes, the winner shall be elected within a maximum of 20 days by a committee composed of a member of the Supreme Court as the head, and two members of the Commission as members, considering the highest qualifications.

(5) If the elected candidate cannot not occupy his or her seat or for any reason relinquishes the seat or passes away or resigns, or is dismissed or disabled permanently so that the person cannot discharge his or her duty, the respective District Councils shall elect another person from among its members, in accordance with the provisions of this law, provided that at least one year remains to the end of term of the said Council.

## **Chapter Seven**

### **Provincial Councils Elections**

#### **Article 27**

##### **Provincial Councils**

Each province shall have one Provincial Council, the members of which shall be elected through free, secret, general and direct elections by the voters of same province.

#### **Article 28**

##### **Allocation of Seats to Provincial Councils**

(1) Seats of the Provincial Councils shall, considering the population of the province, be allocated as follows:

1. Provinces with less than 500,000 population, 9 members
2. Provinces with more than 500,000 up to one million population, 5 members
3. Provinces with more than one million up to two million population, 19 members
4. Provinces with more than two millions to three million population, 23 members
5. Provinces with more than three million population, 29 members.

(2) In provinces where there is movement of nomads (Kuchis), a certain number of seats shall, based on the number of nomads, be allocated to them within the Provincial Council.

#### **Article 29**

##### **Membership of Provincial Councils**

(1) The candidates who receive the highest number of votes shall, be considered as members of the Provincial Council of the respective province, in the following order,

(2) At least one-fourth of the Provincial Council seats shall be allocated to women. As the first step, one-fourth of the seats in each province shall be allocated to the most voted female candidates. The remainder of the seats shall be allocated in accordance with the provisions of clause (1) of this Article.

(3) If two candidates receive the same number of votes, the person entitled shall be determined, within 20 days, by a committee comprised of the head of Provincial Appeal court as head, and provincial representatives of the Commission and the Afghan Independent Human Rights Commission as members, considering the highest qualified.

(4) If a candidate elected as member of the Meshrano Jirga under Article 25 of this law cannot occupy his or her seat or for any reason relinquishes his seat, dies, resigns, or is dismissed or disabled permanently so that the person as member of Meshrano Jirga cannot discharge his or her duty, the seat shall be assigned to the next most voted person of the same gender (male or female) on the prepared list of the Commission, provided that at least one year remains to the end of term of the Council.

If there are no candidates from the same gender, the seat shall be assigned to the candidate who secured the most votes in the list of candidates.

(5) If there are not enough female candidates on the candidates list to occupy the seats allocated to women in accordance with this Article, the Commission shall adopt measures to make sure that the seats allocated to women (of the same gender) do not remain vacant.

## **Chapter Eight District Councils Elections**

### **Article 30 District Council**

Each District shall have one council the members of which shall be elected through free, secret, general and direct ballot cast by the voters of the respective district.

### **Article 31 Allocation of Seats to the District Councils**

(1) Seats to District Councils shall, considering the population of each district, be allocated as follows:

1. District with less than 20,000 population, 5 members
2. District with more than 20,000 to 40,000 population, 7 members
3. District with more than 40,000 to 60,000 population, 9 members
4. District with more than 60,000 to 80,000 population, 11 members
- 5..District with more than 80,000 to 100,000 population, (3 members
6. District with more than 100,000 population 15 members.

(2) In districts where there is movement of nomads (Kuchis), a certain number of seats shall, be allocated to them within the District Council of the respective district based on the nomad population.

### **Article 32 Membership of District Councils**

(1) The candidates who receive the highest number of votes shall be recognized as members of the District Council.

(2) If two candidates receive the same number of votes, the winner shall be decided within (20) days by a committee composed of the head of the respective provincial appeal court as head, and the provincial representatives of the Commission and the Afghanistan Independent Human Rights Commission as members, considering who is the highest qualified.

