

P.N.D.C.L. 285
PRESIDENTIAL ELECTIONS ACT, 1992
 ARRANGEMENT OF SECTIONS

SECTION

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SCHEDULE

*Statutory Declaration of a Person Nominated as a Candidate for Election as
 President/Vice-President of Ghana*

P.N.D.C.L. 285
PRESIDENTIAL ELECTIONS ACT, 1992¹

AN ACT to provide for the election of the President and for related matters.

1. Qualification for election as President

(1) A person is not qualified to be a candidate for the office of the President of the Republic of Ghana unless that person

- (a) is a citizen by birth,
- (b) has attained the age of forty years,
- (c) is a registered voter,
- (d) is resident in a constituency for which that person can stand as a candidate for election to Parliament or has resided there for a total period of not less than five years out of the ten years immediately preceding the election for which that person stands or hails from that constituency, and
- (e) has paid all the taxes of that person or made arrangements satisfactory to the appropriate authority for the payment of those taxes.

(2) A person is not qualified to be a candidate for the office of President of the Republic of Ghana if that person

- (a) owes allegiance to a country other than Ghana; or

1. The Act was issued as the Presidential Elections Law, 1992 (P.N.D.C.L. 285) made on the 24th day of July, 1992 and notified in the *Gazette* on 7th August, 1992.

- (b) has been adjudged or otherwise declared
 - (i) bankrupt under a law in force in Ghana and has not been discharged, or
 - (ii) to be of unsound mind or is detained as a criminal lunatic under a law in force in Ghana; or
- (c) has been convicted
 - (i) for treason or for an offence involving the security of the State, fraud, dishonesty or moral turpitude, or
 - (ii) for any other offence punishable by death or by a sentence of not less than ten years, or
 - (iii) for an offence relating to, or connected with elections under a law in force in Ghana at any time; or
- (d) has been found by the report of a commission or a committee of inquiry to be incompetent to hold public office or is a person in respect of whom a commission or committee of inquiry has found that while being a public officer that person acquired assets unlawfully, or defrauded the State, or misused or abused office, or wilfully acted in a manner prejudicial to the interest of the State and the findings have not been set aside on appeal or judicial review; or
- (e) is under sentence of death or any other sentence of imprisonment imposed by a Court; or
- (f) is not qualified to be registered as a voter under a law relating to public elections; or
- (g) is otherwise disqualified by a law in force on the nomination day.

(3) The disqualifications specified in paragraphs (c), (d) and (e) of subsection (2) are not subject, in accordance with paragraph (c) of article 62 of the Constitution, to a grant of pardon or lapse of time.

(4) For the purpose of paragraph (d) of subsection (2), in the case of findings made by a commission or committee of inquiry which is not a judicial or quasi-judicial commission or committee or inquiry, without prejudice to an appeal against or judicial review of that finding, the finding shall not have the effect of disqualifying a person under that paragraph unless it has been confirmed by a Government white paper.

(5) A person is not eligible to be elected as President of the Republic of Ghana if that person

- (a) is prohibited from standing for election by a law in force in Ghana by reason of that person holding or acting in an office the functions of which involve a responsibility for or are connected with the conduct of an election or responsibility for the compilation or revision of an electoral register; or
- (b) is a member of the Police Service, the Prisons Service, the Armed Forces, the Judicial Service, the Legal Service, the Civil Service, the Audit Service, the Fire Service, the Customs, Excise and Preventive Service, the Immigration Service, or the Internal Revenue Service; or
- (c) is a Chief; or

- (d) has not declared the assets in accordance with the provisions of the Public and Political Office Holders (Declaration of Assets and Eligibility) Act, 1992.²

2. Qualifications and disqualifications of Vice-President

The qualifications and disqualifications specified in section 1 apply to a candidate for the office of Vice-President.

3. Election of President

(1) In accordance with article 63 of the Constitution, a person shall not be a candidate in a presidential election unless that person is nominated for election as President by a document which

- (a) is signed by that person,
- (b) is signed by not less than two persons who are registered voters resident in the area of authority of each district assembly,
- (c) is delivered to the Commission on or before the day appointed as nomination day in relation to the election,
- (d) designates a person to serve as Vice-President.

(2) The document referred to in subsection (1) shall be accompanied with

- (a) a statutory declaration in the form specified in the Schedule made by the candidate, and
- (b) a deposit of the sum of money directed by the Commission.

(3) The statutory declaration shall be made before a Magistrate, notary public, commissioner for oaths or any other person authorised by law to administer an oath who shall personally certify it.

(4) The statutory declaration provided in paragraph (a) of subsection (2) shall also be made by a person seeking election as Vice-President.

(5) A person who makes a statutory declaration under this section which that person knows to be false in a material particular or recklessly whether it is true or not, commits an offence and is liable on summary conviction to a fine not exceeding five hundred penalty units or to a term of imprisonment not exceeding two years or to both the fine and the imprisonment, and the deposit shall be forfeited to the State.

(6) Subject to subsection (5), a deposit made by a candidate under this section shall be refunded if the candidate polls more than twenty-five percent of the votes cast in the election.

4. Election result for Presidency

(1) A person shall not be elected as President of the Republic of Ghana unless at the presidential election the number of votes cast in favour of that person is more than fifty percent of the total number of valid votes cast at the election.

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(2) Where at a presidential election there are more than two candidates and a candidate does not obtain the number or percentage of the votes specified in subsection (1), a second election shall be held within twenty-one days after the previous election.

(3) The candidates for a presidential election under subsection (2) shall be the candidates who obtained the two highest numbers of votes at the previous election, and the candidate who obtains the highest number of votes shall be declared elected.

(4) An instrument which

(a) is executed under the hand of the Chairman of the Commission, and

(b) states that the person named in the instrument was declared elected as the President of Ghana at the election of the President,

is prima facie evidence that the person named was elected.

5. Challenge of election of President

(1) The validity of the election of the President may be challenged only by a citizen who may present a petition for the purpose to the Supreme Court within twenty-one days after the declaration of the result of the election in respect of which the petition is presented.

(2) A declaration by the Supreme Court that the election of the President is not valid is without prejudice to anything done by the President before the declaration.

(3) The Court Committee may by legislative instrument, make Rules of Court for the practice and procedure for petitions to the Supreme Court challenging the election of a President.

(4) Until rules are made under subsection (3), the Supreme Court may direct the procedure to be followed in relation to the presentation and hearing of a petition for the purposes of this Act.

6. Application of register of voters and other electoral laws

(1) The register of voters compiled under the Public Elections (Registrations of Voter) Regulations, 1995 (C.I. 12) shall apply for the purposes of election to the office of the President.

(2) The Public Elections Regulations, 1996 (C.I. 15) shall apply as specifically provided therein for the purpose and also with the modifications that are necessary to the conduct of an election to the office of the President.³

7. Interpretation

In this Act, unless the context otherwise requires,

“**Commission**” means the Electoral Commission;⁴

“**nomination day**” means the day appointed for the nomination of candidates by the Commission.

3. Inserted by the Presidential Elections (Amendment) Act, 1996 (Act 520).

4. Amended by the Presidential Elections (Amendment) Act, 1996 (Act 520).

8. Repeals*Spent.*⁵

SCHEDULE

[Section 3 (2)]

Statutory Declaration of a Person Nominated as a Candidate for Election as President/Vice-President of Ghana

- I, do solemnly and sincerely declare that
1. I am a citizen of Ghana by birth.
 2. I have attained the age of forty years.
 3. I am registered as a voter with registration number.
 4. I do not owe allegiance to any country other than Ghana.
 5. (i) I am resident in constituency for which I can stand as a candidate for election to Parliament;
 - (ii) I have resided in constituency for a total period of not less than five years out of the ten years preceding the elections for which I am standing; or
 - (iii) I hail from Constituency (*delete where inapplicable*).
 6. (i) I have paid all my taxes; or
 - (ii) I have made arrangements satisfactory to the appropriate authority for the payment of my taxes (*delete where inapplicable*).
 7. I have not been adjudged or otherwise declared
 - (i) bankrupt under any law in force in Ghana from which I have not been discharged; or
 - (ii) to be of unsound mind or detained as a criminal lunatic under any law in force in Ghana.
 8. I have not been convicted
 - (i) for treason or for an offence involving the security of the State, fraud, dishonesty or moral turpitude; or
 - (ii) for any other offence punishable by death or a sentence of ten years or more; or
 - (iii) for an offence relating to or connected with election under a law in force in Ghana at any time.
 9. I have not been found by the report of a Commission or a Committee of Inquiry to be incompetent to hold public office. I am not a person in respect of whom a Commission or a Committee of Inquiry has found that while being a public officer I acquired assets unlawfully or defrauded the state or misused or abused my office or wilfully acted in a manner prejudicial to the interest of the state and the findings have not been set aside on appeal or judicial review.
 10. I have declared my assets in accordance with the provision of the Public and Political Party Office Holders (Declaration of Assets and Eligibility) Act, 1992.⁶
 11. I am not under sentence of death, or other sentence of imprisonment imposed on me by any court.

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5. The section provided for the repeal of
 "the Presidential Elections Decree, 1979 (S.M.C.D. 228);
 the Presidential Elections (Amendment) Decree, 1979 (S.M.C.D. 232);
 the Presidential and Members of Parliament (Elections) (Amendment) Decree, 1979 (A.F.R.C.D. 1); and
 the Presidential Election (Challenge) Decree, 1979 (A.F.R.C.D. 2)."
 6. P.N.D.C.L. 280.

SCHEDULE—continued

- 12. I am not disqualified to be registered as a voter under the provisions of any law relating to public election.
- 13. I am not disqualified for election by any law in force in Ghana by reason of my holding or acting in any office the functions of which involve a responsibility for or in connection with the conduct of an election or any responsibility for the compilation or revision of any electoral register.
- 14. I am not a member of the Police Service, the Prisons Service, the Armed Forces, the Audit Service, the Fire Service, the Legal Service, the Parliamentary Service, the Statistical Service, the Customs, Excise and Preventive Service, the Immigration Service or the Internal Revenue Service.
- 15. I am not a Chief.
- 16. I am not otherwise disqualified from standing for the election by any law in force in Ghana.
- 17. I make this solemn declaration knowing and believing the same to be true.

Subscribed and solemnly declared by me

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Candidate

Before

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....., 20.....
