



## **REGULATIONS**

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## **INTRODUCTION**

- A. These Regulations, published by the Electoral Complaints Commission (“the ECC”) under article 62(3) of the Electoral Law, set out the procedures that are to be followed at all times by all commissioners and staff of the ECC and the Provincial Electoral Complaints Commissions (the “PECCs”).
- B. In interpreting and applying these Regulations the following guiding principles are to be observed:
- The government of Afghanistan is based on democracy and the will of the people.
  - The citizens of Afghanistan have the right to elect and to be elected according to conditions stipulated by law.
  - The members of the Wolesi Jirga are to be elected by the people through free, general, secret and direct elections administered and supervised by the Independent Elections Commission (“the IEC”).
  - The ECC and the PECCs were established under Chapter XIII of the Electoral Law to promote the freeness and fairness of such elections by adjudicating challenges to the lists of voters and candidates and assessing violations, objections and complaints emanating from the elections and from electoral offences.
  - The ECC and the PECCs function together at two levels, the PECCs dealing with matters in the first place, subject to a right of appeal to the ECC.
  - The ECC and the PECCs are empowered to deal with offences on their own initiative.
  - In terms of Article 62(7) of the Electoral Law the ECC and the PECCs must finish their work and hand over their responsibilities to the IEC within two months following the certification of the election results.
  - The ECC and PECCs must therefore marshal their human and material resources to assess, adjudicate and resolve material issues emanating from the elections and related offences efficiently, expeditiously and fairly.

### **CHAPTER 1**

#### **Jurisdiction**

- 1.1 The ECC and each PECC has jurisdiction to consider and adjudicate the following:
- (a) Complaints relating to alleged electoral offences in the conduct of the electoral process; and

- (b) Challenges to the eligibility or qualifications of a candidate during the electoral process.

“a complaint” means a document alleging an electoral offence, i.e. a breach of the Electoral Law or of a regulation of the IEC or ECC.

“a challenge” means a document challenging the eligibility of a candidate whose name appears in the preliminary candidate list.

- 1.2 A PECC has primary jurisdiction in respect of complaints and challenges arising within its province but its decisions are subject to appeal or review to the ECC.
- 1.3 The ECC has jurisdiction on appeal or review from decisions of the PECCs with respect to all complaints and challenges; provided that the ECC may in exceptional circumstances itself exercise primary jurisdiction in respect of one or more complaints or challenges.
- 1.4 Decisions of the ECC, whether adopted on appeal/review or in the exercise of its primary jurisdiction, are final, binding and not subject to appeal or review.

## **CHAPTER 2**

### **Administration**

#### **2.1 The ECC:**

- 2.1.1 Correspondence to the ECC should be addressed to the chairperson and all outgoing correspondence shall be signed by him or on his authority.
- 2.1.2 Every document received by the ECC shall upon its receipt immediately be registered by:
  - (a) affixing a serial number and date stamp;
  - (b) entering in a permanent register the number allocated to the document, the date of its receipt, the name of the sender, the addressee, the nature of the document and the subject matter;
  - (c) delivering the original to the chairperson and a copy to each of the other commissioners;
  - (d) affixing a note as to the subject matter in English if the document is in Dari or Pashto and if the document is in English, affixing such a note in Dari and/or Pashto;
  - (e) causing the document to be translated as soon as possible and copies of such translations to be delivered to the commissioners.
- 2.1.3 Every document shall, as soon as possible after registration, be filed in a safe and accessible place.
- 2.1.4 The despatch of every document sent out by the ECC shall be registered by recording in a permanent register the number allocated to the document, the date of despatch, the name of the addressee, the name of the sender and the nature of the document and its subject matter.

#### **2.2 The PECCs**

- 2.2.1 Every document received by a PECC shall upon its receipt immediately be registered by:
- (a) affixing a serial number and date stamp;
  - (b) entering in a permanent register the number allocated to the document, the date of its receipt, the name of the sender, the addressee, the nature of the document and its subject matter;
  - (c) delivering the original to the chairperson and a copy to each of the other commissioners;
- 2.2.2 Every document shall, as soon as possible after registration, be filed in a safe and accessible place.
- 2.2.3 The despatch of every document sent out by a PECC shall be registered by recording in a permanent register the number allocated to the document, the date of despatch, the name of the addressee, the nature of the document and its subject matter.