(3) If the elected candidate cannot occupy his or her seat or for any reason relinquishes the seat, dies, resigns or is dismissed or is disabled permanently so that the person cannot discharge his or her duty, in accordance with Article 26 of this law, the seat shall be assigned to the next most voted person of the same gender (male or female), based on the

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prepared list of the Commission, provided that at least one year remains to the end of term of the Council. If there is no candidate of the same gender, the seat shall, regardless of gender be assigned to the candidate who secured the next most votes.

## **Chapter Nine Village Councils Elections**

### **Article 33 Village Council**

Each village shall have one Village Council to be elected through free, secret, general and direct ballot of the voters of the respective village.

### **Article 34 Allocation of Seats to the Village Councils**

(1) Seats to the Village Councils shall be allocated considering the population of each village, as follows:

1. Village with 100 to 300 population, 3 members.
2. Village with more than 300 to 500 population, 5 members.
3. Village with more than 500 to 700 population, 7 members.
- 4..Village with more than 700 to 1000 population 9 members.
5. Village with more than 1000 population 11 members.

(2) In villages where there is movement of nomads (Kuchis), a certain number of seats shall, be allocated to Kuchis in the Village Council, based on the nomad population.

### **Article 35 Membership of Village Council**

(1) The candidate who receives the highest number of votes shall be recognized as member of the Village Council.

If two candidates receive the same number of votes, the winner shall be decided within 48 hours by a committee composed of head of the respective provincial appeal court as head, and the provincial representatives of the Commission and the Afghanistan Independent Human Rights Commission as members, considering the highest qualified.

(2) If an elected candidate cannot occupy his or her seat on the Village Council, or for any reason relinquishes the seat, dies, resigns, or is dismissed or disabled permanently so that the person cannot discharge his or her duty, the seat shall be assigned to the next most voted candidate person of the same gender (male or female), based on the prepared list of the Commission, provided that at least one year remains to the end of term of the Council.

## **Chapter Ten**

### **Municipal Mayor Elections**

#### **Article 36**

##### **Procedure for Election of Mayor**

- (1) There shall be one Mayor elected for each city. The Mayor shall be elected through free, secret, general and direct election by receiving more than 50 percent majority votes of the voters of respective city, for a period of four years.
- (2) If none of the candidates receive more than 50 percent majority votes in the first round, a run-off shall be held within two weeks following the announcement of results of elections, and only the two most voted candidates shall participate.
- (3) If there are equal votes between the two most voted candidates of Kabul Municipality in the first round, a committee composed of a member of Supreme Court as head, and two Commission members as members, shall select two candidates for the second round, considering the highest qualifications.
- (4) In case of equal votes between two candidates of Kabul Municipality in the second round, a committee composed of a member of Supreme Court as head, and two Commission members as members, shall select the entitled candidate within 48 hours, considering the highest qualifications. In the second round of the election, the candidate who receives the majority of votes shall be declared the winner.
- (5) If there are equal votes in the first round between more than two candidates in the provincial, district or other municipalities, a committee composed of the head of the Appeal Court as chairperson, and the provincial representative of the Commission and a representative of the Afghanistan Independent Human Rights Commission as members, shall select, within 48 hours, the two candidates for the second round, considering the highest qualifications.
- (6) If there are equal votes in the second round between two candidates in the provincial, district or other city municipalities, a committee composed of the head of the Appeal Court as chairperson, and the provincial representative of the Commission and a representative of the Afghanistan Independent Human Rights Commission as members, shall select, within 48 hours, the person entitled, considering the highest qualifications. The candidate, who receives the majority of votes in the second round shall be declared the winner.
- (7) The elected candidate shall start his or her work within 10 days of the announcement of the elections result
- (8) No individual shall be elected as mayor for more than two consecutive terms in one city.

#### **Article 37**

##### **Appointment of New Mayor**

- (1) If the elected mayor of Kabul city cannot occupy his or her seat or for any reason relinquishes his seat during the tenure of Mayor, dies, resigns or is dismissed or disabled

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permanently so that the person cannot discharge his or her duty, a commission composed of a member of Supreme Court as head, and two members of the Commission as members, shall appoint the most voted candidate in the list of candidates after the elected Mayor for the remainder of the term.

