

Passed in Parliament this 21st day of June , in the year of our Lord two thousand and seven.

A. A. KEMOKAI,  
*Clerk of Parliament.*

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed Parliament and found by me to be a true and correct printed copy of the said Bill.

A. A. KEMOKAI,  
*Clerk of Parliament.*

SIGNED this 26th day of July , 2007

ALHAJI AHMAD TEJAN KABBAH,  
*President.*



No. 15



2007

**Sierra Leone**

**The Electoral Laws (Amendment) Act, 2007.**

Short title.

**Being an Act to amend the Electoral Laws Act, 2002.**

[

] Date of commencement.

Amendment of Act No. 2 of 2002.

The Electoral Laws Act, 2002 is amended-

(a) by the repeal and replacement of section 66 thereof, with the following section:-

“Numbering of counter-foils.

66. Every ballot paper shall be attached to a counterfoil which shall have a number printed thereon but there shall be no number printed on the ballot paper”.

(b) by the insertion immediately after section 92 thereof, of the following:-

“PART VIIA—ELECTION PETITION AND CIVIL PROCEEDINGS

Questions as to elected members to be determined by High Court.

**92A.** (1) All questions which may arise as to the right of any person to be or remain a Member of Parliament shall be referred to and determined by a Judge of the High Court on a petition presented by an elector and in accordance with the procedure prescribed under section 124 for the trial of an election petition.

(2) Where the question to be decided concerns the right of any person to remain a Member of Parliament, the Court shall certify its decision in writing to the Speaker and the Electoral Commission and where the High Court has decided that any person is not entitled to remain a Member of Parliament such person shall thereupon cease to be such Member, subject to sections 92H and 92I in the event of an appeal.

Election valid unless questioned within seven days of publication of result.

**92B.** (1) Every election not called in question within seven days after the publication of the result thereof in the *Gazette*, shall be deemed to have been to all intents a good and valid election.

(2) No election petition founded on acts amounting to an offence under Part VIII shall be brought unless those acts occurred between the last day appointed for the delivery of nomination papers notified under section 45 and the time of the day at which the result of the election is declared under section 84.

Presentation of election petition.

**92C.** (1) A petition complaining of an undue return or undue election of a Member of Parliament or a local council, hereinafter called an election petition, may within seven days from the date of the publication of the result of the election in the *Gazette* be presented to a Judge of the High Court by any one or more of the following persons:-

- (a) a person who voted or had a right to vote at the election to which the petition relates;
- (b) a person who claims to have had a right to be returned or elected at such election; or
- (c) a person who alleges himself to have been a candidate at such election.

(2) Any person presenting such election petition shall forthwith deliver a copy of it to the Electoral Commission.

**92D.** (1) Every election petition shall be tried by a Judge of the High Court in open court. Trial of election petition.

(2) During the trial of an election petition, the High Court may order-

- (a) the inspection and production of any rejected ballot papers;
- (b) the opening of any sealed packet of counterfoils of used ballot papers; or
- (c) the inspection of any counted ballot papers:

Provided that in making and carrying into effect the order, care shall be taken that the way in which the vote of any particular elector has been given shall not be disclosed until it has been proved that his vote was given and the vote has been declared by the High Court to be invalid.

(3) At the conclusion of the trial, the High Court shall determine whether the person whose return or election is complained of was duly returned or elected, or whether the election was void, and shall certify such determination as provided in subsection (2) of section 92A where the question decided concerns an election to Parliament and where the election concerns an election to a local council, the High Court shall certify its determination to the Minister responsible for election matters and the Electoral Commission.

**92E.** Election petitions and proceedings in the High Court taken under section 92A shall, in respect of the right to priority of hearing by the Court, enjoy (save as provided in section 220 of the Customs Act) precedence over all other civil proceedings other than those which are part heard. Proceedings to have priority of hearing. Cap. 271.

Non-compliance with Act.

**92F.** No election shall be invalid by reason of a non-compliance with this Act (or any Regulations made under this Act) if it appears to the High Court that the election was conducted in accordance with the principles laid down in this Act (or in any Regulations) or that such non-compliance did not affect the result of the election.

Privilege, certificate of indemnity.

**92G.** (1) A person called as a witness in any proceedings in the High Court, under this Part, shall not be excused from answering any question relating to any offence at, or connected with, any election on the grounds that the answer thereto may incriminate or tend to incriminate himself, or on the grounds of privilege:

Provided that—

- (a) a witness who answers truly all questions which he is required by the Court to answer shall be entitled to receive a certificate of indemnity under the hand of the presiding Judge stating that such witness has so answered; and
- (b) an answer by a person to a question before the Court shall not, except in the case of any criminal proceedings for perjury in respect of such evidence, be admissible in any proceedings civil or criminal in evidence against him.

(2) When a person has received a certificate of indemnity in relation to any offence disclosed by answering any question which he was required to answer by virtue only of subsection (1), and any legal proceedings are at any time brought against him for such offence, the High Court having cognizance of the case shall, on proof of the certificate, stay the proceedings and may at its discretion, award to that person such costs as he may have been put to in the proceedings.

Appeal from High Court.

**92H.** (1) An appeal shall lie to the Court of Appeal from the determination of the High Court upon an election petition, or a proceeding of the High Court taken under section 92A at the suit of a party to such a petition or proceedings, and the decision of the Court of Appeal on such appeal shall be final to all intents and purposes.

(2) Notwithstanding any provisions to the contrary, the Court of Appeal shall not entertain any appeal under this section unless notice of such appeal has been given within twenty-one days of the determination in question.

(3) At the time of filing the notice of appeal, the appellant shall give security for the payment of all costs, charges and expenses which may become payable by him to any witnesses summoned on his behalf or to any respondent, in such amount and given in such manner, as the Court, may order and in the event of any failure to comply with such order, no proceedings shall be heard on the appeal.

**92I.** (1) If the High Court determines that a candidate returned as elected was not duly elected and that the election was void, then the candidate's seat shall become vacant from the time of the notice of decision of the High Court and if notice of appeal from such decision has been given within twenty-one days, such seat shall remain vacant for the period until the determination of the Court of Appeal is given on such appeal or the appeal is abandoned.

Effect on election return of notice of appeal.

(2) Where the question to be decided by the Court of Appeal concerns an election to or the right to remain a member of Parliament, the Registrar of the Court of Appeal shall certify the decision in writing to the Speaker and the Electoral Commission.

(3) Where the High Court has determined that a candidate was duly returned or elected, or that the election was void, and no notice of appeal has been given against such determination within twenty-one days, or where on appeal the Court of Appeal has determined that a candidate was duly returned or elected, or that the election was void, then the Speaker shall publish by notification in the *Gazette* whether the candidate whose return or election is questioned is duly returned or elected, or whether the election is void.

(4) If the election is declared void, another election shall be held”.

- (c) the insertion immediately after section 105 thereof, of the following section:-

“Election offences may void election.

**105A.** Where on an election petition or in any prosecution for an election offence under this Act, it is shown that the offence committed in reference to the election for the purpose of promoting or procuring the election of any person thereat has so extensively prevailed that it may be reasonably supposed to have affected the result, his election, if he has been elected shall be declared void by the court in addition to any other penalty that may be imposed by the court.”.