

Law No. (4) of 2012
On the Election of the General National Congress

The National Transitional Council

Upon review of:

- The Victory Statement of the 17 February Revolution issued on 22 February 2011;
- The Constitutional Declaration issued on 3 August 2011;
- The internal regulation of the National Transitional Council (NTC);
- The Code of Civil and Commercial Procedure and the amendments thereof;
- Law No. (24) of 2010 on the Provisions of Libyan Nationality;
- Penal Code and Code of Criminal Procedure;
- Discussions of the NTC in the sessions thereof;

issued the following law:

Chapter (1): Definitions

Article (1)

In this law, the following terms and expressions shall have the meanings ascribed to them unless the context indicates otherwise:

1. General National Congress (GNC): the interim elected legislative authority for the State during the transitional phase.
2. HNEC: the High National Elections Commission established by law, which assumes the organization, management, and oversight of the electoral process.
3. Elections: the process of electing GNC members in accordance with the provisions of this law.
4. Electoral district: any geographical area to which a specified number of GNC seats is allocated by law.
5. Electoral register: the list of voters for which a detailed statement is issued by the HNEC, specifying the rules for establishing the register, voter registration procedures and personal identification documents necessary for the registration.
6. Voter: any citizen listed in the electoral register.
7. Political entity: a group of individuals, political assembly or political coalition that submit their list of candidates according to a political agreement.
8. Candidate: any citizen who runs for a seat in the GNC and is registered as a candidate with the HNEC.
9. Independent candidate: a candidate competing under the majority electoral system in a single-member district.
10. List candidate: a candidate whose nomination is put forward by a political entity for party-list proportional representation in multi-member districts.
11. Voting: the process in which voters cast their ballots.
12. Sub-committee: a committee established by the HNEC to manage the elections in every sub-district.
13. Polling centre: a place designated by the HNEC for casting votes.

14. Polling station: a place where ballot boxes, ballot cards and ballot box supervisors are located. A polling station is located inside a polling centre.
15. Poll clerk: an HNEC employee working at the polling station.
16. Ballot paper: uniform paper used to cast votes, issued by the HNEC.
17. Observers: individuals or national or international bodies approved by the HNEC to monitor the elections and submit progress reports thereon.
18. Political entity representatives: persons assigned by political entities and approved by the HNEC to monitor the electoral process in accordance with the provisions of the law.
19. Candidate representatives: persons proposed by the single candidate and approved by the HNEC to monitor the electoral process in accordance with the provisions of the law.
20. Proportional representation: electoral system adopted in multi-member districts, in which the electoral list wins a share of seats in proportion to its share of votes.
21. Majority system: electoral system in which the winner is the candidate with the largest number of votes in the electoral district.
22. Single non-transferable vote (SNTV): a type of majority system where each voter casts one vote for one candidate in each district, and winners are the candidates with the most votes.
23. First-past-the-post (FPTP): electoral system used in single-member districts where the election is won by the candidate receiving the largest number of votes.
24. Closed list: party-list proportional representation based on fixed lists of candidates where voters can only express their choice for the preferred list with no influence on the order of candidates on any such lists.

Chapter (2): Preliminary Provisions

Article (2)

The General National Congress (GNC) shall be composed of two hundred (200) members elected in accordance with the provisions of this law. All Libyan men and women who meet the conditions stipulated by the law shall be entitled to stand for election to the GNC.

Article (3)

Elections shall be free, direct, secret, transparent and public in conformity with adopted international standards.

Article (4)

For the purpose of implementation of this law, the country shall be divided into electoral districts based on criteria of population and geography. A special law shall be issued in this respect within two weeks from the date of issuance of this law. The HNEC shall organize, manage and fully monitor the electoral process.

Chapter (3): Electoral System

Article (5)

Parallel voting, which includes both majority and proportional representation systems, shall be adopted for the election of the two hundred (200) members of the GNC as prescribed by Articles (6) and (7) hereafter.

Article (6)

One hundred and twenty members (120) of the GNC shall be elected by the majority system, provided that the first-past-the-post system is used for single-member districts and the seat is won by the candidate receiving the largest number of votes. For districts with more than one seat, single non-transferable vote (SNTV) shall be used. Any tie between two or more candidates shall be broken by a draw.

Article (7)

Eighty (80) members of the GNC shall be elected by proportional representation in closed electoral lists submitted by political entities in multi-member districts.

