

MODEL LAW
THE REFERENDUM ACT, 2022

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ARRANGEMENT OF SECTIONS

Sections Title

PART I

PRELIMINARY PROVISIONS

1. Short title and commencement.
2. Application.
3. Interpretation.

PART II

OBJECTIVES

4. Objectives.

PART III

REFERENDUM

5. Initiation of the Referendum.
6. Referendum Committees.
7. Announcement and publication of a referendum results.
8. Referendum results.

PART IV

REFERENDUM PETITION

9. Referendum petition.
10. Grounds for lodging a referendum petition.

APPEALS

11. Appeals.
12. Regulations.

SCHEDULES

**An Act to provide for Legal and Institutional Framework for the
conduct of the Referendum for the Constitution, and for other related
matters that may require the conduct of the Referendum.**

PART I

PRELIMINARY PROVISIONS

1. Short title and commencement.

This Act may be cited as the Referendum Act, 2022.

2. Application.

This Act shall apply to Mainland Tanzania and Zanzibar and shall come into operation on the date published in the *Gazette*.

3. Interpretation.

In this Act, unless the context requires otherwise:

“**agent**” means a person duly appointed by a referendum committee and registered by the Committee to act both as a counting agent and a polling agent for the purposes of this Act;

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

“**Constitution**” means the Constitution of the United Republic of Tanzania 1977;

“**constituency**” means a constituency for the purposes of elections of the member of the National Assembly or the House of Representatives;

“**High Court**” means the High Court of the United Republic Main Registry;

“**Petition**” means referendum petition referred under section 9 of this Act;

“**President**” means the President of the United Republic;

“**harmonized proposed Constitution**” means an enactment of the Committee of Experts which is the subject of the referendum;

“**referendum**” means a public vote or a poll cast in accordance with the provisions of this Act for the purpose of attaining people’s decision on the issue to be determined;

“referendum campaign period” means the period specified as such by the President pursuant to section 4;

“referendum committee” means the committee established under section 6;

“referendum period” means a referendum period specified in section 5(3)(b);

“voter” means a person qualified to vote at an election in accordance with the law governing election for Presidential or a Member of the Parliament or House of Representatives.

PART II

OBJECTIVES

4. Objectives.

The Objectives of this Act shall be:

- (a) to lay an institutional framework for the conduct of the referenda;
- (b) to conduct a referendum on the harmonized proposed constitution;
- (c) to conduct other referenda that may require the conduct of the referendum including substantive amendments to the Constitution;
- (d) to lay the framework for awareness raising and mass education on referendum;
- (e) to lay the framework for campaigning for or against to the general public on the referendum process;
- (f) to provide a framework for the declaration of the referendum results; and
- (g) to lay a framework on challenging the referendum results or outcomes.

PART III
REFERENDUM

5. Initiation of the Referendum.

(1) Whenever it is necessary to conduct a referendum, the President in Consultation with the President of Zanzibar shall, within fourteen days after receiving a notice of the need, and in the case of a constitutional referendum by Order published in the *Gazette*, direct the Commission to conduct a referendum.

(2) A notice for a referendum shall be in the Form set out in the Schedule to this Act, and shall specify the issue to be determined.

(3) For the purpose of subsection (2), the Commission shall, within fourteen days after the issuance of the referendum notice by the President, determine and announce in the *Gazette*:

(a) the nature of the referendum;

(b) the date for which the referendum shall be conducted which shall be ninety days from the date of publication of the notice for the conduct of the referendum by the Commission;

(c) the commencement and end of the campaign period of the referendum;

(d) the question(s) and answer(s) to be determined by the referendum;

(e) the symbols for the answer(s) to be determined by the referendum question; and

(f) the date and manner in which the referendum committee shall apply and register before the Commission.

6. Referendum Committees.

Where a referendum question requires a “YES” or “NO” answer, persons intending to campaign for or against the referendum question shall form such referendum committees and constituency referendum committees as necessary.