### **2.3 Work discipline:**

- 2.3.1 The ordinary hours of business of the administration are from 08:00 to 13:00 and 14:00 to 17:00; provided that it will from time to time be necessary for some or all staff members to work longer hours, in which event they will, as far as possible, be given corresponding time off later.
- 2.3.2 Each office shall keep an attendance register in which is to be recorded daily the time of each staff member's reporting for duty and departure against the signature of such staff member.

## **CHAPTER 3**

### **Commission meetings**

#### **3.1 The ECC:**

- 3.1.1 Subject to 3.1.2 below, three members constitute a quorum to pass valid decisions; provided that if a quorum is not present, the members present can conduct valid business subject to any formal decisions being ratified at the next meeting at which a quorum is present.
- 3.1.2 Decisions of the ECC are adopted by consensus wherever possible, otherwise by majority of those members present.
- 3.1.3 The members of the ECC have elected Judge Sayed Murad Sharifi as the chairperson, who shall chair all meetings of the ECC. In his absence the members present shall designate one of them to act in his stead.
- 3.1.4 The chairperson of the ECC shall, besides scheduling regular meetings, be entitled to convene meetings on short notice as and when he deems it necessary. In addition any three members may, on reasonable notice, convene an urgent meeting.
- 3.1.5 Wherever possible a copy of the agenda for a meeting together with a translation into English shall be provided to commissioners prior to a meeting.
- 3.1.6 The business of the ECC is conducted in private and everything done in the execution of its duties and the conduct of its investigations is confidential;

- provided that the ECC may in its sole discretion allow other persons to be present at any specific time and/or place.
- 3.1.7 All decisions of the ECC shall be minuted and the accuracy of such minutes shall be formally confirmed at the next ECC meeting and a translation into English shall be delivered to the non-Afghan commissioners without delay. A chronological record shall be kept of such minutes, reflecting the votes taken and decisions made.
  - 3.1.8 All decisions of the ECC relating to complaints and challenges shall be made public, subject to any measures the ECC considers appropriate to protect the confidentiality or safety of persons concerned in the process.
  - 3.1.9 The Commissioners and the staff of the ECC shall sign and comply with “The Code of Conduct for ECC Commissioners and Staff Members.”

### **3.2 The PECCs**

- 3.2.1 In all provinces to which 10 or more seats have been allocated in terms of Article 20 of the Constitution, there are 5 PEC Commissioners and in all other provinces there are 3 PEC Commissioners.
- 3.2.2 Decisions of PECCs are adopted by consensus wherever possible, otherwise by majority vote of those members present.
- 3.2.3 In provinces where there are 5 PEC Commissioners, 3 members constitute a quorum to take valid decisions and in all other provinces the quorum to take valid decisions is 2; provided that if a quorum cannot be convened, the members present can conduct valid business subject to any formal decisions being ratified at the next meeting where a quorum is present.
- 3.2.4 The members of a PECC shall as expeditiously as reasonably possible after their appointment, meet and elect from their ranks a chairperson, who shall chair all meetings of such PECC, and inform the ECC of such election without delay. In the absence of the chairperson the members present shall designate one of them to act in the chairperson’s stead.
- 3.2.5 The chairperson of a PECC shall, besides scheduling regular meetings in consultation with the other members, be entitled to convene meetings on short notice as and when the chairperson deems it necessary. In addition a majority of members may, on not less than two hours’ notice, convene an urgent meeting of the PECC.
- 3.2.6 The business of a PECC is conducted in private and everything done in the execution of its duties and the conduct of its investigations is confidential; provided that a PECC may in consultation with the ECC allow other persons to be present at any specific time and/or place.
- 3.2.7 All decisions of a PECC shall be minuted and the correctness of such minutes shall be formally confirmed at the next PECC meeting. A chronological record shall be kept of such minutes, reflecting the votes taken and decisions made. The ECC shall be entitled to inspect such record and to call for a copy to be transmitted to it without delay.
- 3.2.8 All decisions of a PECC relating to complaints and challenges shall be made public and communicated in writing to the ECC without delay.

- 3.2.9 Notwithstanding the provisions of 3.2.8 above, a PECC and/or the ECC may prescribe such measures as they consider appropriate to protect the confidentiality or safety of persons concerned in the process.