Seats shall be allocated as described by the following steps:

1. The electoral average for each district shall be calculated by dividing the total number of votes cast for the district by the total number of seats allocated to such district.
2. The total number of votes for the political entity of such district shall be divided by the electoral average, and seats shall be allocated to political entities according to the integer nearest to the quotient.
3. Any remaining seats in the district shall be allocated on the basis of the largest remainder method.
4. For winning lists, seats shall be arranged in descending order.
5. After the allocation of seats, such seats shall be deemed to belong to political parties and independent lists, and not to candidates.

Chapter (4): Right to Vote

Article (8)

The HNEC shall organize the electoral register inside and outside the country, and shall determine the terms and conditions for listing entries and reviewing the data thereof.

Article (9)

Voters who exercise the right to vote shall meet the following requirements:

1. Must be a Libyan citizen possessing legal capacity
2. Must be over eighteen (18) years of age
3. Must be registered in the electoral register
4. Must not be convicted of any felony or misdemeanour of moral turpitude unless the voter has been rehabilitated

Military personnel shall not be entitled to vote.

Chapter (5): Candidature Terms and Procedures

Article (10)

In addition to voters' requirements, any GNC electoral candidate shall meet the following conditions:

1. Must be a Libyan citizen in accordance with the provisions of Law No. (24) of 2010 on the Provisions of Libyan Nationality.
2. Must have completed twenty-one years of age.

3. Must be literate.
4. Must not be a member of the interim NTC or the transitional government, or a former member of the executive office or a local council director.
5. Must not be a member of the HNEC, sub-committees thereof, or polling centre committees.
6. Must meet the rules and standards of national integrity adopted by the interim NTC by Decision No. (192) of 2011. Candidates shall be approved by the High Commission for the Application of Standards of Integrity and Patriotism.

Article (11)

Candidature in more than one district or one list shall be prohibited. List and independent candidature may not be combined, otherwise the candidature shall be considered null and void.

Article (12)

The HNEC shall set the candidature rules, mechanisms, application forms and dates of submission thereof. Candidate applications shall be submitted along with the documents specified by the executive regulation, with an acknowledgement from each candidate requesting to be included on the relevant list.

Article (13)

Upon submission of the candidature application, each candidate list shall choose a symbol to be approved by the HNEC and delivered according to the submission of candidature applications. Applications shall be submitted in return for a receipt.

Article (14)

Independent candidates may submit candidature applications in all majority system districts. Political entities shall submit the names of their list-system candidates in multi-member districts under the proportional representation system.

Article (15)

Candidates shall be arranged on the basis of alternation between male and female candidates, vertically and horizontally. Party lists that do not respect this principle shall not be accepted. The HNEC shall issue samples showing the format of such lists and the method of arranging candidates therein.

Article (16)

Candidate lists shall be presented by political parties to the HNEC on the dates specified by the HNEC, provided that such lists include at least half the number of the seats in the electoral district and do not exceed the seats allocated to that district. The HNEC shall verify the eligibility of all list candidates and may request clarifications and documents from the candidates or the political entities when necessary. Independent candidate applications shall be submitted in accordance with the forms and dates determined by the HNEC.

Article (17)

If the HNEC determines that any of the candidates is not eligible, it must notify the candidate or political party thereof, and may remove the concerned candidate from the list. In all cases, candidates must be replaced by others of the same gender.

Chapter (6): Electoral Campaigning

Article (18)

The HNEC shall announce the period of electoral campaigns for candidates or political entities through available official media outlets. It shall determine the rules and locations of posters throughout this period in collaboration with local authorities across the country.

Any candidate or political entity included on the final list shall have the right to express their opinion and present their electoral programme in accordance with the provisions of this law, the Islamic Sharia and public order.

During the electoral campaign, no person shall be allowed to use any expressions that incite to crime or public disorder or call for hatred or discrimination.

In all cases, no activity relating to the electoral campaign may be conducted in the twenty-four hours preceding election day.

Article (19)

The rules and specifications of advertising material shall be determined by the HNEC. The use of public media for electoral campaigns shall be based on the principle of equal opportunity for all list candidates and political entities. The HNEC shall define the rules and procedures for electoral campaigning to ensure equal time slots for each independent candidate or political entity and determine the method of time distribution in media outlets.

Any candidate or political entity may publish electoral campaign material in the form of brochures, posters or newspapers, provided that such publications carry information regarding the name of the candidate or political entity and the name and address of the publishing entity.

Electronic media outlets may also be used for electoral campaign purposes, in accordance with the provisions of this law.

