

## CHAPTER 6

### ELECTION PETITION AND JUDICIAL REVIEW

#### PART I : GROUNDS FOR LODGING AN ELECTION PETITION

6.1 The result of a CE election may be questioned only by an election petition on the ground that

- (a) the person declared as elected by the RO was not duly elected because:
  - (i) he was not eligible to be nominated as a candidate;
  - (ii) he was disqualified from being nominated as a candidate;
  - (iii) he should have been disqualified from being elected but he was not so disqualified;
  - (iv) he engaged in corrupt conduct or illegal conduct at the election;
  - (v) another person engaged in corrupt conduct or illegal conduct at the election in respect of him in connection with his candidature;
  - (vi) corrupt conduct or illegal conduct was generally prevalent at the election; or

- (vii) material irregularity occurred in relation to the election, the poll at the election or the counting of votes in respect of the election; or
- (b) the only validly nominated candidate was not returned at the election because material irregularity occurred in relation to the election, the poll at the election or the counting of votes in respect of the election.

[S 32 of the CEEO] *[Amended in January 2007]*

## **PART II : WHO COULD, AND WHEN TO, LODGE ELECTION PETITIONS AND APPEALS**

6.2 An election petition:

- (a) may be lodged by a candidate; or
- (b) may be lodged by:
  - (i) a person who was determined to be not validly nominated by the RO;
  - (ii) a person whose nomination was not accepted by the RO;  
or
  - (iii) a person who was disqualified from being elected after the close of nomination under section 20 of the CEEO,

provided that the election petition is supported by at least 10 electors.

[S 33 of the CEEO] *[Amended in January 2007]*

6.3 An election petition must be lodged with the Court of First Instance within 7 working days from the declaration of the election result. Any application for leave to appeal against the decision of the Court of First Instance, if any, must be lodged with the Court of Final Appeal within 7 working days after the relevant judgment of the Court of First Instance is handed down. At the end of the trial of an election petition, the Court shall announce its determination by means of a written judgment [ss 34 and 37 of the CEEO].

### **PART III : JUDICIAL REVIEW**

6.4 An application for judicial review which puts in issue whether a candidate is duly determined to be not returned at an election and whether the CE-elect can lawfully assume the office of the CE must be made within 30 days after the publication of election result. This deadline may be extended only if:

- (a) the applicant has used his best endeavours to make the application or commence the proceedings within the 30 days; and
- (b) the Court considers that it would be in the interest of justice to do so.

[S 39 of the CEEO] *[Amended in January 2007]*