### **3.3 The ECC and all PECCs**

- 3.3.1 For the purposes of calculating any deadlines, Fridays and other official holidays shall be excluded, unless explicitly noted otherwise.
- 3.3.2 The ECC honours and respects all the languages of Afghanistan named in the Constitution but for practical reasons the ECC may in its discretion allow documents to be produced or accepted in any language or languages.
- 3.3.3 The ECC and every PECC shall in the execution of its duties and the conduct of its investigations use its best endeavours to gain and retain full assistance and cooperation from the IEC, relevant governmental institutions, political parties, candidates, electoral observers, political party- or candidate agents, and all other persons involved in the electoral process.
- 3.3.4 Any staff member of the IEC or any other person so authorized by the ECC in writing may effect service of notifications, documents, statements, judgements, or any other official ECC materials.
- 3.3.5 Notice periods run from the day after the day of delivery to the person concerned.

## **CHAPTER 4**

### **COMPLAINTS**

#### **Formal requirements**

- 4.1 Any person, natural or legal, who has a legitimate interest and who alleges that a breach of the Constitution, the Electoral Law, or any relevant applicable Decree, Regulation, or Procedure governing the electoral process has occurred, may file a complaint.
- 4.2 Complaints, which must be in writing, may be filed at any IEC office, any PECC office or at the central office of the ECC. Any IEC Office receiving a complaint must forward that complaint to the PECC of the province in which the complaint arose, confidentially and without delay.
- 4.3 A complaint must be filed within three days of the event concerned or ~~within two days~~ of it having become known to the complainant. The ECC may waive this deadline as it deems appropriate.
- 4.4 A complaint shall be deemed submitted on the date of receipt by the respective PECC or the ECC.
- 4.5 The ECC shall make available complaint forms at each PECC, at the central offices of the ECC, on the ECC website, at offices of the IEC and in any other locations the ECC considers appropriate.
- 4.6 A complaint must contain, at least, the following information:
- (1) The name, address and contact information of the complainant;

- (2) a detailed description, including the date, time, people involved, and the place of the alleged violation;
- (3) details of any evidence and copies of any relevant documentation or other evidence in the possession of the complainant or an information as to where to find evidence not in possession of the complainant; and
- (4) attestation by the complainant as to the veracity of the contents of the complaint.

Where possible, the complaint should also contain:

- (5) the name, address, and contact information of the alleged violator;
  - (6) the names, addresses, and contact information of any witnesses; and
  - (7) the specific law, regulation, decree, or other legal provision that was allegedly violated.
- 4.7 The staff of the PECC, IEC, or ECC must assist the complainant in completing a complaint form when the complainant so requests.
  - 4.8 Complaints are to be filed in one of the working languages of the ECC but a PECC or the ECC may accept complaints in any other language whenever it deems it appropriate.
  - 4.9 Every complaint received by a PECC or the ECC shall be assigned a file number upon receipt and become part of the records of the PECC concerned or the ECC.
  - 4.10 Neither the ECC nor a PECC shall act on a complaint that does not meet the requirements set forth in these Regulations; provided that in such case the ECC or the PECC concerned may, where appropriate, attempt to notify the complainant of the deficiency and grant a reasonable opportunity for such requirement(s) to be fulfilled.
  - 4.11 Having regard to the deadlines in the election calendar, the ECC may adopt internal procedures to prioritize, classify, group or otherwise deal with challenges and complaints to ensure they are decided as expeditiously and efficiently as possible.

## **CHAPTER 5**

### **REGISTRATION OF COMPLAINTS**

- 5.1 Under Article 62(5) of the Electoral Law each PECC is the primary authority to adjudicate electoral complaints arising within its particular province, subject to appeal and/or review to the ECC, which can in exceptional circumstances itself exercise primary authority.
- 5.2 In the exercise of primary authority, a PECC must consider complaints arising within its province without delay and in accordance with these Regulations, the Constitution and the Electoral Law.
- 5.3 The ECC or a PECC may, where it deems it appropriate and fair, adjudicate and determine any complaint solely upon an analysis of documentary material; or it may conduct a hearing in such manner as it deems appropriate; provided that the principles of a fair hearing will be observed to the extent possible in the circumstances.

