

Decree

President of the Islamic Republic of Afghanistan

Promulgation of the Electoral Law

Feb. 18, 2010

Article One:

I hereby promulgate the Electoral Law which is adopted by Decision (45) dated Feb. 14, 2010 of Council of Ministers of the Islamic Republic of Afghanistan.

Article Two:

The Minister of Justice and Minister of State for Parliamentary Affairs, within 30 days from the date of the first setting of the National Assembly, shall submit this Decree to the Assembly.

Article Three:

This Decree, from the date of promulgation, shall be enforced and published in the Official Gazette.

Hamid Karzai

President of the Islamic Republic of Afghanistan

Islamic Republic of Afghanistan

Electoral Law

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In the Name of Allah, the Most Gracious, the Most Merciful

Electoral Law

**Chapter I
General Provisions**

Article 1

Basis

This Law has been codified pursuant to the provisions of Article 33 of the Constitution of Afghanistan for the purpose of regulating affairs regarding elections in the country.

Article 2

Terminology:

Below are the concepts of terms used in this law:

1. Constituency: The selected location for voting of candidates and voters.
2. Agents: Persons who are accredited by the Independent Election Commission on behalf of the political parties and Independent Candidates for the purpose of supervising of elections.
3. Observers/Monitor: National and international persons who are accredited by the Independent Election Commission for the purpose of observing of elections.
4. Electoral campaign: Endeavor of the Independent candidates and political parties to attract more attention and more voters vote.
5. Preliminary results: Initial election results, which are often announced by the Independent Elections Commission after ending of counting votes and prior to announce final results.
6. Final results: The final outcome of an election certified by the Independent Election Commission after adjudication of complaints by the Electoral Complaints Commission H.Q.
7. Counting Center: A location in which voting have been take place and received votes are counted after election phase.
8. Preliminary list of candidates: Initial registration of candidates which are posted in specific locations.
9. Final list of candidates: Registration of candidates which are certified and published by the Independent Election Commission after adjudication of challenges by the Electoral Complaints Commission.
10. Quarantine: Temporarily emitting of ballot boxes from counting process.
11. Credential: Is an official written document in order to give the permission of observing and monitoring the elections process or to provide reports by media agents provided by the Independent Election Commission to observers and candidates' agents.

Article 3

Elections Method

Elections shall be through free, common, secret, and direct ballot.

Article 4

Principle of Equality in the right to vote

(1) Eligible voters including female or male shall have equal rights of participation in the elections.

(2) Each voter shall have one vote in the elections and shall use it with no proxy.

Article 5

Respect for the Principle of Free Will

Voters and candidates shall take part in the elections on the basis of their free will. Imposition of any kind of direct or indirect restriction on voters or candidates on the basis of language, religion, ethnicity, gender, tribal, region, or social status is prohibited.

Article 6

Cooperation from Institutions and Individuals

Governmental and non-governmental institutions, political parties, social organizations, civil society and relevant individuals shall cooperate with the Independent Electoral Commission (IEC), Provincial Electoral Complaints Commissions (PECC) and Electoral Complaints Commission (ECC) H.Q and other commissions established pursuant to the provisions of this law and shall implement the decisions made by these bodies within the scope of their respective jurisdictions.

Article 7

Non-interference of Governmental officials in electoral affairs

Officials and staff of Governmental departments and local influential individuals cannot directly or indirectly intervene in the electoral affairs. Use of any governmental properties, facilities and resources in benefit or loss of candidate or candidates is not permitted. Equal use of governmental and public resources according to the provisions of this law is excluded.

Article 8

Abbreviation name

The Independent Electoral Commission shall hereinafter be referred to as “the Commission”.

Chapter II

Electoral Constituencies

Article 9

Definition of Constituencies

For the purpose of Presidential, Wolesi Jirga, provincial council, district council, village council, municipalities and municipality council elections, constituencies shall be defined as follows:

1. For presidential elections, the whole of the country shall be one constituency.
2. For Wolesi Jirga elections (except nomads), each province shall be one constituency. For nomads, the whole of the country shall be deemed to be one single constituency.
3. For provincial council elections, each province shall be one constituency.
4. For district council elections, each district shall be one constituency.
5. For village council elections, each village shall be one constituency.
6. For Municipality elections, whole of the city shall be one constituency.
7. For seats of municipalities' council elections, each district shall be one constituency.

Article 10

Disputes over Constituency Boundaries

(1) Whenever disputes over dependency of a village to a district or of a town to a district or city occurred, the issue shall be referral to make a decision by the commission to the Independent Directorate of the local Administration.

(2) Disputes listed in item (1) of this Article shall be audited whenever raised (170) days before the elections date.

Chapter III

Voters and Candidates

Article 11

Voter Eligibility

A person is eligible to vote in the elections if that person:

1. S/he completed at least 18 years of age on the day of the elections;
2. S/he Afghan citizenship;
3. S/he not been deprived from his/her civil rights by a decision of a court;
4. S/he been registered in registration list as a voter by the Commission;

Article 12

Candidate Eligibility

(1) The individual who have the following qualifications be able to candidate him/herself for presidential elections:

1. Shall be a citizen of Afghanistan, Muslim, born of Afghan parents and shall not be a citizen of another country.
2. Shall not be less than forty years old the day of candidacy;
3. Shall not have been convicted of crimes against humanity, felony or deprivation of civil rights by a court.

(2) The individual who have the following qualifications be able to candidate him/herself for the National Assembly:

1. Shall be a citizen of Afghanistan or shall have obtained citizenship of the state of Afghanistan at least ten years prior to candidacy date or appointment.
2. Shall not have been convicted of crimes against humanity, felony, or deprivation from civil rights by a court.
3. Shall have completed twenty-five years of age on candidacy/appointment day for the Wolesi Jirga and thirty five years age for Meshrano Jirga.
4. Shall have his/her name registered in the list of voters by the Commission.

(3) The individual who have the following qualifications be able to candidate him/ herself for provincial and district council:

1. Shall have the qualifications listed on items (2, 3 and 4) of Article 11 of this law.
2. Shall have completed at least twenty-five years of age.
3. Shall have at least the educational degree of baccalaureate (12th grade).
4. Shall have good reputation.

(4) The individual who have the following qualifications be able to candidate him/ herself for village council elections:

1. Shall have the qualifications listed on items (2, 3 and 4) of Article 11 of this law.
2. Shall have completed at least twenty-five years of age.
3. Shall know at least how to read and write.
4. Shall have good reputation.

(5) The individual who have the following qualifications be able to candidate him/herself as a mayor of center of provinces:

1. Shall have the qualifications listed on items (2, 3 and 4) of Article 11 of this law.
2. Shall have completed at least thirty years of age.
3. Shall have at least the educational degree of bachelor.
4. He/She had been living for at least five years before the day of candidacy in the city in which candidate him or herself.
5. Shall have good reputation.

(6)The individual who have, in addition to the qualifications stipulated in items (1, 2, 4) sub article (5) of this Article, educational degree of baccalaureate (12th grade) be able to candidate him/herself as a mayor of a district or outside the center of provinces.

(7) Individuals who command or be member of a military organization (unofficial military forces) or semi military group cannot candidate themselves for the elections. Commanders or members of military organizations (unofficial military groups) are investigated by presidency of a separate commission, composed of representatives of Ministry of Defense, Ministry of Interior Affairs and General Directorate for National Security.

Article 13

Limitation for candidacy

(1) The following individuals, unless they have resigned from their positions, cannot candidate themselves for the posts stipulated in Article 12 of this law:

1. Chief Justice, Members of the Supreme Court and Judges.
2. Attorney General and Public Prosecutors.
3. Ministers, Advisory Ministers, Advisors of Presidential Offices, General Independent Directors, Director and Members of Independent Commissions, Deputies and Advisors of Ministries, Governors and their Deputies, District Administrators and Political Delegations of the Islamic Republic of Afghanistan in other countries.
4. Military members of the Ministries of Defense, Interior Affairs, General Directorate for National Security and other Ministries have military structure.
5. Civil Service Officers.
6. Temporary or permanent of the IEC.

(2) If the individuals listed in sub-article (1) are not elected, they shall not have the right to return to their previous positions unless re-appointed in accordance with the provision of the law.

(3) If one of the members of a post, in the elections, wants to shift to be candidate to another post, he/she shall resign from the candidacy of the current post.

(4) No person shall candidate himself or herself in more than one constituency or more than one seat at the same time.

Article 14**Voting Location**

(1) Voter shall vote in the constituency in which his/her name is indicated on voter registration list.

(2) The Commission, on the possible range shall provide special facilities for nomads, refugees, internally displaced people, the handicapped, military members of the armed forces and Ministry of Interior, the General Directorate for National Security and all Ministries and administrations have military organizations, servants of civil departments, electoral officials and prisoners who shall not have been deprived of civil rights to vote.

Article 15**Voter Identification**

The voter is obliged, in order to obtain ballot paper, prove their identity by showing their voter registration cards or the document provided by the Commission for this purpose.

Article 16**Form and number of ballot papers**

The Commission shall specify the form and number of ballot papers.

Chapter IV Presidential Elections

Article 17

Election of President

(1) The President is elected by obtaining more than fifty percent of votes cast by voters through free, general, secret and direct elections.

(2) If none of the candidate gets more than 50 percent of the votes cast in the first round, a runoff election shall be held in two weeks from the date of the announcement of the first round of the elections. In this round, only the two candidates who obtained most of votes in the first round will participate. In case of equality of votes, between the two candidates with highest votes, two candidates who fulfill the qualifications listed in paragraph (1) of Article 12 of this law, by a committee composed of two members of the Supreme Court, two members of the Commission under chairmanship of the Supreme Court, within (48) hours, shall be elected as candidates for the runoff. In the runoff elections, the candidate who receives the majority of votes shall be recognized the President.

(3) If two candidates receive equal votes in the second round of the elections, the winner of the elections, who fulfills the qualifications listed in paragraph (1) of Article (12) of this law, by a committee composed of two members of the Supreme Court, two members of the Commission under chairmanship of the Supreme Court, within (48) hours, while considering the candidates highest qualifications, recognize him/her President.

(4) If a presidential candidate dies during the first or second round of the elections, or after polling and prior to the announcement of elections result, the elections shall be held again in accordance with the provisions of this Law.

(5) If one of the candidates, during the second round of the elections, does not participate or boycott the elections, the other candidate, and in accordance with the provision of the law, shall be announced as the winner.

Article 18

Commencement of the work of the President

The winning candidate of the presidential elections commences his/ her work thirty days after the announcement of elections result.

