

PROCLAMATION NO. 438/2005

A PROCLAMATION TO PROVIDE FOR THE AMENDMENT OF THE PROCLAMATION TO MAKE ELECTORAL LAW OF ETHIOPIA CONFORM WITH THE CONSTITUTION OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA

WHEREAS, it has become necessary to strengthen the good practices acquired from the previous elections carried out in a democratic manner on the basis of the Constitution of the Federal Democratic Republic of Ethiopia and to further promote the implementation process of upcoming election;

WHEREAS, it has become necessary to amend the Proclamation to make Electoral Law of Ethiopia Conform with the Constitution of the Federal Democratic Republic of Ethiopia Proclamation No. 112/1994;

NOW, THEREFORE, in accordance with Article 55(1) of the Constitution of the Federal Democratic Republic of Ethiopia, it is hereby proclaimed as follows:

1. Short Title

This Proclamation may be cited as the ‘Proclamation to make Electoral Law of Ethiopia Conform with the Constitution of the Federal Democratic republic of Ethiopia (Amendment) Proclamation No. 438/2005

2. Amendment

The Proclamation to make Electoral Law of Ethiopia Conform with the Constitution of the Federal Democratic Republic of Ethiopia No. 111/1995 is hereby amended as follows:-

1 Sub – Article (1) of Article 2 /b/ amended as follows,

“Region” means a Region established in accordance with Article 47 of the consideration including Addis Ababa and Dire Dawa.

2 Under Article 3 the phrase “The Council of Representatives of the Transitional Government of Ethiopia or its successor” is deleted and replaced by ‘the House of peoples’ Representatives of the Federal Democratic Republic of Ethiopia.”

3 Sub-Article (1) of Article 4 is deleted and replaced by the following new Sub-Article (1):

“1 The Board shall have seven members who shall be appointed by the House of Peoples’ Representatives upon the recommendation of the Prime Minister on account of their allegiance to the Constitution, non-partisanship of any political organization and professional competence by taking into account their national contribution. The term of office of the members shall be six years. Provided, however, a member of the Board may serve for a second term.”

4 Sub-Article 1(e) and (h) of Article 5 are deleted and replaced by the following new Sub-Articles (e) and (h):

“(e) to organize electoral office necessary for conducting election with independent professional manpower and trained its electoral officers.”

“(h) to investigate, cancel election results and order re-election and order to create conducive environment for brining perpetrators before the court of law, where it has received information about violation of implementing directives, fraudulent act or disturbance of peace and order of such magnitude and type which would create irregularities in the process of conducting election in accordance with this Proclamation from political organizations campaigning for election, observers or electoral officers and has verified its tangibility or has been convinced that an offence has been committed;”

5 Sub- Articles 2 of Article 8 is deleted and replaced by the following new Sub-Article 2:

“2/ The chief executive and the deputy Chief Executive of the secretariat shall be appointed by the House of Peoples Representatives up on recommendation of the Prime Minister in consideration of their experience and competence.”

6 Under Sub Article 1 (i) of Article 9 the following phrase in added.

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“Where it is necessary, it may consult political parties the execution of election affairs.”

7 Sub – Articles (1), (2), (3), (4) and (7) of Article 15 are deleted and replaced bny the following new Sub-Articles (1), (2), (3), (4) and (7):

- “1 Without prejudice to boundaries of Regions for the purpose of holding elections, the country shall be divided into permanent constituencies by taking the Woreda as a basis and which may be readjusted on the basis of population census;
- 2 Each constituency shall incorporate the nearest average of the Ethiopian Population divided by 550 at a given election time;
- 3 Notwithstanding Sub-Article (1) and (2) of this Article, the House of Peoples’ Representatives may cause minority nationalities that are entitled to special representation to send their representatives; prepare criteria for determining such nationalities;
- 4 The House of Federation may designate constituencies otherwise that what is stipulated under Sub-Articles (1) and (2) of the Article on the basis of pre-determined procedure;”
- 7 Notwithstanding the provision of Sub-Articles (6) of this Article; for the purpose of conducting election for Regional Council and Councils below the Regional Council, the number of representatives to be elected from a constituency shall be determined on a permanent basis by the regional law.”

8 Sub- Article (1) of Article 16 is deleted and replaced by the following new Sub- Article (16):

“16/ Any Ethiopian who is 18 or more years old on the date of registration shall be eligible for registration as an elector, provided, however, where suspicion arises as to whether the age of the registered elector has attained 18 years of age, it shall be determined by the testimony of senior member of the family or relative or in the absence of a senior member of a family or relative, by any other person who has a knowledge about it.”

9 The phrase “two years” in Sub-Article 1’ (b) of Article 19 if deleted and replaced by a phrase “six months”.

10 Sub- Article (1) of Article 21 is deleted and replaced by the following new Sub-Article (1):

“1 Registration shall be carried out at the polling station within the kebele of the elector’s residence, provided, however registration from house to house or in similar places outside the polling station is prohibited.”

11 The provision of Article 22 is deleted and replaced by the following new provision:

“ Registration shall be carried out at a polling station by competent and independent electoral officers assigned pursuant to Sub-Article 1 (e) of Article 5.”

12 The Provision of Article 23 is deleted and replaced by the following new provision:

“Political organizations campaigning for election, the public, various forms of public organizations may, through their respective representatives, observe the election process. The Government may invite foreign observers whenever it finds it necessary.”

13 The provision of Article 26 is deleted and replaced by the new provision:

“Registration shall, through out the national territory, begin and end on dates to be fixed by the Board. The Board may consult political organizations before deciding the dates.”