- 5.4 The ECC and a PECC may consider electoral matters within their respective jurisdictions on their own initiative even when no complaint has been filed.
- 5.5 The ECC may refer any electoral matter to a PECC for consideration or investigation if it deems it appropriate. Likewise, if a PECC finds that a case should for security or other reasons not be adjudicated in the province, it may refer the case to the ECC.
- 5.6 The ECC or a PECC may use any appropriate lawful means to conduct investigations it deems necessary to obtain relevant information regarding a complaint.
- 5.7 The ECC or a PECC may summarily dismiss or uphold a complaint where it is satisfied that there is no merit in the complaint or response, as the case may be.
- 5.8 A PECC must report any decision, whether upholding or dismissing a complaint, together with its reasons and any supporting materials, in writing to the ECC within one day.
- 5.9 In conducting a hearing, the ECC or a PECC may:
- (1) Request any person to appear before it and to present evidence that may assist in reaching a decision;
  - (2) Allow witnesses to give evidence under oath or otherwise;
  - (3) Request and receive relevant evidence in any appropriate manner; and
  - (4) Where possible, provide an opportunity for the complainant and respondent to be present and heard.
- 5.10 Prosecutions
- 5.10.1 The Electoral Act contains a long list of electoral offences that are punishable by the ECC or a PECC. The authorised penalties range from a mere warning to disqualification of a candidate or the annulment of an election plus a heavy fine.
- 5.10.2 An alleged electoral offence can also be referred to the relevant authorities for prosecution in the criminal courts. The task of the ECC and PECCs is electoral dispute resolution, not criminal prosecution.
- 5.10.2 These are powerful tools designed to enhance the legitimacy of the electoral process. Therefore, although these penalties should be imposed with caution, they should be imposed without hesitation in appropriate circumstance. An exemplary penalty can have a highly beneficial effect on the electoral process.
- 5.10.3 But a failed prosecution for an electoral offence could be harmful in the politically charged atmosphere of an election. A decision to institute such a prosecution must therefore be taken in consultation with the ECC.
- 5.11 If the ECC determines that a complaint falls outside the ECC's jurisdiction, it may either dismiss the complaint for want of jurisdiction or refer it to an official body having jurisdiction in such matters.

## **CHAPTER 6**

### **Response to a complaint**

- 6.1 Where the ECC or a PECC considers a complaint to have substance, the ECC or the PECC concerned shall use its best efforts to notify the subject of the complaint and provide an opportunity to respond.
- 6.2 Responses to complaints must be filed in writing within three days of such notification. For this purpose the ECC shall make available Response to a Complaint forms at each PECC, at the central office of the ECC in Kabul, at IEC offices and on the ECC website.
- 6.3 Responses to complaints may be filed at the PECC or IEC office concerned or at the ECC office, according to directions on the response form. An IEC provincial office receiving a response to a complaint shall forward it to the PECC concerned or to the ECC, confidentially and without delay.
- 6.4 A response to a complaint shall be deemed submitted on the date the response is received in the office of the PECC concerned or the ECC office.
- 6.5 All responses to complaints must provide at least the following information:
  - (1) name, address, and contact information of the respondent;
  - (2) a defence to the alleged violation, an admission that the respondent committed the violation, or a statement that even if the activity in the complaint occurred, the activity did not constitute a violation;
  - (3) attestation by the respondent as to the veracity of the response;
  - (4) where the respondent is a legal person, an authorized representative of that legal person shall sign the response and other information that may be required by the ECC.
- 6.6 Where possible, the response to a complaint must provide:
  - (1) details of any evidence and copies of any supporting documents or evidence;
  - (2) names, addresses, and contact information of any witnesses; and
  - (3) any other relevant information.
- 6.7 The staff of the ECC or of the PECC concerned shall assist the respondent in completing a response form when the respondent so requests.
- 6.8 Responses are to be filed in one of the working languages of the ECC but a PECC or the ECC may accept complaints in any other language whenever doing so is deemed appropriate.
- 6.9 Failure to submit a response to a complaint within the time fixed by these Regulations shall not prevent the ECC or the PECC concerned from proceeding to process such complaint.

## **CHAPTER 7**

### **Decisions on complaints**

- 7.1 The ECC or a PECC may summarily dismiss a complaint that does not
  - 7.1.1 constitute an electoral offence;
  - 7.1.2 establish a *prima facie* case or is clearly unfounded; or
  - 7.1.3 conform to the minimum requirements of a complaint.