Article (20)

Electoral campaigns shall respect the following basic principles:

1. Impartiality of official media outlets and administration.
2. Transparency in terms of funding resources and means of disbursement of budgeted funds.
3. Equality between candidates and political entities.
4. Respect for the dignity and physical inviolability of candidates.
5. Respect for national unity and sovereignty.
6. Respect for public order and morals.

Article (21)

Candidates and political entities shall be prohibited from:

1. Organising electoral campaigns in places of worship, universities, academic institutions, public and private schools, buildings occupied by ministries and public departments and institutions, or buildings controlled by the State.
2. Taking any action or using any data that cause obstruction to the electoral campaign of another candidate or political entity.

3. Offering material or in-kind gifts or other benefits in order to buy votes or influence voters.
4. Financing the electoral campaign using funds or aids from a foreign country or entity, or conducting the campaign through foreign media
5. Obtaining any governmental support or using government materials.
6. Using loudspeakers outside meeting halls or mounted on vehicles.
7. Resorting to any provocation or defamation against other candidates or political entities or causing tribal tensions.

It is also prohibited for government employees to conduct electoral campaigning for any candidate or political entity in their workplace.

Article (22)

The HNEC shall set the spending limit for electoral campaign activities for each candidate or political entity, provided that such candidate or political entity identifies the sources of funding for the electoral campaign.

Article (23)

The HNEC shall ensure respect of the provisions of the three previous articles. The HNEC may decide to cancel the candidature or election results of an independent candidate or political entity if non-adherence to such provisions is proven, in which case the votes shall be recounted.

Article (24)

Each candidate or front runner of a political party list shall commit to opening a current bank account to deposit any cash donations or campaign allocations therein, and shall immediately inform the HNEC of any cash deposits he makes and the source thereof as well as the expenditure made through this account. Independent candidates and political entities shall commit not to spend on election campaigning from outside the said account.

Article (25)

Within fifteen days from the announcement of the final election results, each candidate or political entity shall undertake to submit a detailed statement to the HNEC that includes the total revenues acquired, the sources and nature thereof, and any spending made for the electoral campaign.

Chapter (7): Voting Procedures

Article (26)

The HNEC shall determine the voting, sorting and counting procedures at polling stations and centres.

Article (27)

Voting shall be a one-day process starting at 08:00 a.m. and ending at 08:00 p.m. when the director of the polling centre announces the conclusion of the voting process.

Voting shall continue after 08:00 p.m. if voters who are still present at the polling location have not cast their votes yet, in which case voting shall only be limited to such voters. After announcement of the conclusion of voting, the sorting and counting process shall

immediately begin at the polling station in the presence of the director and members of the polling station as well as the candidates' representatives and observers.

Article (28)

Voters shall cast their ballots in absolute secrecy. For majority systems, voters shall cast their ballots in the designated ballot box, and in the other designated box for proportional representation. Voters with special needs who are unable to mark their vote on the ballot card or do so verbally or those who are illiterate may be accompanied by an escort who shall assist them with the consent of the polling centre director.

In any case, proxy and correspondence voting shall not be allowed. The cases and conditions where a voter may delegate another person to vote on his behalf shall be determined by the executive regulation.

In all cases, proxy may only be granted to one agent, and such agent may only possess one proxy.

Article (29)

The HNEC shall set the election dates and special procedures for Libyans living abroad in the countries where the HNEC deems it possible, at the logistical and security levels, to conduct such elections.

Article (30)

The HNEC is entitled to cancel the election results of a polling station if fraud, manipulation or any violation is proven to have occurred within the limits set by the HNEC.

Chapter (8): Appeals

Article (31)

All concerned parties are entitled to appeal any procedure at any stage of the election process, within forty-eight (48) hours from the date of occurrence of the issue subject of the appeal. The appellant shall be exempted from legal fees.

Article (32)

The judge of provisional matters at the summary court where the polling station is located shall be responsible for hearing all appeals related to the entire electoral process. The ruling thereof may be appealed before the President of the Court of First Instance within five days from the date of issuance of such ruling. The ruling rendered on the appeal shall be final and binding on the HNEC.

In all cases, the Code of Civil and Commercial Procedure shall apply, unless stipulated otherwise by a special text in this law.

Article (33)

Within ten (10) days from the announcement of the preliminary results, the HNEC shall prepare and announce the final election results and publish the same in one of the official media outlets.