- (1) An application under section 5(3)(f) shall be accompanied by information show that the applicant adequately represents persons campaigning for or against the referendum question.
- (2) The national referendum committee shall control and regulate the constituency referendum committee.
- (3) Each referendum committee shall bear its own costs.
- (4) the costs referred to in subsection three (3) includes payment of the agents of respective referendum committees.
- (5) the procedures for voters registration, polling station, polling agent, observers, mass education, and voting process for purpose of a referendum shall be guided by the Election Act.

7. Announcement and publication of a referendum results.

The Commission shall, on receipt of results of the referendum from all constituencies and within seven days from the close of the final polling in the referendum:

- (a) announce to the public the total number of valid votes cast supporting or opposing the referendum question;
- (b) declare whether or not the subject matter of the referendum has been ratified by more than fifty per cent valid votes, save that there should be at least forty percent cast in Each part of Tanzania;
- (c) publish a notice in the *Gazette* indicating the results of the referendum in each constituency; and
- (d) publish in the *Gazette* a certificate declaring the results of the referendum and confirming whether or not the matter to be decided has been ratified in accordance with the provisions of this Act.

8. Referendum results.

- (1) The referendum results shall be decided on the basis of support by more than fifty per cent of the total number of valid votes, save that there should be at least forty per cent cast in Each part of the United Republic.

(2) The majority of valid votes cast in the referendum shall be the basis for determination of the question of the referendum and the referendum results declared by the Commission and shall be binding on the Government of the United Republic.

(3) Where the votes cast “YES” on a question at a referendum are not subject to subsection one of this section, or the High Court determine the referendum void, the Commission shall, by notice published in the *Gazette*, appoint another day, within sixty days after the declaration of the results, on which to repeat the poll and referendum procedures shall commence afresh.

PART IV

REFERENDUM PETITION

9. Referendum petition.

(1) Unless specifically provided for in this Act the procedure applicable to an election petition shall apply to a referendum petition.

(2) In determining the referendum petition the high court shall be presided by a panel of Three Judges.

(3) The conduct result and validity of a referendum shall be made by way of a petition to the High Court

10. Grounds for lodging a referendum petition.

(1) A person shall lodge a referendum petition if:

(a) in respect of the voting in all the constituencies or in any one constituency, that corrupt practices prevailed at or in relation to the voting at the referendum in that constituency or that there was an error or misconduct, whether by act or omission, on the part of a referendum officer;

(b) in respect of the declared result that there was an error in the counting tallying of the vote cast in the referendum; and

(c) during the referendum, campaign statements were made by either of the blocks campaigning for or against with the knowledge, consent or approval with the intent to exploit tribal, sex, racial, or religious issues or differences pertinent to the election.

(2) A person who intends to lodge a referendum petition shall do so within fourteen days from the date of results pronouncement.

(3) The High Court, after receiving the petition in subsection (5) shall determine and dispose of a petition within thirty days from the date of lodging the petition.

(4) There shall be no cost in relation to lodging the petition and as to orders as to cost.

(5) After the determination of the referendum petition by the High Court, the High Court shall certify the outcome invalidating or approving the outcome of the referendum election.

APPEALS

11. Appeals.

(1) Any party to a referendum petition aggrieved with the decision of the High Court made under section 10(3) shall lodge an appeal to the Court of Appeal within seven days from the date of obtaining a copy of the judgment and proceedings.

(2) The High Court shall avail a copy of the judgment and proceedings to the applicant within five days from the date of the decision.

(3) The Court of Appeal, sitting as a panel of five Justices of Appeal, shall determine the appeal within fourteen days from the lodging of the petition of appeal.

12. Regulations.

The Commission may make regulations for the better carrying out of this Act.

SCHEDULES

NOTICE FOR A REFERENDUM

(1st Schedule made under Section 5(1))

I, President of the United Republic of Tanzania, hereby notify the Commission to conduct a referendum to obtain people's decision on

Dated on the.....day of.....20.....

.....

President