- 7.2 The ECC or the PECC concerned must without delay examine all evidence submitted and any other evidence it decides to consider and, based on such evidence, uphold the complaint:
  - 7.2.1 where the evidence is clear and convincing that an act has occurred; and
  - 7.2.2 such act constitutes an electoral offence.
- 7.3 When the ECC or a PECC upholds a complaint it may, taking into account the nature and gravity of the offence and other relevant circumstances:
  - 7.3.1 Issue a warning to, or order, the offending individual or organization to take specific remedial action.
  - 7.3.2 Impose a fine not to exceed 500,000 Afghanis.
  - 7.3.3 Prior to the certification of results, order a recount of ballots, or a repeat of the voting.
  - 7.3.4 Remove a candidate from the candidates list, if there are justified reasons.
  - 7.3.5 Invalidate ballot papers not meeting the conditions for validity, or order the count or recount of a ballot paper or a group of ballot papers.
  - 7.3.6 Prohibit an offending individual from serving in the electoral administration for a period not exceeding 10 years.
- 7.4 Where the ECC or a PECC imposes a sanction on a political party or candidate for an electoral offence committed by its members or supporters, such decision must take into consideration any evidence demonstrating that the political party or candidate made reasonable efforts to prevent its members and supporters from committing electoral offences.
- 7.5 When determining sanctions or penalties, the ECC and a PECC shall ensure that the sanction is commensurate with the nature and the gravity of the offence.
- 7.6 Where the ECC or a PECC orders remedial action or issues a warning, such order shall take effect immediately unless otherwise stated in the decision.
- 7.7 Where a PECC imposes a fine, strikes a candidate from the candidate list, orders a recount or repeat of polling or issues a prohibition against an individual from serving as an electoral officer, such decision shall not be enforced until reviewed by the ECC.
- 7.8 The ECC and every PECC must where reasonably possible notify its decision to the complainant and the respondent in writing, specifying a deadline for compliance with any imposed sanction.
- 7.9 ECC decisions shall be published in Dari and/or Pashto, and in English, and shall be made available to the public through the ECC website. Decisions may also be published in any other language, where doing so is appropriate.
- 7.10 Failure by a sanctioned person, natural or legal, to perform remedial action ordered by the ECC or a PECC, or to pay an imposed fine within the time period specified, constitutes an electoral offence..
- 7.11 Fines shall be paid in accordance with instructions provided by the ECC into the ECC banking account with the Bank of Afghanistan.

## **CHAPTER 8**

### **APPEALS**

## **Requirements**

- 8.1 A party to a complaint who is affected by a decision of a PECC may file an appeal to the ECC against such decision.
- 8.2 A PECC must wherever reasonably possible make its decision known to the complainant and the respondent in writing without delay, specifying the deadline for an appeal and providing an ECC Appeal Form.
- 8.3 Appeals must be in writing and may be filed at any PECC or IEC office or at the central office of the ECC. Any IEC Provincial Office or PECC receiving an appeal shall forward it to the ECC, confidentially and without delay. -
- 8.4 An appeal must be filed within three days after the notification of the PECC decision; provided that the ECC may in its sole discretion extend this deadline.
- 8.5 An appeal shall be deemed submitted on the date it is received in the local PECC or IEC office or in the ECC office.
- 8.6 The ECC shall make available blank Appeal Forms at each PECC, at the central office of the ECC and on the ECC website.
- 8.7 All appeals must provide at least the following information:
  - 8.7.1 Name, address, and contact information of the appellant;
  - 8.7.2 the grounds of the appeal;
  - 8.7.3 details of any evidence and copies of any relevant documentation or other evidence in the possession of the appellant or information as to where to find evidence not in the possession of the appellant;
  - 8.7.4 attestation by the appellant as to the veracity of the contents of the appeal;
  - 8.7.5 where the appellant is a legal person, its authorized representative must sign the appeal; and
  - 8.7.6 any other relevant information.
- 8.8 ECC staff members must assist the appellant in completing an appeal form when the appellant so requests.
- 8.9 Appeals shall be filed in one of the working languages of the ECC; provided that the ECC may in its sole discretion accept an appeal in any other language.

## **CHAPTER 9**

### **Consideration of appeals**

- 9.1 The ECC is not authorised to consider an appeal that does not meet the requirements set forth in these Regulations; provided that the ECC may, where appropriate, endeavour to notify the appellant of any deficiency and grant a reasonable opportunity for such requirement(s) to be fulfilled.
- 9.2 Where the ECC considers an appeal to be well founded, it shall use its best efforts to notify the party appealed against (“the respondent”) and to give it an opportunity to respond to the appeal.
- 9.3 Where appeals present identical or similar features the ECC may consolidate such appeals and deal with them together.