Chapter (9): Electoral Crimes

Article (34)

Any person who commits any of the following acts shall be punished by imprisonment for a period of no less than three months:

1. Votes by impersonation.
2. Votes more than once.
3. Votes in the elections while aware of his ineligibility.

Article (35)

Anyone who commits any of the following acts shall be punished by imprisonment for a period of no less than one year and a fine not exceeding five thousand (5000) dinars:

1. Uses coercion or threats to influence or prevent voters from casting their votes.
2. Offers or promises or commits to offer another person a benefit for himself or others to prevent such person from voting or to convince him to vote in a certain manner.
3. Accepts or asks for a benefit for oneself or others in exchange for votes.
4. Publishes or spreads false information or news about the elections or the behaviour or ethics of a candidate or the electoral list in order to influence the election results.
5. Prints in any way or circulates ballot cards or papers used in the electoral process without the HNEC's authorisation.
6. Cancels, hides or alters the electoral register, ballot papers, or the election registers or software.
7. Commits fraud or deception in sorting votes or counting ballot papers.
8. Violates the secrecy of voting or obstructs any voting act.
9. Conceals, steals, or destroys any document related to the electoral process in order to influence the results.

The candidate benefitting from the crimes mentioned in the present article shall incur the same punishment as the original perpetrator if such crimes are proved to have been committed with the candidate's consent.

Article (36)

Whoever insults the HNEC president or members, or the chairman or members of the electoral committees or any electoral process official during the exercise of his duties shall be punished by imprisonment for a period of no less than six months.

The same punishment shall be incurred for carrying concealed or visible weapons at the polling centre or in the offices attached to the HNEC, committees, polling centres or the surroundings thereof.

Article (37)

Use of force or threat against any election official shall be punishable by imprisonment and a fine not exceeding ten thousand (10,000) dinars.

The same punishment shall apply to anyone who causes damage to buildings, means of transportation, or equipment to be used in the elections with the intention of obstructing the electoral process. The cost of such damages shall be borne by the perpetrator.

Article (38)

Any public servant who uses his position to influence the elections results shall be punishable by imprisonment and dismissal.

Article (39)

Any candidate who receives material assistance from a foreign entity, whether directly or indirectly, shall be punished by imprisonment and a fine not exceeding double the funds received and by prohibition from running for elections for a maximum period of ten years from the date of the final verdict.

Any candidate who uses public means or materials for electoral campaigning shall be punished by a fine that does not exceed ten thousand (10,000) dinars and by prohibition from running for elections for a maximum period of five (5) years. The same punishment, increased by one third at most, shall apply to any public servant who commits or allows a candidate to commit such an act.

Article (40)

Whoever violates the instructions of election officials shall be punished by imprisonment for a maximum period of one month or a fine that does not exceed three hundred (300) dinars.

Article (41)

Anyone who commits the following acts shall be punished by imprisonment or a fine of five thousand (5,000) dinars at most and by prohibition from candidature for five years:

1. Uses statements that instigate crime, public disorder, hatred, or discrimination, or express regional bigotry or tribalism, or that violate public morals or the dignity of some candidates or voters.
2. Exceeds the election campaign spending limit set by the HNEC.
3. Commits any act that obstructs the election campaign of another candidate.
4. Runs his campaign through foreign media outlets, excluding personal websites.
5. Carries out an activity considered to be election campaigning on election day.
6. Uses places of worship, public premises or educational and teaching institutions for the electoral campaign.

Article (42)

Punishments stipulated by this law do not prejudice any other harsher punishment provided for the in penal code or any other law.

Article (43)

Without prejudice to any other description, penal actions for electoral crimes shall expire two months from the date of announcement of the election results or the date of the last legal action taken in this respect.

Chapter (10): Final Provisions

Article (44)

Civil society organizations, specialised regional and international organizations approved by the HNEC, as well as the representatives of candidates shall be in charge of monitoring the entire electoral process. The HNEC shall commit to facilitating their tasks so as to ensure maximum transparency for free and fair elections.

Article (45)

The president and members of the HNEC, chairmen and members of sub-committees and directors and members of the polling centres shall assume the powers of judicial officers with regard to crimes stated in this law.

Article (46)

GNC members shall refrain from practicing any commercial or professional job or activity or assuming any position during their membership.

Article (47)

The HNEC shall issue the executive regulation of this law, setting forth all the detailed issues and procedures necessary for the implementation of this law.

Article (48)

Government institutions shall provide all the assistance and support required for conducting the electoral process.

Article (49)

The State shall provide security and order and guarantee the voters' freedom to vote during the electoral process.

Article (50)

This law shall enter into force as of the date of issuance thereof, and any contrary provision shall be repealed. It shall be implemented by all concerned parties, the transitional government and local councils shall be notified, and it shall be published in the media.

Interim National Transitional Council -- Libya

Tripoli

Saturday 28/01/2012