(2) If the elected mayor of other provincial capitals, districts and cities cannot occupy his or her seat or for any reason relinquishes his seat during the tenure of Mayor, dies, resigns or is dismissed or disabled permanently so that the person cannot discharge his or her duty, a commission composed of a member of the Appeal Court as head, and the provincial representative of the Commission and a representative of the Afghanistan Independent Human Rights Commission as members, shall appoint the most voted candidate in the list of candidates after the elected Mayor for the remainder of the term.

If there is no other candidate on the candidate list or the winning candidate is absent or unwilling to served, new elections shall be held in accordance with the provisions of this law.

## **Chapter Eleven**

### **Municipal Councils Elections**

#### **Article 38**

##### **Municipal Councils**

Each municipality identified by the Independent Local Administration, shall have a council whose members are elected through free, general, secret and direct ballots for a term of four years by the eligible inhabitants of the respective municipality.

#### **Article 39**

##### **Number of Seats**

(1) Municipal Councils shall have at least 3 seats.

(2) In municipalities where the Independent Local Administrations divided it into two wards, each ward is a constituency for one of the two seats, while the entire municipality is considered as a constituency for the third seat.

(3) Municipal Councils with more than two wards shall have one elected person from each ward.

(4) A Municipal Council that is not divided into wards shall have 3 to 5 seats, as required, considering its population and the city services it provides,.

(5) The number of seats for a Municipal Council shall be determined by the Commission based on information from the Independent Directorate of Local Government and considering the number of its wards.

(6) The number of seats for Kabul Municipality Council shall be determined by the Commission based on the information provided by Kabul Municipality on the number of its wards.

## **Article 40**

### **Allocation of Seats**

- (1) Each ward in a municipality shall be considered one constituency with one elected member on the Municipal Council. Eligible registered voters residing in a ward have the right to vote in that ward.
- (2) Municipalities that are not divided into wards shall be considered as one constituency, and eligible registered voters residing there have the right to vote in the municipality.
- (3) For an election of representatives of Municipal Councils, the most voted candidates shall be recognized as winner. In case of equal votes between two most voted candidates, the entitled candidate shall be appointed within 48 hours, by a committee composed of the head of Appeal Court as chairman, the provincial representative of the Commission and a representative of Afghanistan Independent Human Rights Commission as members, considering the highest qualifications.
- (4) If the elected member cannot occupy his or her seat or for any reason relinquishes the seat, dies, resigns or is dismissed or disabled permanently so that the person cannot discharge his or her duty, a commission composed of the head of the Appeal Court as chairman and the provincial representative of the Commission and a representative of Afghanistan Independent Human Rights Commission as members, shall select the most voted candidate after the elected members of the municipality as a member for the remainder of the term.

## **Chapter Twelve**

### **Conducting Elections**

#### **Article 41**

##### **Elections Date**

- (1) The Commission shall declare the election date at least 140 days prior to the intended date of elections.
- (2) The Commission shall clearly publish an electoral calendar at least 120 days prior the intended date of elections.

#### **Article 42**

##### **Voters List**

The Commission shall certify the list of voters and make it available to the public in places determined by the Commission 15 days prior to the start of elections.

### **Article 43**

#### **Registration for Candidacy**

(1) The persons who wish to nominate themselves for elected positions set forth in this law shall provide a written application for registration as a candidate to the Commission within the period determined by the Commission.

(2) The application for registration shall have the following information:

1. Name and specific address;
2. Certified educational documents in accordance with the provisions of this law;
3. Information regarding any conviction, age, movable and immovable properties and all other requirements contained in this law;
4. Registration card as a voter or any other document confirmed by the Commission;
5. The list of names, number of the registration card as a voter or any document confirmed by the Commission, and the signatures or fingerprints of the individuals residing in the respective constituencies who support the candidacy of the person on the ballot paper as follows:
  - For candidates for the Presidential elections, 100,000 people, of which at least 2% must be from each of at least 18 provinces;
  - For candidates for Wolesi Jirga, 1,000 people;
  - For nomad candidates in Wolesi Jirga, 1,000 Kuchis;
  - For candidates for Provincial Councils, 200 to 600 people, considering the population.
  - For candidates for District Councils, 100 to 300 people, considering the population.
  - For candidates for Village Councils, 20 people.
  - For candidates for Mayor, 300 to 2,000 people, as required, considering the population and the provision of city services.
  - For candidates for Municipal Councils, 100 to 250 people, as required.
6. Commitment letter and confirmation of eligibility under clause (7) of Article 12 and clauses (1) and (3) of Article 13 of this law.
7. Proof of payment, if the Electoral Complaints Commission has fined a candidate with a cash penalty in a previous election.

(3) A Presidential candidate shall provide the names of two Vice-Presidents to the Commission upon his nomination.

(4) The candidates shall make a monetary deposit for candidacy as follows:

1. Presidential candidate, 2.5 million Afghanis. The amount shall be returned to the candidate if the person is elected or received at least 10 percent of the valid votes in the first round of elections.
2. Candidate for Wolesi Jirga, 30,000 Afghanis. The amount shall be returned to the candidate if the person is elected or received at least 3 percent of the valid votes in the respective constituency.
3. Candidate for a Provincial Council, 20,000 Afghanis. The amount shall be returned to the candidate if the person is elected or received at least 2.5 percent of the valid votes in the respective constituency.

4. Candidate for a District Council, 10,000 Afghanis. The amount shall be returned to the candidate if the person is elected or received at least 2 percent of the valid votes in the respective constituency.
  5. Candidate for a Village Council, 5,000 Afghanis. The amount shall be returned to the candidate if the person is elected or received at least 1.5 percent of the valid votes in the respective constituency.
  6. Candidate for Mayor of a first-ranked province, 100,000 Afghanis, and candidate for Mayor of a second-ranked province, 50,000 Afghanis, and candidate for Mayor of a third-ranked province, 25,000 Afghanis, and candidate for Mayor in other places, 15,000 Afghanis. The above amounts shall be returned to the candidates if the persons are elected or receive at least 10 percent, 7 percent and 5 percent of the valid votes in the respective first-ranked and second-ranked provinces and other categories of municipalities.
  7. Candidate for a Municipal Council, 10,000 Afghanis. The amount shall be returned to the candidate if the person is elected or received at least 2 percent of the valid votes in the respective constituency.
- (5) Persons who have not completed the requirements under clauses (2) and (4) of this Article and other approved conditions set by the Commission shall not participate as candidates in the elections.
- (6) The Commission is required to transfer the monetary deposits of the candidates who do not receive the required percentage of votes specified in clause (4) of this Article, to the government bank account.

#### **Article 44**

##### **List of Candidates**

- (1) The Commission shall publish the preliminary list of candidates after the completion of the nomination period.
- (2) The Commission shall make public the period during which complaints that relate to the preliminary list of candidates can be filed. The Electoral Complaints Commission shall consider such complaints according to the relevant procedure.
- (3) The Commission shall publish the final list of candidates after consideration of all objections by the Electoral Complaints Commission, and its own decisions.
- (4) The Commission shall display the final list of candidates at the polling centers.

#### **Article 45**

##### **Withdrawal from Candidacy**

- (1) A candidate who withdraws his or her candidacy shall inform the Commission in writing prior to the specified date in the electoral calendar.
- (2) If a candidate withdraws his or her candidacy or dies after the specified date in the electoral calendar, or if his or her name is removed from the list of candidates by the Electoral Complaints Commission, the votes for the candidate shall not be counted.
- (3) The money deposited by a candidate under clause (2) of this Article shall, except in case of the death of the candidate, not be returnable, and the Commission is required to transfer the said amount to the government bank account.

## **Article 46**

### **Elections Campaign**

The Commission shall determine the period of the election campaign. This period shall end 48 hours prior to the start of voting.

## **Article 47**

### **Establishing Polling Centers and Provision of Electoral Materials**

- (1) The Commission shall establish polling centers across the country and facilitate access by the voters to the polling centers.
- (2) The Commission shall furnish the ballot papers, ballot boxes, voting booths, seals and other required materials, and make other arrangements to facilitate the elections process.

## **Article 48**

### **Ballot boxes**

- The Commission shall undertake the following tasks in relation to the ballot boxes:
1. Supplying ballot boxes of a design and material to ensure they are can be closed and sealed securely.
  2. The manner ballot boxes are marked and identified.
  3. The manner ballot boxes are closed, sealed, secured and opened.

## **Article 49**

### **Ballot Papers**

- (1) The Commission shall undertake the following tasks in relation to ballot papers:
  1. Provision of ballot papers.
  2. Assigning symbols to the candidates and displaying them in appropriate places.
  3. Determining the language to be used on the ballot papers.
  4. Adopting a procedure by which the ballots are to be marked by the voters.
  5. Adopting a procedure for counting ballot papers.
- (2) The order of listing of candidates on the ballot papers and distribution of symbols by the Commission shall be based on drawing lot.
- (3) Political affiliation of candidates to political parties shall be shown on the ballot papers.

## **Article 50**

### **Supervisors and Observers**

The Commission shall determine the rights and obligations of the agents, observers and representatives of mass media, and provide and distribute accreditation badges to them.

### **Article 51** **Removal of Campaign Materials**

The Commission shall order the removal of campaign materials displayed within 100 meters of the polling centers 48 hours prior to polling.

### **Article 52** **Prohibition of Carrying Arms at Polling Stations**

No one shall be allowed to carry firearms or sharp weapons within 500 meters of any polling center. Carrying weapons by the security personnel authorized by the Ministry of Interior is exempt from this provision.

### **Article 53** **Start and Close of Voting**

- (1) The start and close of voting in polling centers shall be arranged in accordance with the time schedule to be prepared and announced by the Commission.
- (2) Voting shall be conducted in accordance with the procedures prepared and organized by the Commission.
- (3) The head of a polling center may order the suspension of voting in case of riot, violence, storm, flood or any other unexpected event in the polling stations and areas that make the process of voting impossible, and immediately inform the Commission of his or her decision.
- (4) The head shall mark the end of the line of voters present before announcing the close of voting at the polling stations under the provision of paragraph (1) of this Article and shall allow those voters to cast their ballots.
- (5) The Commission may extend the voting time by up to a maximum of two hours in any polling centres.

### **Article 54** **Protests against Voters**

- (1) Agents candidates and political parties may protest the right to vote or the voting of a person in a polling center, before the voter receives a ballot paper.
- (2) The head of polling center is obliged to either accept or reject the protest mentioned in clause (1) of this Article and shall record officially the reason for rejection or acceptance of the protest, on the day of elections.

### **Article 55** **Sealing Ballot Boxes**

- (1) When a ballot box is full or the election is over, the head of the polling station shall seal the ballot box in accordance with the relevant procedure in the presence of agents of the candidates, and allow the agents of the candidates to sign in the box and note the numbers on the seals.

(2) The head of polling station shall submit all ballot boxes and ballot papers to the ballot counting center, as ordered by the Commission.

### **Counting of Ballots**

#### **Article 56**

Counting of the votes shall take place in polling centers unless the Commission, taking into consideration security, technical or weather condition, decides otherwise.

#### **Article 57**

### **Quarantine of Ballot Boxes**

(1) The Commission may quarantine ballot boxes in case of a complaint or visible signs of fraud related to the ballot boxes.

(2) The Commission may include the quarantined boxes in the counting or permanently exclude them from the counting process, after inspection of the boxes in the presence of observers and agents of the political parties and candidates for their satisfaction.

#### **Article 58**

### **Announcement of Certified Results**

(1) The Commission or the Electoral Complaints Commission may issue an order for recounting of some or all of the ballots at the counting center, or for conducting a re-election in the constituency before certification of the final results, if the principles of free, secret, direct and general elections have been undermined.

(2) The Commission shall announce and publish the final results of elections after completion of the counting procedures and the determination of all complaints regarding voting and counting by the Electoral Complaints Commission.

The results of elections shall be final and binding after certification by the Commission.

#### **Article 59**

### **Publication of Ideas and Opinions of Candidates**

(1) Television, radio and newspapers and other mass media shall broadcast and publish the platforms, opinions and aims of the candidates for public awareness during the electoral campaign, in accordance with the procedures established by the Commission.

(2) The state-owned mass media shall broadcast and publish opinions, aims and platforms of the candidates fairly and impartially for public awareness during the electoral campaigns, as agreed with the Commission.

(3) The state-owned mass media is obligated to adopt policies and procedures required for fair and impartial publication of platforms of the candidates in line with the provisions of clauses (1) and (2) of this Article.

## **Article 60**

### **Media Commission**

(1) The Commission shall establish a Media Commission at least 60 days before the elections date. The Media Commission shall oversee the reporting and fair broadcasting of the electoral campaign, and address violations relating to reporting and fair broadcasting of electoral campaign or other offenses related to the aims, policies and procedures of the mass media. Any person may present his or her complaints to the Media Commission.

(2) The Commission shall regulate the duties and privileges of the Media Commission.

(3) The Media Commission may adopt one of the following measures as required in cases of violating the provisions of Article 59 of this law:

1. Issue a warning to the violator to rectify the mistake;
2. Assess a fine of up to 500,000 Afghani;
3. Report a natural or legal persons accused of a violation for prosecution to the relevant authorities.

(4) The Commission shall dissolve the Media Commission, within a maximum of 45 days after announcing the election results and performing all its duties, and its responsibilities shall be transferred to the Commission.

## **Chapter Thirteen**

### **Complaints and Electoral Violations**

## **Article 61**

### **Electoral Complaints Commission**

The President, in consultation with the Speakers of the two houses of the National Assembly and the Chief Justice of the Supreme Court, shall establish the Central and Provincial Electoral Complaints Commissions in order to address breaches, complaints and objections resulting from elections, and to manage the provincial complaints commissions and assess their decisions, at least 120 days prior to the election date.

## **Article 62**

### **Duties of Central and Provincial Electoral Complaint Commissions**

(1) The Central and Provincial Electoral Complaint Commissions shall have the following duties:

1. To address complaints against the list of candidates and voters, and the conditions and qualifications of the candidates presented during elections.
2. To address complaints related to electoral violations, provided that the complaints are received before certification of election results.

(2) The Central and Provincial Electoral Complaint Commissions may, in the absence of complaint or protest, address the issues within their authority.

(3) Electoral complaints shall be addressed in accordance with procedures adopted by the Central Electoral Complaints Commission.

*The Dari is the official version of the Law. This English version, issued August 16, 2010 is unofficial.*

*If amendments are passed later, an amended version will be issued.*

*Translated from the Dari by UNAMA, edited by IFES.*

- (4) The Central Electoral Complaints Commission shall review the decisions of Provincial Electoral Complaints Commission if the complainant is not satisfied with their decisions.
- (5) The Provincial Electoral Complaints Commissions are the primary body for addressing electoral complaints. In exceptional circumstances, the Central Electoral Complaints Commission shall serve as the primary source for addressing electoral complaints.
- (6) The decisions of Central Electoral Complaints Commission related to addressing electoral protests and complaints are final.
- (7) The Central and Provincial Electoral Complaints Commissions shall, after certification of the elections results, end their activities within a maximum of 2 months, and their authorities shall be transferred to the Independent Elections Commission after dissolution.
- (8) The Central and Provincial Electoral Complaints Commissions shall have secretariats.

### **Article 63** **Electoral Violations**

The following shall be considered as electoral violations:

- 1. Providing false information to the Commission and its related commissions.
- 2. Intimidation, threatening or attacking the dignity of a voter, candidate, temporary or permanent employee of the elections or journalist who reports elections-related events, or using force against them.
- 3. Preventing relevant people from participating in the election process, including agents, supervisors and observers who are carrying accreditation cards.
- 4. Fraud in the voting or the counting of votes.
- 5. Offering or accepting money or any other benefit to influence the elections.
- 6. Possession of or attempting as a voter to have more than one registration card or other document issued by the Commission.
- 7. Voting or attempt to vote by using a forged card or a card belonging to another.
- 8. Change or theft or destruction of elections documents without legal authority.
- 9. Duplication or forging of registration cards or other document, ballot papers or official forms specified by the Commission, or their use.
- 10. Obtaining voter registration cards or any other document specified by the Commission, in a deceitful manner
- 11. Attempting to vote more than one time in an election.
- 12. Unauthorized interference with electoral materials or ballot boxes.
- 13. Interruption of election employees in performing their duties.
- 14. Violating the code of conduct of candidates and their agents or that of the election employees.
- 15. Use of funds gained through illegal activities.
- 16. Use of foreign financial resources to influence the stages of elections.
- 17. Attempt to incite or provoke other people to commit electoral violations.
- 18. Violating the provisions of the law, regulations and electoral procedures.

19. Not following the orders of the Commission, the Provincial and Central Electoral Complaints Commissions or the Media Commission.
20. The use of any symbol, color, slogan and other signs belonging to one candidate by other candidates or their agents at the polling stations.
21. Other violations stipulated in the related regulations and procedures.

#### **Article 64**

#### **Sanctions and Penalties**

(1) The Central Electoral Complaints Commission and Provincial Electoral Complaints Commissions shall take one of the following measures, as appropriate, in case of electoral violations:

1. Warning or issuing a corrective order to the violating person or organization.
2. Imposing a cash penalty as required up to 500,000 Afghani.
3. Making a decision to re-run an election or recount votes before certification of the results.
4. Removing the name of a candidate from the list, in case of justified reasons.
5. Invalidating ineligible ballot papers or issuing an order to recount ballots.
6. Preventing the violator from working in any commission for a maximum of 10 years.

(2) The Central Electoral Complaints Commission and Provincial Electoral Complaints Commissions may ban a political party or a candidate if the members or their supporters commit any electoral violations. Banning shall be valid only when it is founded on justified evidence.

(3) The Central Electoral Complaints Commission may, in addition to banning and cash penalty, refer a violator for prosecution, if evidence of a crime is available.

(4) The execution of decisions made by the Central and Provincial Electoral Complaints Commissions relating to banning or penalties is the duty of the relevant Electoral Complaints Commissions, the Commission and the Government.

## **Chapter Fourteen Miscellaneous**

### **Article 65 Suspension of Elections**

- (1) If a security situation or unpredicted events and conditions make the holding of elections impossible, or undermines the legitimacy of the elections, the Commission may suspend the elections from the specified date until the removal of the peril or improvement of the conditions.
- (2) If the conditions referred to in clause (1) of this Article are confined to one or several constituencies, the Commission may suspend the elections in those constituencies until the removal and improvement of the conditions.
- (3) If elections are identified as defective in one constituency, the Commission may order the elections to be re-run in that constituency.
- (4) The Presidential election is subject to the provisions of clauses (1), (2) and (3) of this article, in line with the provisions of the Constitution.
- (5) If an election is suspended pursuant to clause (1) of this Article, the candidates for elected posts stated in this law shall continue their duties until the holding of the election and the announcement of its results.

### **Article 66 Adoption of Regulations and Procedures**

The Commission may adopt and publish separate regulations, procedures and guidelines in order to better implement the provisions of this law.

### **Article 67 Entry into Force**

This law shall enter into force from the date it is endorsed and published in the Official Gazette.

On the entry into force of this law, the Elections Law published in Official Gazette No. 850, dated 07/02/1384, including the amended clause (3) of Article 27 and the added clauses (4) and (5), published in Official Gazette No. 874, dated 05/11/1284, and the Municipal Elections Law published in Official Gazette No. 814, dated 30/10/1382, shall be repealed.