Chapter V

Wolesi Jirga Elections

Article 19

Number of Seats

The Wolesi Jirga shall have 249 seats. Of all the allocated seats, 10 seats for nomads, and 239 seats, considering the proportion of the population, are allocated for the provinces, and out of the total number of seats in each province, averagely; at least two female members shall come to Wolesi Jirga.

Article 20

Allocation of Seats

(1) The Commission shall allocate (239) seats to provinces in the following manner:

1. The total population of provinces is divided by the total number of seats to be allocated to provinces (239) to determine the seat allocation quota;
2. The population of each province is divided by the seat allocation quota to determine the seats for each province;
3. Each province is allocated a number of seats equal to the whole number from the division under item (2).
4. Seats not allocated under (3) of this paragraph, are allocated in declining order of the decimal remainder from the division in (2);
5. If as a result of this calculation one or more provinces receive fewer than two seats, they shall be allocated two seats;
6. The total number of seats and population figures of provinces allocated additional seats under (e) of this sub article is excluded from the total number of seats (239) and the total population figures of provinces. For the remaining provinces a new seat allocation quota is calculated and the allocation of seats to these provinces is repeated as in (2) through (5);

(2) The Commission shall publish the calculations used in the allocation of seats under this article.

Article 21

Confirmation of the population of the country

(1) The Central Statistics Office shall provide at a time specified by the Commission, the latest official population figures of each province to the Commission.

Article 22

Awarding of Provincial Seats

(1) In each province, seats shall be awarded to the most voted candidates. The allocated seats for women are exempted from this provision.

(2) If two candidates receive equal votes, a committee composed of one member from the Supreme Court, as a chairman with two members from the Commission, while considering the highness of the candidate qualifications, within the period of maximum of 15 days, shall determine the deserving candidate.

(3) If a candidate is not able to take, or abandons, dies, resign or dismiss of his or her seat, or in a situation of disability or become effected during the term of the Wolesi Jirga, which prevent him permanently to perform his or her duty, if the period of his or her duty remains more than one year, his/her seat shall be given to the next candidate from the same gender (Male/Female) with the majority of the votes. In the situation of non presence of a candidate from the same gender, without considering their sex, the candidate that has the majority of the votes in the list, shall be given the vacant seat.

(4) If an elected candidate of nomads is not able to take, or abandons, dies, resign or dismissed of his or her seat, or in a situation of disability or become effected during the term of the Wolesi Jirga, which prevent him permanently to perform his or her duty, his/her seat shall be given to the next candidate with the highest of the votes in the list, and from the same gender (Male/Female) for the remaining period.

In the situation of non presence of the same gender on the candidates list, without considering their sex, the candidate has the highest vote, shall be given the vacant seat.

Article 23

Allocation of Seat to Female Candidate

(1) The Commission in order to respect the last paragraph of Article 83 of the Afghan Constitution shall develop a procedure to include, averagely, at least two women from each province to the membership of the Wolesi Jirga.

(2) The most voted candidates in each constituency shall be awarded seats in accordance with formula paragraph (1) of this article. Once the representation requirements are met, the remaining seats shall be awarded according to Article 20 of this Law.

(3) If there are not enough female candidates on the list of candidates to fill the seat(s) allocated to women in a particular constituency, the Commission in accordance to procedures of paragraph (1) of this Article will adopt specific measures to prevent allocated seats remain empty.

Chapter VI Meshrano Jirga

Article 24

Composition of Meshrano Jirga

The number of members of the Meshrano Jirga shall be thrice the number of the provinces of the country. One third of these shall be elected by the provincial councils, for a period of four years term, one third shall be elected from and by the district councils, for period of three years term, and the remaining one third shall be appointed by the President from amongst the experts and personalities, for a period of five years term.

Article 25

Election of Provincial Council Representatives

(1) Within 15 days of its establishment, in accordance with the provisions of this law, shall elect one of its members as a member of the Meshrano Jirga.

(2) Elections to the Meshrano Jirga shall be chaired by the chairperson of the provincial council. If the chairperson is a candidate, the vice chairperson shall preside over the elections. If the vice chairperson is also a candidate, the eldest member of the council who is not a candidate shall preside over the elections.

(3) The quorum for holding elections of paragraph (2) of this article completes by the presence of at least two third of the members of the Provincial Council.

(4) If a candidate receives more than half of votes from the present members shall be recognized as member of the Meshrano Jirga. If no candidate receives more than half of the votes, a second round of elections shall be held between the two most voted candidates, following which the candidate receiving the most votes shall be known as a winner candidate.

(5) If two candidates received equal votes, a committee composed of one member of the Supreme Court as a chairperson, two members of the Commission, taking into consideration superiority of fulfilling the criteria stipulated for the candidates and age, shall determine the winner within 20 days.

(6) If the elected candidate is not able to take, or for some reason abandons, or dies, resign or dismiss of his or her seat, or in a situation of disability or become effected, which prevent him permanently to perform his or her duty, if the period of his or her duty remains more than one year, in accordance with the provision of this law, the related Provincial Council will elect another person from their members to serve for the remaining period.

Article 26

Election of Representatives of the District Council of the Provinces

(1) Within 5 days from the establishment of the District Councils, the Commission shall provide each Provincial Council with a list of the persons elected to the District Councils,

in order to elect from all members of District Councils one of their members to Meshrano Jirga.

(2) The Chairperson of the Provincial Council is responsible for convening the members of the District Councils in the Province for elections at a venue which is as accessible as possible for all members of the District Councils in the province within 15 days of the establishment of the respective District Councils.

(3) The quorum for the elections is the presence of at least two thirds of the members of the District Councils.

(4) If a candidate receives more than half of votes from the present members shall be known as an elected member of the mentioned council in Meshrano Jirga. If no candidate receives more than half of the votes, a run-off election must be conducted between the two candidates who received most of the votes of the present candidates. In such case, the candidate who receives majority of the votes in this round shall be known as a winner candidate.

(5) If two candidates received equal votes, the winner candidate shall be elected by a committee composed of one member of the Supreme Court as chairperson, two members of the Commission, , taking into consideration superiority of fulfilling the criteria stipulated for the candidates and age, shall determine the winner within 20 days.

(6) If the elected candidate is not able to take, or for some reason abandons, or dies, resign or dismiss of his or her seat, or in a situation of disability or become effected, which prevent him permanently to perform his or her duty, if the period of his or her duty remains more than one year, in accordance with the provision of this law, the related District Councils will elect another person from their members to serve for the remaining period.

Chapter VII

Elections of Provincial Council Members

Article 27

Provincial Councils

Each province shall have a Provincial Council, and its member are elected through free, secret, general and direct ballots of the same province.

Article 28

Allocation of Seat to Provincial Councils

(1) Seats of the Provincial Council shall be allocated proportionately to the population of each province in the following manner:

1. Provinces with less than 500,000 inhabitants: 7 members
2. Provinces with more than 500,000 - 1,000,000 inhabitants: 13 members
3. Provinces with more than 1,000,000 - 2,000,000 inhabitants: 19 members
4. Provinces with more than 2,000,000 - 3,000,000 inhabitants: 25 members
5. Provinces with more than 3,000,000 inhabitants: 31 members.

(2) In the provinces where nomad movements take place, a specified number of seats shall be allocated to nomads in the same Provincial Councils based on their number of population.

Article 29

Provincial Council Membership

(1) Candidates received most votes in the respective provinces shall be recognized as members of the Provincial Councils of the same province.

(2) At least one quarter of seats in each Provincial Council shall be allocated to the female candidates. In the first place, one quarter of seats in each provincial council shall be allocated to the most voted women candidates of each province. The remaining seats shall be allocated in accordance with clause (1) of this Article.

(3) In case the candidates received equal votes, the entitled person shall be assigned within 20 days by a Committee comprised of the head of Appeals Court in the respective province as chairman, the responsible person of provincial commission and the representative of Independent Human Rights Commission of the Afghanistan as members, taking into account the eminent criteria assigned to the candidates.

(4) In case the elected candidate is unable to occupy its seat or abandons the seat, dies, resigns or being dismissed during the tenure or becomes disable, which prevents permanent performance of the duty, the seat shall be given to the next candidate of the same gender for the remaining period who has received most of the votes.

In case a candidate of same gender is not available, the seat shall belong to the most voted candidate on the list irrespective of gender.

(5) In case of not enough women candidates in the list of candidacy to occupy the allocated seats, the Commission shall take measures to fill the allocated vacant seats.

Chapter VIII

Elections of District Council Members

Article 30

District Council

Each district shall have a council the members of which shall be elected by the voters in the same district through free, general, secret and direct ballots.

Article 31

Allocation of seat to District Councils

(1) Seats of the District Council shall be allocated proportionately to the population of each district in the following manner:

1. Districts with less than 20,000 inhabitants: 5 members
2. Districts with more than 20,000 - 40,000 inhabitants: 7 members
3. Districts with more than 40,000 - 60,000 inhabitants: 9 members
4. Districts with more than 60,000 - 80,000 inhabitants: 11 members
5. Districts with more than 80,000 - 100,000 inhabitants: 13 members
6. Districts with more than 100,000 inhabitants: 15 members.

(2) In the districts where nomad movements take place, specified number seats shall be allocated to nomads in the same district council based on their number of population.

Article 32

District Council membership

(1) The candidate received most votes shall be recognized as member of the respective District Council.

(2) In case the candidates received equal votes, the entitled person shall be assigned within 20 days by a Committee comprised of the head of Appeal Court of the respective province as chairman, the responsible person of provincial commission and the representative of Independent Human Rights Commission of Afghanistan as members, taking into account the eminent criteria assigned to the candidates.

(3) In case an elected candidate is not able to occupy the seat or due to some reasons abandons the seat, dies, resigns or being dismissed during the tenure, or becomes disable, which prevents permanent performance of the duty, the seat shall be given to the next candidate of the same gender for the remaining period who has received most of the votes.

In case a candidate of same gender is not available, the seat shall belong to the most voted candidate on the list irrespective of gender.

Chapter IX Village Council Elections

Article 33

Village Council Elections

Each village has a council, whose members shall be elected through free, general, secret and direct ballot of those eligible to vote in the village.

Article 34

Allocation Seats for Village Councils

(1) The number of seats for village councils will be based on village population as follows:

1. A village that has 100 to 300 people population, (3) members.
2. A village that has more than 300 to 500 people population, (5) members.
3. A village that has more than 500 to 700 people population, (7) members.
4. A village that has more than 700 to 1000 people population, (9) members.
5. A village that has more than 1000 people population, (11) members.

(2) In areas where Kuchis have movement, seats shall be allocated for them based on their population, taking into consideration part (1) of this article in the village council of the same area.

Article 35

Membership of Village Council

(1) Those candidates who get the highest number of votes shall be counted as members of the village council.

(2) In case of an equal number of votes between two candidates, the eligible person shall be selected by a committee consisting of the head of the primary court of the related district as chairman, a provincial representative of the commission and a representative of the Afghanistan Independent Human Rights Commission as members of the committee, while taking into consideration the grade of the standards for candidates, within (30) days.

(3) Whenever the elected member is not able to occupy his/her seat or for any reasons leaves, dies or resigns or is dismissed from the council or is disabled in a way which hampers permanently him/her in performing his/her duty during the village council tenure, his/her seat shall be allocated to the candidate with the next highest number of votes.

Chapter X Mayoral Elections

Article 36

Mayoral Election System

(1) One mayor is elected for each city. The mayor is elected for a duration of 4 years through free, general, secret and direct elections by acquiring the vote of the majority (of more than 50%) of that city's voters.

(2) When none of the candidates can gain more than 50% of the votes in the first round of the Mayoral election, the elections for the second round shall be held two weeks after the announcement of the election results and in this round only the two candidates who acquired most of the votes in the first round shall participate. In the second round the candidate who gained the majority of the votes shall be announced as the winner.

(3) In case of an equal number of votes between two candidates for the Kabul Municipality, the eligible person shall be selected by a committee consisting of one member of the supreme court as chairman and two members of the commission taking into consideration each candidates' merits, within (7) days.

(4) In case of an equal number of votes between two candidates of a province or district municipality, the eligible person shall be selected by a committee consisting of the head of the appeal court of the related province as chairman, provincial representative of the commission and a representative of the Afghanistan Independent Human Rights Commission taking into consideration each candidates' merits, within (7) days.

(5) The elected candidate shall start his/her duty within 10 days after the announcement of the elections results.

(6) No one can be elected as a mayor in one city for more than two successive rounds.

Article 37

Appointment of New Mayor

(1) Whenever the elected mayor of Kabul city is not able to occupy his/her seat or for any reason leaves, dies or resigns or is dismissed from the municipality or is disabled in a way which permanently hampers him/her performing his/her duty during the municipality tenure, a committee consisting of one member of the Supreme Court as chairman and two members of the Commission shall select the candidate who acquired the next largest number of votes after the elected mayor in the candidates list for the rest of the term as a new mayor.

(2) Whenever the elected mayor of the capital or of other provinces or districts and cities is not able to occupy his/her seat or for any reasons leaves, dies or resigns or is dismissed from the municipality or is disabled in away which hampers him/her performing his/her duty during the municipality tenure, a committee consisting of the head of the Appeal

Court of the related province as chairman, the provincial representative of the Commission and a representative of the Afghanistan Independent Human Rights Commission, shall select the candidate who acquired the next largest number of votes after the elected mayor in the candidates list for the rest of the term as a new mayor. In case there is no candidate in the candidates' list or absence or disagreement of the eligible candidate, a new election shall be held according to the orders of this law.

Chapter XI Council Elections

Municipal Elections

Article 38

Municipal Councils

A municipality defined by the Independent Directorate of Local Governance (IDLG), has a council whose members are elected in a free, general, secret and direct election by eligible inhabitants for a duration of four years.

Article 39

Number of Seats

(1) The municipal council has at least 3 seats.

(2) Where a municipality is divided across two districts by the Independent Directorate of Local Governance (IDLG), each district is a constituency for elections of each one of its seats. For the third seat the whole city is one constituency.

(3) For the municipal council which has more than two districts, one individual shall be elected from each.

(4) For the municipality which is not divided into districts, its council has 3 to 5 seats in general, taking into consideration the population and civil services.

(5) The number of the seats assigned to the municipal council by the commission shall be based on the information provided by the Independent Directorate of the Local Governance.

(6) Taking into consideration the number of the districts, the number of the seats of Kabul municipality council shall be assigned by the commission based on the information provided by Kabul municipality.

Article 40:

Allocation of Seats

(1) A municipality which is divided into districts, each district is accepted as a constituency and from each of them one member is shall be elected to the municipal council. Eligible registered voters who live in the same district have the right to vote in the same constituency.

(2) A municipality which is not divided into districts, the whole boundaries of the municipality shall be known as one constituency. The eligible registered voter of the same municipality has the right to vote in the same constituency.

(3) For the election of members of the municipal council, the candidate who acquired most of the votes shall be known as the winner. In the case of an equal number of votes

between two candidates, the winner shall be selected by a committee consisting of the head of the Appeal Court of the related province as chairman, a provincial representative of the commission and a representative of the Afghanistan Independent Human Rights Commission, taking into consideration the level of supremacy grade of the standards for candidates within (20) days.

(4) Whenever the elected member is not able to occupy his/her seat or for any reasons leaves, dies or resigns or is dismissed from the municipality or is disabled in away which hampers him/her to perform his/her duty permanently during the municipality tenure, a committee consisting of the head of the Appeal Court of the related province as chairman, a provincial representative of the commission and representative of the Afghanistan Independent Human Rights Commission as members, shall select the candidate who acquired the next largest number of votes after the elected members in the candidates list for the rest of the term as a new member.

Chapter XII Holding of Elections

Article 41

Date of Elections

(1) The Commission declares the holding of elections at least (140) days prior to the fixed date for elections.

(2) The Commission clearly publishes the date of elections at least (120) days prior to the date planned for elections.

Article 42

List of the Voters

The commission will certify the list of voters who can participate in elections and will provide it to the public for consideration in specified stations within (15) days prior to commencement of elections

Article 43

Candidacy Application

(1) Individuals who want to nominate (candidate) themselves for the posts mentioned in this law have to present their candidacy applications within the time specified by the commission.

(2) Candidacy Applications include the following issues:

1. Name and clear address of the person
2. Certified educational documents
3. Information regarding convict, age, movable and unmovable properties and other conditions mentioned in this law
4. Voter registration card or other document that will be certified by the commission
5. The number of people, their names, registration card numbers, and signatures or thumbprints of persons residing in the constituency supporting the candidate's appearance (nomination) on the ballot are as follows:
 - For the presidential elections 100,000 people, at least 2% of people from 18 provinces should confirm the candidate's candidacy
 - For the national assembly elections 1000 people should confirm the candidacy of the candidate
 - For the nomad candidates nominating for parliamentary elections 1000 kuches
 - For the provincial council candidates at least 200-600 people considering the number of population in each province
 - 100-300 people should support the candidacy of the candidates for the District Councils considering the number of population in each provinces
 - 20 people for the villages council
 - 300-2000 people should support the candidacy of the candidate for municipalities according to the number of population and city services done.

- For the candidates who nominated themselves for municipality sessions (city session) considering the population of provinces about 100-250 people should support the candidacy of the candidate
6. Official declaration and certification and realization of conditions mentioned in paragraph (7) Article 12 and paragraphs (1, 3) Article 13 of this law.
 7. In case if the candidate has been fined by ECC in previous elections, He/she should present the document that proves the payment

(3) The presidential candidates should presents the names of the both vice-presidents simultaneously with their nomination to the commission.

(4) The candidates have to deposit the amount money for their candidacy as following:

1. A Presidential candidate should deposit (two and half million Afghanis), this amount shall be refunded if the candidate is elected or receives at least 10 % of the valid votes cast in the first round of the election.
2. The filing deposit for a Wolesi Jirga candidate shall be Afghani 30,000, which should be deposited by the candidate. This amount of money will be refunded if the candidate is elected or receives at least 3 % of the valid votes cast in the respective constituency.
3. The filing deposit for a Provincial Council candidate shall be Afghani 20,000, this amount shall be refunded if the candidate is elected or receives at least 2,5 % of the valid votes cast in the respective constituency.
4. The filing deposit for a District Council candidate shall be Afghani 10,000, this deposit shall be refunded if the candidate is elected or receives at least 2 % of the valid votes cast in the respective constituency.
5. The filing deposit for a Village Council candidate shall be Afghani 5,000, this deposit shall be refunded if the candidate is elected or receives at least 1.2 % of the valid votes cast in the respective constituency.
6. For the Municipality candidates of first grade provinces shall be Afghani 100,000, for Municipality candidates of second grade provinces shall be Afghani 50,000, Municipality candidates of third grade provinces shall be Afghani 25,000, and for the rest of the Municipality candidates shall be Afghani 15,000, the amount deposited shall be refunded if the candidate is elected or the candidates of first grade provinces receive at least 10%, second grade provinces at least 7% and rest of the Municipality candidates at least 5% of the valid votes cast in the respective constituency.
7. For the Municipality Council candidate shall be Afghani 10,000, the amount deposited shall be refunded if the candidate is elected or receives at least 2% of the valid votes cast in the respective constituency.

(5) The individuals who have not completed the stipulations listed in paragraph (2 and 4) of this Article and the rest of the conditions approved by the commission shall not participate as a candidate in the elections.

(6) The commission shall transfer the deposit of candidates who have not received the percentage of the valid votes listed in paragraph (4) of this Article to the government's bank account.

Article 44

List of the candidates

(1) The Commission is responsible to publish the preliminary list of the candidates upon the closing date of nomination period as soon as possible.

(2) The Commission is responsible to determine and publicize a period during which complaints related to the preliminary list of the candidate can be made. These complaints shall be adjudicated by the Electoral Complaints Commission (ECC) in accordance with its own procedures.

(3) The commission is responsible to publicize the final list of the candidates following the evaluations made by ECC regarding the complaints considering ECCs decisions.

(4) The commission is responsible to post the final list of the candidates in polling stations.

Article 45

Withdrawal of the candidates

(1) If a candidate withdraws his/her candidacy, the candidate shall notify the Commission in writing about his/her intent prior to the date specified by the Commission in the electoral calendar.

(2) If a candidate withdraws his or her candidacy or dies after the nomination process of the candidates, or if his or her name is excluded from the list of candidates by the ECC, the votes cast in his or her favor should not be counted in the counting process.

(3) The commission shall transfer the deposit of candidates listed in paragraph (2) of this article to the government's bank account except if the candidate dies.

Article 46

Electoral Campaigns

The Commission should notify an official electoral campaign period. This period should end forty eight (48) hours before the polling.

Article 47

Setting up voting centers and provision of election material

(1) The Commission shall set up voting centers all over the country and shall facilitate for voter participation in such a manner that all the voters could access these centers easily during the elections.

(2) The Commission shall provide ballot boxes, ballot papers, polling booths, stamps and other necessary equipments and shall adopt other measures as well that may facilitate the elections.

Article 48

Ballot Boxes

The Commission shall perform the following duties to arrange for the ballot boxes:

1. Procurement of shape and material for ballot boxes so that they can be sealed and stamped safely.
2. Marking of the ballot boxes.
3. System of locking, stamping, preservation and opening of ballot boxes.

Article 49

Ballot Papers

(1) The Commission shall perform the following duties regarding the ballot papers:

1. Provision of ballot papers.
2. Assigning of symbols or pictures for the candidates and its adhesion on proper places.
3. The selection of language that shall be used in the ballot papers.
4. Adopting a procedure that will be used by the voters to mark the ballot papers.
5. Adopting a procedure for ballot paper counting.

(2) The candidate list in the ballot papers and assigning electoral symbols for the candidates shall be chosen through lottery by the Commission.

(3) The political affiliation of candidates with the political parties can be mentioned in the ballot paper.

Article 50

Observers and Agents

The Commission shall specify the rights and duties of observers, agents and representatives of mass media and shall prepare and distribute them the credentials.

Article 51

Removal of campaigning materials

The Commission should order the removal of campaigning materials placed within 100 meters of polling centers forty eight (48) hours prior to the polling.

Article 52

Prohibition of carrying arms in polling stations

No one can carry firearm or sharp weapon, at or within 500 meters of any polling centre. The carrying of weapons by security officials authorized by the Ministry of Interior should be exempted from this provision

Article 53

Commencement and closing of voting

(1) Voting at all polling centers should start and end according to the schedule arranged and published by the Commission.

(2) Polling should be conducted in accordance with Procedures issued by the Commission.

(3) The Chairperson of a polling centre may order a suspension of polling if the polling centre is threatened by riot, violence, storm, flood, or any other sudden and natural incident which makes the proper conduct of polling impossible. The Chairperson of the polling centre shall immediately inform the Secretariat about any decision taken.

(4) The chairman of polling stations before declaring the closing time of polling, determined in accordance with paragraph (1) of this article, is responsible to check and mark the end of line of the voters and permit them to vote.

(5) The commission can extend the period of voting at a maximum of 2 hours in polling centers

Article 54

Objection regarding voting

(1) Before a voter is handed a ballot paper, an accredited representative of a candidate or political parties may object to that voter being entitled to vote or to vote at the related polling center.

(2) The head of the polling center should determine whether to accept or reject objections listed in paragraph (1) of this Article and present his/her reason for rejecting or accepting the objections on the Election Day in an official record.

Article 55

Sealing of the ballot boxes

(1) As soon as the ballot box is full or voting ends, the head of the polling centre, in the presence of accredited candidate representatives shall seal the box in the prescribed manner and allow the accredited Agents to sign on the ballot box and note the number of the seals.

(2) The head of the polling centre should deliver the ballot boxes and bundles of ballot to the Counting Centre considering the instructions given by the commission.

Article 56

Votes counting

The votes should be counted in polling stations, except if the commission adopts other decisions considering the security and weather conditions.

Article 57

Quarantine of ballot boxes

(1) The Commission can quarantine the aforesaid boxes. If complains raised or if signs of fraud is found regarding the ballot boxes,

(2) The commission can include or permanently exclude the quarantined ballot boxes from counting process after inspection in presence of representatives of political parties and candidates for their contentment.

Article 58

Presentation and Certification of Results

(1) Prior to the certification of results, if the principles of a (free, common, secret and direct) election is flawed, the Commission or the ECC can order a recount of some or all of the ballots in a counting centre, or a repeat of the voting in constituency.

(2) The Commission can announce and publish the certified results of elections, once all counting procedures are completed and all complaints concerning polling and counting are adjudicated by the Electoral Complaints Commission. The results of the election are final and binding (implementable) once they are certified by the Commission.

Article 59

Publication and Dissemination of Ideas and opinions of candidates

(1) For the purpose of public information during the electoral campaign period, radio, television, press, newspapers and the rest of the mass media shall publish and disseminate the platforms, views and goals of the candidates in accordance with the procedures established by the Commission.

(2) During the electoral campaign period, governmental mass media should publish and disseminate the platforms, views, and goals of the candidates fairly and impartially for the purpose of public information as agreed with Commission,

(3) Government (state owned) mass media should set up goals, policies and procedures to ensure a fair and impartial coverage of the candidates plans as necessary and implement the provisions of paragraph (1, 2).

Article 60

Media Commission

(1) The Commission is responsible to establish Media Commission (MC) at least 60 days prior to the election date. The (MC) should monitor fair reporting and coverage of the electoral campaigns and shall deal with the complaints about violations of fair reporting or coverage of political campaigns, or other violations according to procedures of Mass Media.

(2) Everyone can present his/her complaints and objections to the Media Commission.

(3) The responsibilities and authorities of the MC shall be determined by the Commission. The Media Commission can adopt one of the following measures, if it determines that a violation has occurred from provisions listed in Article (59) of this law:

1. Issue a warning or order the violator to take remedial actions
2. Impose a fine of 500,000 according to circumstances
3. Refer and introduce the real or preemptory violators for judicial pursuit to related authorities.

(4) The Media Commission should be dissolved after accomplishing all given assignments by the Commission within maximum of (45) days after the announcement of the election results, and its responsibilities should be referred to the Commission.

Chapter XIII

Electoral Complaints Commission

Article 61

In order to assess the violations, objections and complaints emanating from the elections, and from the Provincial Complaints Commissions and to evaluate the decisions of these Provincial Complaints Commissions, Central and Provincial Complaints Commissions should be established within (120) days before the election date by the President in consultation with speakers of both houses and the head of the Supreme Court

Article 62

Jurisdiction of the ECC HQ and PECCs

(1) The Electoral Complaints Commission (ECC) HQ and Provincial Electoral Complaints Commission (PECC), shall have the following jurisdictions

1. Adjudication (evaluation) of challenges to the list of candidates and voters and to the eligibility or qualifications of the candidates rise during the elections.
2. Adjudication of complaints due to electoral offences provided that the complaint has been received prior to the certification of the results of the election.

(2) The ECC and PECC can consider issues within their jurisdiction limit on their own initiative and in the absence of a formal complaint or challenge.

(3) The ECC shall adjudicate (evaluate) the electoral complaints in accordance with procedures organized and adopted by the ECC HQ.

(4) In case if the complainant is unsatisfied, the ECC HQ shall reinvestigate the decisions made by the PECCs

(5) The Provincial Electoral Complaints Commission is the preliminary authority (reference) to adjudicate or evaluate electoral complaint. In exception circumstances, the ECC HQ may adjudicate electoral complaints as a preliminary authority

(6) Decisions taken concerning adjudication of challenges and complaints by ECC HQ shall be final.

(7) The ECC HQ and PECCs shall discontinue their work within two months following the certification of election results, after dissolution, its responsibilities shall be referral to the Independent Election Commission.

(8) The ECC HQ and PECCs have secretariats.

Article 63

Electoral Offences

The following acts are counted as Electoral Offences:

1. Providing false information to the Commission and its related commissions

2. Threatening, intimidating or attacking the dignity of a voter, candidate, permanent or temporary election staff or a journalist covering the election process or committing violation against them in any way.
3. Impeding the mentioned individuals, including accredited observers and overseers, from participating in the electoral process.
4. Committing Fraud in voting or vote counting
5. Offering or receiving a payment or another benefit for the purpose of influencing the electoral stages.
6. Possessing, or attempting to obtain, more than one voter registration card as a voter, or other certified documents from the Commission.
7. Voting or attempting to vote using a fraudulent, forged or altered card or the card of another person.
8. Changing, replacing, stealing, or destroying electoral documents without legal authorization.
9. Duplicating, using and retaining false voter registration cards, other documents certified by the commission, ballots, or official forms.
10. obtaining a voter registration card or other documents certified (verified) by the commission under with fraud
11. Attempting to vote more than once in an election
12. Interfering in election materials or ballot boxes with having the due authority
13. Disturbing the electoral officials while performing their duties
14. Violating the code of conduct of the candidates, their representative or electoral officials
15. Using the budgets earned via illegal activities
16. Using foreign financial sources for the purpose of influencing the electoral process
17. Instigating or provoking other individuals for committing electoral violations
18. Violating the provisions of law or rules and procedures related to the election process
19. Nonobservance of procedures of commission, Electoral Complaints Commissions in Center, Provincial Electoral Complaints Commissions or the Media Commission.
20. Using any kind of symbol, color, motto and other signs related to a candidate by other candidates of representatives in polling stations.
21. Other violations specified in rules and procedures

Article 64

Sanctions and penalties

(1) In case if a violation (offence) is verified or confirmed, the ECC HQ or PECC can adopt one of the following measures:

1. Issue a warning to, or order, the offending individual or organization, to take remedial action
2. Impose a fine of 500,000 Afghanis according to circumstances (condition)
3. Adopting decision on re-holding of elections/recounting votes prior to the certification of results
4. Omitting (removing) candidate from the list of the candidates, in case of having justified (proper) reasons
5. Invalidation of ballot papers not meeting the necessary conditions, or order of recounting of one or a number of ballots.

6. Prohibiting violators (offenders) from working at all commissions for a maximum of 10 years

(2) The ECC and PECC can impose sanctions against a political party or a candidate, in case if members or supporters of them have committed any electoral violations. Imposing of sanctions will be counted valid at a time when there are proper evident, documents and reasons for violations committed.

(3) Besides above mentioned sanctions and fine, the ECC can introduce the violator (offender) to the Public Prosecution Office if it has proper evident for the violations committed.

(4) Implementation of decisions taken by ECC and PECC based on sanctions and fines are the responsibility of related ECCs, Commission and government.

Chapter XIV

Miscellaneous provisions

Article 65

Postponement or suspension of elections

(1) If security or other unpredictable events (situations) make the holding of the elections impossible or threaten the legitimacy of the election then the Commission can postpone or suspend the elections till the existing problems (conditions) are eliminated.

(2) If the situations mentioned in paragraph (1) of this Article is limited to one or few polling stations, the commission can delay or postpone the election process in the mentioned stations till the problems are removed.

(3) If the elections results are counted invalid in one polling station, the commission can order the mentioned station to re-hold elections.

(4) The presidential elections with observing the provisions of Afghanistan constitution should obey the provisions set forth in paragraph (1, 2 and 3) of this Article.

(5) If the elections are delayed according to provisions mentioned in paragraph (1) of this article, the mentioned members involved in elections shall continue their jobs till the holding and announcing of the election results.

Article 66

Arrangement of rules and regulations:

The commission can adopt separate rules, procedures and guidance for the purpose of implementing the provisions of this law in a better way.

Article 67

Enforcement

This law should be enforced after signing and be published in the Official Gazette, with its enforcement the Electoral Law published in the Official Gazette number (850) on May 31 2004 with some adjustment on paragraph (3) Article 27 and adding of paragraphs (4, 5) published in the Official Gazette No (874) on 01/25/2004 and the electoral law for municipalities (city councils) published in Official Gazette No (814) on 12/20/2003 is revoked.