## **CHAPTER 10**

## **Responses to appeals**

- 10.1 The respondent in an appeal may submit a response.
- 10.2 Responses to appeals must be in writing and may be filed at the ECC office or, in accordance with directions in the Response to an Appeal Form, at any PECC or IEC office, which shall forward it to the ECC confidentially and without delay.
- 10.3 A response to an appeal must be submitted within three days of the notification of the appeal; provided that the ECC in its sole discretion may grant an extension of this time.
- 10.4 A response to an appeal shall be deemed submitted on the date it is received in the PECC or IEC office or in the ECC office.
- 10.5 The ECC shall make available blank Response to an Appeal forms at each PECC and IEC office, at the central office of the ECC, on the ECC website, and any other location the ECC deems appropriate.
- 10.6 A response to an appeal shall provide at least the following information:
  - 10.6.1 Name, address, and contact information of the respondent;
  - 10.6.2 the reasons why the appeal should be denied;
  - 10.6.3 any relevant evidence supporting the respondent's contentions, including names, addresses, and contact information of any witnesses;
  - 10.6.4 where the respondent is a legal person, an authorized representative of such legal person shall sign the response.
- 10.7 The ECC staff must assist the respondent in completing a response form when the respondent so requests.
- 10.8 Responses to appeals must be filed in one of the working languages of the ECC; provided that it may accept responses to appeals in any other language whenever it deems doing so appropriate.
- 10.9 Failure to submit a response to an appeal within the time fixed in these Regulations shall not prevent the ECC from proceeding to process the appeal.

## **CHAPTER 11**

### **Decisions on appeals**

- 11.1 The ECC may summarily dismiss an appeal that does not meet the requirements of Regulation 8 or where the appeal is manifestly ill-founded.
- 11.2 The ECC shall without delay examine all evidence submitted and any other evidence it decides to consider and, based on such evidence, uphold the complaint where it is satisfied that the PECC's decision was clearly wrong.
- 11.3 When the ECC upholds an appeal, it may direct action or impose a sanction in accordance with Article 64 of the Electoral Law.
- 11.4 When determining sanctions or penalties, the ECC shall ensure that the sanction is commensurate with the offence.
- 11.5 The ECC shall where reasonably possible notify its decision to the appellant and the respondent in writing, specifying a deadline for compliance with any imposed sanction.

- 11.6 ECC decisions shall be published in Dari and/or Pashto, and in English, and shall be made available to the public through the ECC website. Decisions may also be published in any other language, where doing so is appropriate.

## **CHAPTER 12**

### **CHALLENGES**

- 12.1 A person, natural or legal, who has a legitimate interest in the electoral process may submit a challenge to the eligibility or qualifications of any nominated candidate listed on the Preliminary Candidate List.
- 12.2 The ECC and a PECC may review, on its own initiative, the eligibility and qualifications of any nominated candidate listed on the Preliminary Candidate List.
- 12.3 The ECC and a PECC may consult any governmental or non-governmental entity, national or international, or any other person to collect information regarding the eligibility or qualifications of any nominated candidate.
- 12.4 The ECC may promulgate specific policies or procedures for considering challenges relating to Article 12.7 of the Electoral Law regarding individuals who are alleged to command or be members of unofficial military forces or armed groups.

## **CHAPTER 13**

### **Challenge requirements**

- 13.1 Challenges must be in writing and may be filed at the central office of the ECC or at any PECC or IEC office, which shall forward it to the ECC, confidentially and without delay.
- 13.2 Challenges must be filed during the public display period of the preliminary candidate list announced by the IEC.
- 13.3 A challenge shall be deemed to be filed on the date it is first received in the office of a PECC, the IEC or the ECC.
- 13.4 The ECC shall make available challenge forms at each PECC or IEC office and at the ECC office and on the ECC website.
- 13.5 All challenges must provide, at least, the following information:
- (a) name, address, and contact information of the challenger;
  - (b) a detailed description of the eligibility or qualification criteria not fulfilled by the nominated candidate being challenged;
  - (c) details of any evidence and copies of any relevant documentation or other evidence in the possession of the challenger or a direction about where to find evidence when not in possession of the challenger; and
  - (d) an attestation by the challenger as to the veracity of the contents of the Challenge.
- 13.6 Where possible, the Challenges should also provide:

- (e) the name, address, and contact information of the nominated candidate being challenged; and
  - (f) the names, addresses, and contact information of any witnesses.
- 13.7 The respective PECC, IECS Provincial Office, or ECC staff shall assist a challenger in completing a challenge form when the challenger so requests.
- 13.8 Challenges shall be filed in one of the working languages of the ECC but the ECC may accept Challenges in any other language whenever doing so is appropriate.

## **CHAPTER 14**

### **Consideration of Challenges**

- 14.1 Every challenge received by the ECC shall be assigned a file number upon receipt, and become part of the permanent records of the ECC.
- 14.2 The ECC may deal with each challenge on its merits even whether or not it meets the requirements in Article 16 of these Regulations.
- 14.3 The ECC may, in its sole discretion, conduct hearings and may:
- (1) request any person to appear before it and to present evidence that may assist the ECC in reaching a decision;
  - (2) allow witnesses to give evidence under oath or otherwise;
  - (3) request and receive relevant evidence, as the ECC considers appropriate; and
  - (4) where possible, provide an opportunity for the challenged candidate to be present and heard.
- 14.4 Providing false information to the ECC is a violation of the Electoral Law and may be sanctioned by the ECC. This does not preclude action by any other body, prosecuting or otherwise, bringing an action regarding the provision of false information to the ECC.
- 14.5 Where the ECC considers a challenge to be well founded, it shall notify the candidate concerned and provide an opportunity to respond.

## **CHAPTER 15**

### **Response to a challenge**

- 15.1 The subject of a challenge may submit a response to such challenge.
- 15.2 Responses to challenges must be in writing and may be filed at the central office of the ECC or at any PECC or IEC office, which shall forward it to the ECC, confidentially and without delay. Responses to challenges must be submitted within three days of notification thereof to the object of the challenge.
- 15.3 A response to a challenge shall be deemed submitted on the date the response is received in the ECC office or in any PECC or IEC office.
- 15.4 The ECC must make Response to a Challenge forms available at each PECC and IEC office and at the ECC, and on the ECC website and other locations the ECC deems appropriate.

- 15.5 A response to a challenge shall provide at least the following information:
- (1) name, address, and contact information of the respondent;
  - (2) the defence against the candidate's alleged non-fulfilment of the candidate eligibility and/or qualification criteria, or a statement that even if the facts alleged in the challenge are correct, the candidate is nevertheless eligible and qualified;
  - (3) an attestation by the respondent as to the veracity of the response; and
  - (4) any other information that may be required in writing by the ECC.  
Where possible, the response to a challenge shall provide:
  - (5) details of any evidence and copies of any relevant documentation or evidence; and
  - (6) names, addresses, and contact information of any witnesses.
- 15.6 The PECC or IEC staff where the response is filed shall assist the respondent in completing a Response to a Challenge form if the respondent so requests.
- 15.7 Responses to challenges must be filed in one of the working languages of the ECC, which may, however, in its sole discretion accept a response in another language.
- 15.8 Failure to submit a response to a challenge within the time limit fixed in these Regulations shall not prevent the ECC from proceeding to process the challenge.

## **CHAPTER 16**

### **Decision on Responses to Challenges**

- 16.1 The ECC may summarily dismiss a challenge that does not establish a *prima facie* case or which is manifestly ill-founded.
- 16.2 The ECC shall examine all evidence without delay. Based on such evidence and any other evidence which the ECC decides to consider, the ECC shall uphold a challenge where the evidence is clear and convincing that a nominated candidate does not meet the qualifications and eligibility criteria for candidacy.
- 16.3 When the ECC upholds a challenge against a nominated candidate, the ECC shall direct the IEC to remove the name of the nominated candidate from the candidate list.
- 16.4 Upon the conclusion of the adjudication of all responses to challenges, the ECC must report to the IEC the names of the nominated candidates removed from the candidate list.

## **CHAPTER 17**

### **Miscellaneous**

- 17.1 Notwithstanding anything to the contrary herein contained, the ECC may, on good cause shown and in its sole discretion, condone any non-compliance with the requirements of these Regulations.

- 17.2 The ECC may enter into memorandums of understanding with any national or international bodies engaged in the electoral process in the interests of transparency.
- 17.3 In terms of Article 63.18, 19 and 21 of the Electoral Law any breach of these regulations shall constitute an electoral offence.
- 17.4 These Regulations enter into force on the day they are signed by the Commissioners and shall remain in force, subject to such amendments as may be effected, until the ECC is dissolved.