14 Sub-Article 1 (d) and (e) of Article 38 are deleted and replaced by the following new Sub-Article (d) and (e):

“(d) has been regularly residing in the constituency of his intended candidature for two years preceding the date of election or where his birth place is in the constituency of his intended candidature or where the town comprise more the one constituency if he has been regularly working in the town for two years, in his intended constituency or;

(e) may campaign directly for membership of the Council without producing endorsement signatures of supporters if presented by a political organization in his constituency, or if a private candidate, he may register by producing

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endorsement signatures of not less than 1,000 people who are certified by the local administration to be residents of the constituency of his candidature, 18 years old or above and not barred by law from voting.”

15 Sub-Articles (1) and (2) of Article 41 are deleted and replaced by the following new Sub-Articles (1) and (2):

- “1 A Political organization may nominate only one candidate in one constituency a seat in the Council of Representatives.
- 2 A resident may give endorsement signature equal to the number of candidates in accordance with Article 38 (1) e of this Proclamation.”

16 Sub- Article 1 and 2 of Article 2 of Article 42 is deleted and replaced by the following new sub-Article 1 and 2:

“1 Candidates of a political organization shall have one symbol at all level and constituents provided however, if political organizations want to use different candidates they present for different levels of election, their choices shall be respected. The ownership of the identifying symbols of party organizations shall be certified by the Board. Private candidates may present symbols of their own choice.”

2 Any identifying symbol shall not

- a. be similar with the identifying symbol of other candidates.
- b. be cause animosity and conflict among Nations Nationalities, race and Religion.
- c. Convey a message of war or any other illegal act.
- d. be similar to the flag or emblem of the Federal or Regional governments or to the flag or emblem of different international organizations or the symbol of Religious organizations.
- e. Violate public moral and ethics.

17 Article 43 is deleted and replaced by the following new Article 43.

“43 Number Candidates.

1. The number of candidates in a constituency running in an election for the House of Peoples’ Representatives shall not be more than twelve.
2. Where the number of candidates is more than twelve priority shall be given to political parties to be registered as candidates.
3. Where the number of candidates is more than twelve priority shall be given to political parties to be registered as candidates.
4. Where the number of candidates nominated by political parties is less than twelve the remaining spaces shall be filled by private candidates who obtained the highest vote in the previous election. If there is any other space, it shall be identified by drawing a lot.
5. In case candidates have equal number of vote, they shall be identified by drawing a lot.
6. The number of candidates running in an election for state council or other levels of elections shall be determined by the Board-Where the number of candidates is exceeds the number determined by the Board it shall be governed on the basis of Sub-Articles 3 and 4 of this Articles.
7. Accordingly the lot shall be drawn in the presence of the concerned candidates or their representatives.

18 Sub- Article (1) of Article 46 is deleted and replaced by the following new Sub- Article (1):

“1/ Any government employee may run for election as private candidate or as a candidate of political organization, provided, however, that any judge, soldier or policeman shall resign from his post if he runs for election as a private candidate or as a candidate of a political organization.

19 Sub – Article (1) of Article 49 is deleted and replaced by the following new Sub- Article (1):

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“1/ Any candidate shall, without requesting for permission, have the right to call a meeting of his supports or to organize peaceful demonstrations by himself or through his supporters from the date of acquisition of his identity un until the end of the election, by only notifying the administration or municipality in writing. He shall also have the right to obtain information from the Board.”

20 Sub- Article (3) of Article 50 is deleted and replaced by the following new Sub-Article (3):

“3 The mode of utilization shall be in accordance with the allocation made by the Ministry of Information jointly with the Board. The allocation shall be notified to the political organizations campaigning for election.”

21 Sub-Article (5) of Article 52 is deleted and replaced by the following new Sub-Article (5):

“5 The Board may refer to the competent authority for legal action where it knows or has received complaint supported by evidence that an offence which would disrupt the process of election has been committed or is being committed and follow up same.”

22 Sub-Article (3) of Article 62 is deleted and replaced by the following new Sub-Article (3)

“3/ The maintenance of security at polling station shall be the responsibility of electoral offices; where the electoral offices or observers of a polling station believe that there is a need for a police force to maintain the security of the station they may request the appropriate organ to assign them a police force, provide, however observers shall submit their request through the electoral offices.”

23 Article 64 Sub-Articles 4 and 5 are deleted and replaced by the following new Sub-Articles 4 and 5

“4/ The elector shall enter the booth and cast his ballot after marking with and “X” or affixing his finger print in the square corresponding to the symbol of the candidature for which he wants to vote; fold the ballot paper into halves and put it into the ballot box which is located in front of, and at a close range visible to, the observers.”

5/ Any elector shall have the right to choose a person who can assist him to mark the ballot paper and put it in the ballot box during the voting process.”

24. Under Sub-Article 5 of Article 2, Article 3, Sub-Article 2 of Article 4, Sub-Article 1(g) and (1) of Article 5 and Article 67 the phrase” the council of Representatives or it successors” is deleted and replaced by the House of Peoples’ Representatives” Under Sub Article 6 of Article 15 in the first line the word “Federal” is deleted Under Sub-Article 4 or 72 Article 73 and 74 Sub-Article 1 the word central is deleted and replaced by Federal.

3. Transitional Provisions

1/ Notwithstanding the amended provision of sub-Article (1) of Article 4, the existing Board members shall continue to carry out their functions until the completion of the upcoming election.

2/ Notwithstanding the amended Sub-Articles of Article 15, the existing constituencies shall continue to apply for the up-coming election until a population census is conducted.

4. Effective Date

This Proclamation shall enter into force on 18th date of January, 2005

Done at Addis Ababa, this 18th day of January, 2005.

GIRMA WOLDEGIORGIS
PRESIDENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA