

Rwanda

Presidential Order governing Elections of Leaders at the Village, Cell and Sector Levels

Presidential Order 1 of 2011

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Assented to on 3 February 2011

Commenced on 3 February 2011

[This is the version of this document from 3 February 2011.]

We, KAGAME Paul,

President of Republic;

Pursuant to the Constitution of the Republic of Rwanda of 04 June 2003 as amended to date, especially in Articles 9, 112, 113 and 201;

Pursuant to Organic Law n° 29/2005 of 31/12/2005 determining the local administrative entities of the Republic of Rwanda as amended and complemented to date;

Pursuant to Law n° 27/2010 of 19/06/2010 relating to elections, especially in Articles 127, 133 and 164;

Having reviewed Presidential Order n° 01/01 of 28/01/2006 governing elections of leaders at Village, Cell and Sector levels;

On proposal by the Minister of Local Government;

After consideration and approval by the Cabinet in its session of 15/12/2010;

HAVE ORDERED AND HEREBY ORDER:

Chapter One General provisions

Article One – Purpose of this Order

This Order governs elections of leaders at the Village, Cell and Sector levels.

Article 2 – Organ charged with elections

Elections at the Village, Cell and Sector level shall be prepared and conducted by the National Electoral Commission.

Article 3 – Modalities for elections

Elections at the level of the Village and the Cell shall be conducted directly whereby all the residents queue up behind the candidate of their own choice.

Elections at Sector level shall be conducted indirectly and by secret ballot.

Elections shall be conducted freely and in transparency and the voter is entitled to only one vote.

Article 4 – Regulations related to the conduct of elections

Where necessary and pursuant to the provisions of this Order, the National Electoral Commission issues directives required for the smooth running of the electoral process.

Chapter II Elective posts

Article 5 – Members of the Executive Committee at the Village level

At the Village level, the following five (5) members of the Executive Committee shall be elected:

- 1° The Head of the Village;
- 2° The in charge of social and civil affairs;
- 3° The in charge of security, entry and exit to/from village;
- 4° The in charge of information and training of the population;
- 5° The in charge of development.

Article 6 – Members of the Cell Council

At the Cell level, the following members of the Cell Council shall be elected:

- 1° The Councillors elected by the population in the Village constituting the Cell. Each Village shall be represented by one Councillor;
- 2° The coordinator of the National Women's Council at the Cell level;
- 3° The coordinator of the National Youth Council at the Cell level;
- 4° A representative of the disabled persons;
- 5° A representative of the Heads of nursery schools located in the Cell;
- 6° A representative of teachers of primary schools located in the Cell;
- 7° A representative of the private sector in the Cell.

Women Councillors should constitute at least thirty percent (30%) of the Council members.

Article 7 – Cell Council Bureau

The members of Cell Council shall elect among its members the Cell Bureau comprised of the following members:

- 1° A Chairperson;
- 2° A Deputy Chairperson;
- 3° A Secretary.

Article 8 – Members of Sector Council

At the Sector level, Council members shall be the following:

- 1° A Cell representative elected by the Cell Council;
- 2° Members of the bureau of the National Youth Council at the Sector level;

- 3° A Coordinator of the National Women Council at the Sector level;
- 4° A representative of the disabled persons at the Sector level;
- 5° A representative of the Heads of all primary schools in the Sector;
- 6° A representative of the Heads of all secondary schools in the Sector;
- 7° A representative of Non Governmental Organisations operating in the Sector;
- 8° A representative of co-operative organizations at the Sector level;
- 9° An official representing hospitals, health centers or other health facilities operating in that Sector;

Women representative constitute at least thirty percent (30%) of members of the Sector Council.

Without prejudice to provisions of this Order, procedures through which representatives of organs mentioned in Paragraph One (1) of this Article are elected and conditions required shall be determined by instructions of the National Electoral Commission.

In all cases, holders of the leadership posts provided for in the preceding paragraph shall be Rwandans. Where any post holder is a foreigner, he/she shall be replaced by a Rwandan national who is next to him/her in the organizational hierarchy.

Article 9 – Bureau of the Sector Council

Members of the Sector Council shall elect among themselves a Bureau which comprises three persons:

- 1° A President,
- 2° A Vice President,
- 3° A Secretary.

The procedure to elect the Bureau shall be determined by instructions of the National Electoral Commission.

Chapter III

Eligible and non eligible to vote

Article 10 – Person eligible to vote

In order to be eligible to vote, a person shall have to fulfil the following conditions:

- 1° be a Rwandan;
- 2° be at least 18 years of age;
- 3° be a resident in that Village, Cell or Sector concerned.

However, a foreigner who has completed at least one year residing and authorized to reside in Rwanda shall also be eligible to vote from the Cell or Village of residence.

Article 11 – Person ineligible to vote

A person ineligible to vote shall be any person:

- 1° deprived of his/her right to vote by competent courts of law and who has not been rehabilitated or granted amnesty in accordance with the law;
- 2° convicted of murder and manslaughter;

- 3° convicted of the crime of genocide or crimes against humanity in the first and second categories as stipulated in Article 76 of the Organic Law n° 16/2004 of 16/06/2004 establishing the organisation, competence and functioning of Gacaca courts charged with prosecuting and trying the perpetrators of the crime of genocide and other crimes against humanity, committed between October 1, 1990 and December 31, 1994 as modified and complemented to date;
- 4° pleaded guilty of the crime of genocide and crimes against humanity which categorise him/her in the first category;
- 5° convicted of the crime of defilement;
- 6° convicted of the crime of rape;
- 7° who is a prisoner;
- 8° who is a refugee.

Chapter IV

Eligible and ineligible persons

Article 12 – Eligible persons

Any Rwandan who resides in such a Village or Cell and is a person of integrity fulfilling conditions required for such a post he/she is running for shall be eligible.

Article 13 – Definition of the term “person of integrity”

A person of integrity is any Rwandan with the following qualities:

- 1° not to have been convicted of the crime of genocide;
- 2° not to have been convicted of the crime of discrimination and divisionism;
- 3° not to have been definitively sentenced to a term of imprisonment of six (6) months or above;
- 4° to have been rehabilitated, in case he / she was convicted and sentenced to a term of imprisonment of six (6) months or above;
- 5° not to have been convicted of the crime of genocide ideology;
- 6° not to have been dismissed from the public service;
- 7° not to have been convicted of corruption and embezzlement of public funds.

Article 14 – Ineligible person due to restrictions

A person shall be ineligible to be elected following his/her restrictions if he/she:

- 1° is mentioned in Article 11 of this Order;
- 2° is placed under the protection of justice;
- 3° has any mental incapacity certified by a recognised medical doctor;
- 4° led to bankruptcy of corporate body of which he/she was the manager and is not yet rehabilitated.

Article 15 – Duties incompatible with those of local leaders at Village, Cell and Sector levels

Due to their duties, the following persons shall be prohibited from being elected at Village, Cell or Sector level:

- 1° mediator;
- 2° Gacaca Court judge;
- 3° a soldier still in service;
- 4 a Police officer still in service;
- 5° a professional judge;
- 6 ° any person prevented by special laws from holding other offices with the function for which he/she wishes to be elected.

However, the cause for ineligibility shall be lifted where the person wishing to be elected resigns from the incompatible function he/she used to hold and where the resignation is approved by competent organs.

Chapter V Presentation of candidacy

Article 16 – Requirements for presentation of candidature for the post of a Sector and Cell Council member and Head of the Village

In order for a person to campaign for the post of Council member at the Sector, Cell and the Head of Village, he/she shall be required to fulfil the following conditions:

- 1° to be at least twenty-five (25) years of age;
- 2° to have completed at least six (6) years of primary school;
- 3° not to be restricted by any provision of this Order.

Article 17 – Requirements for other administrative posts at the Village level

With regard to other posts to be campaigned for, the candidate must:

- 1° be at least twenty-one (21) years of age;
- 2° have completed at least six (6) years of primary school;
- 3° not to be restricted by any provisions of this Order.

Chapter VI Procedures for campaign

Article 18 – Electoral campaign at Village and Cell level

At the Village and Cell level, the campaign for candidates shall be conducted on the day of election. It shall be conducted personally by the candidate or by the residents of such a Village or Cell in favour of the candidate.

The person who presents him/her the candidature or whose candidature is proposed by residents must be present.

Article 19 – Candidate who is not willing to be elected

The candidate who is campaigned for but is not willing to be elected shall explain motives to residents and in case they are rejected, he/ she shall remain as a candidate. However, if he/she insists on those motives he/she shall be removed from the list of candidates.

Article 20 – Critics against a candidate

Any person who has a criticism against a candidate, shall have the right for requesting the floor from the one conducting the campaigns. The criticised candidate shall have the right to defend him/herself.

However, criticism shall not exclude the candidate from the voting list.

Article 21 – Electoral campaign supervisor

Campaigning for candidates at the Village, Cell and Sector level shall be conducted by the representative of the National Electoral Commission.

Article 22 – Prohibitions to the candidate during electoral campaign

During campaigns, candidates shall refrain from using any defamatory speeches, fraud or discriminatory words.

Campaigning by using ethnicity, region, political party or religion is prohibited.

Article 23 – Penalty for a candidate who campaigns illegally

Any candidate who campaigns through procedures contrary to laws or this Order shall be removed from the list of candidates and shall be taken to competent judicial authorities for prosecution.

Chapter VII Voting

Article 24 – Voting time

Voting shall be conducted between seven (07:00) a.m. and five (05:00) p.m.

Article 25 – Modalities for electing members of the Executive Committee of the Village or Cell Council members

Election of members of the Executive Committee of the Village or Cell Council members shall be done by voters queuing behind the candidate of their choice. During the election, no candidate shall turn back until counting of votes is completed.

Article 26 – Winning candidate

The candidate who gets more votes than others shall be considered to have won the election on the post run for. Where there is only one candidate, he/she shall win on simple majority of votes.

Article 27 – Voting modalities in case of a tie

In case of a tie, elections shall be re-run once between candidates who had equal votes. If the tie persists, the candidates shall resort to drawing lots.

The election supervisor shall get ballot papers equivalent to candidates who had equal votes, and indicate “YEGO” on one of them, and “OYA” on the remaining ones.

Each person among the ones, who had equal votes, shall select one ballot paper. The one who picks “YEGO” shall be considered the winner.

Article 28 – Order of posts in the vote at the Village level

Leadership posts at the Village level shall be filled according to their order as listed in Article 5 of this Order.

A person who fails to be voted for first post may campaign for any following post.

Article 29 – Settlement of electoral disputes

All disputes relating to electoral activities shall be forwarded to elections' supervisor at the concerned level who shall immediately settle them before the public where the elections are conducted and the minutes related thereto shall be made.

In case the claim is not submitted to elections' supervisor immediately at the end the elections at that level, it shall not be admitted.

Article 30 – Minutes sanctioning an electoral act

Each electoral act shall be sanctioned by minutes. The structure of the minutes shall be determined by instructions from the National Electoral Commission.

Article 31 – Swearing-in by elected local government officials

After voting and before commencement of their duties, members of the Executive Committee at the Village, Cell and Sector level shall take oath before the public. The oath is provided for in the Constitution of the Republic of Rwanda of 04 June 2003 as amended to date.

Article 32 – Replacement of elected local government officials

In case any elected person has reason not to continue his/her duties he/she shall be replaced by organizing other elections in a period not exceeding ninety (90) days.

Article 33 – Term of office of elected local government officials

Members of the Executive Committee of the Village, members of Cell Council and members of the Sector Council shall be elected for a five (5) years' term.

However, the term of office of the members of Cell Council elected in 2009 ends at the same time with local government officials elected in 2006.

Article 34 – Penalties to offences related to disturbance of electoral process

Offences related to jeopardizing the smooth running of the elections shall be punished in accordance with the Law instituting the organization of elections of leaders at grass-root levels in Rwanda.

Chapter VIII

Miscellaneous and final provisions

Article 35 – Authorities responsible for the implementation of this Order

The Prime Minister and the Minister of Local Government are entrusted with the implementation of this Order.

Article 36 – Repealing provision

Presidential Order n° 01/01 of 28/01/2006 governing elections of leaders at the Village, Cell and Sector level and all prior provisions contrary to this Order are hereby repealed.

Article 37 – Commencement

This Order shall come into force on the date of its publication in the Official *Gazette* of the Republic of Rwanda.