

# GHANA

## PRESIDENTIAL ELECTIONS LAW

### 1992 (PNDCL 285)

#### Section 1- Qualification for Election as President.

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

(a) he is a citizen of Ghana by birth;

(b) he has attained the age of forty years;

(c) he is a registered voter;

(d) he is resident in a constituency for which he 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 he stands or he hails from that constituency; and

(e) he has paid all his taxes or made arrangements satisfactory to the appropriate authority for the payment of his taxes.

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

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

(b) has been adjudged or otherwise declared—

(i) bankrupt under any 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 any 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 he acquired assets unlawfully, or defrauded the State, or misused or abused his office, or willfully 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 other sentence of imprisonment imposed on him by any court;

(f) is not qualified to be registered as a voter under any 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) of this section are not subject to a grant of pardon or lapse of time.

(4) For the purpose of paragraph (d) of subsection (2) of this section, in the case of a finding made by a commission or committee of inquiry which is not a judicial or quasi-judicial commission or committee of inquiry, without prejudice to any 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 shall not be eligible to be elected as the President of Ghana if he—

(a) is prohibited from standing election by a law in force in Ghana by reason of his 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 Parliamentary Service, the Statistical 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 his assets in accordance with the provisions of the Public and Political Office Holders (Declaration of Assets and Eligibility) Law, 1992 (PNDCL 280).

## Section 2-Qualifications and Disqualifications of Vice-President.

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

## Section 3-Election of President.

(1) No person shall be a candidate in a presidential election unless he is nominated for election as President by a document which—

(a) is signed by him;

(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; and

(d) designates a person to serve as Vice-President.

(2) The document referred to in subsection (1) of this section shall be accompanied with—

(a) a statutory declaration in the form specified in the Schedule to this Law made by the candidate; and

(b) a deposit of such sum as the Commission shall direct.

(3) The statutory declaration shall be made before a magistrate, notary public, commissioner for oaths or any other person authorized by law to administer an oath who shall certify it under his signature.

(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 he knows to be false in a material particular or recklessly whether it is true or not, shall be guilty of an offence and liable on summary conviction to a fine not exceeding ₵1 million or a term of imprisonment not exceeding two years or both and his deposit shall be forfeited to the State.

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

#### Section 4-Election Result for Presidency.

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

(2) Where at a presidential election there are more than two candidates and no candidate obtains the number or percentage of votes specified in subsection (1) of this section, a second election shall be held within twenty-one days after the previous election.

(3) The candidates for a presidential election under sub-section (2) of this section 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,

shall be prima facie evidence that the person named was so elected.

#### Section 5-Challenge of Election of President.

(1) The validity of the election of the President may be challenged only by a citizen of Ghana 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 shall be without prejudice to anything done by the President before the declaration.

(3) The Rules of 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) of this section, 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 Law.

#### Section 6-Application of Register of Voters and other Electoral Laws.

(1) The register of voters compiled under the Public Elections (Registration of Voters) 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 such modifications as may be necessary to the conduct of an election to the office of the President.[As substituted by the Presidential Elections (Amendment) Act, 1996 (Act 520), s.(a)]

#### Section 7-Interpretation.

In this Law unless the context otherwise requires—

"Commission" means the Electoral Commission.[As amended by the Presidential Elections (Amendment) Act, 1996 (Act 520), s.(b)]

"nomination day" means the day appointed for the nomination of candidates by the Commission.

#### Section 8-Repeals.

The following enactments are hereby repealed—

Presidential Elections Decree, 1979 (SMCD 228);

Presidential Elections (Amendment) Decree, 1979 (SMCD 232);

Presidential and Members of Parliament (Elections) (Amendment) Decree, 1979 (AFRCD 1);  
and

Presidential Elections (Challenge) Decree, 1979 (AFRCD 2).

#### 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; or  
  
(ii) I have resided in ..... constituency for a total period of not less than five years out of the ten years immediately 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 provisions of the Public and Political Party Office Holders (Declaration of Assets and Eligibility) Law, 1992 (PNDCL 280).
11. I am not under sentence of death, or other sentence of imprisonment imposed on me by any court.

12. I am not disqualified to be registered as a voter under the provisions of any law relating to public elections.

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.

I make this solemn declaration knowing and believing the same to be true.

Subscribed and solemnly declared by me .....

.....

.....Candidate

Before

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..... 19.....