

AFGHANISTAN – LEGAL ANNEX

Constitution 2004 **Electoral Law**

Note: The legislature is based on a bicameral structure composed of the Wolesi Jirga (the Parliament) with 249 members and the Meshreno Jirga (the Senate) with 102 members. The Wolesi Jirga receives law proposals from the Executive organs. In order to be approved, a law has to go through both chambers. The Wolesi Jirga is elected every 5 years through the Single Non-Transferable Voting (SNTV) system. The President designates one third of the Meshreno Jirga while the other two thirds are designated by the Provincial Councils. The Provincial Councils are local assemblies elected through the SNTV system.

Constitution 2004

Article Seventy-Three

The Ministers shall be appointed from amongst members of the National Assembly or outside.

If a member of the National Assembly is appointed as Minister, that individual loses membership in the Assembly and, instead, another individual shall be appointed in accordance with the provisions of the law.

Article Eighty-Two

The National Assembly consists of two houses: House of People and House of Elders. No individual shall be a member of both houses at the same time.

Article One Hundred Ten

The Loya Jirga is the highest manifestation of the will of the people of Afghanistan.

The Loya Jirga consists of:

1. Members of the National Assembly;
2. Presidents of the provincial as well as district assemblies.

Ministers, Chief Justice and members of the Supreme Court as well as the attorney general shall participate in the Loya Jirga sessions without voting rights.

Article One Hundred Twenty-Three

With respect to the provisions of this Constitution, statutes related to the formation, authority, as well as duties of courts and matters related to judges, shall be regulated by law.

Article One Hundred Twenty-Four

Laws related to civil servants as well as other administrative staff of the state shall also apply to the officials and the administrative personnel of the judiciary; but the Supreme Court in accordance with the law shall regulate their appointment, dismissal, promotion, retirement, rewards and punishments.

Article One Hundred Fifty-One

The President, Vice-Presidents, Ministers, Chief Justice and members of the Supreme Court, the Attorney General, Presidents of the Central Bank and National Security, Governors and Mayors, during their term of offices, shall not engage in any profitable business with the state.

Article One Hundred Fifty-Two

The President, Vice-Presidents, Ministers, Chief Justice and members of the Supreme Court, Presidents and members of the National Assembly, the Attorney General and judges shall not engage in other jobs during their term of office.

Article One Hundred Fifty-Four

The wealth of the President, Vice-Presidents, Ministers, members of the Supreme Court as well as the Attorney General, shall be registered, reviewed and published prior to and after their term of office by an organ established by law.

Election Law

Chapter IV Electors and Candidates

Qualification for Electors and Candidates:

Article 13

1- Electors qualification

Every Afghan who meets the following conditions can vote in presidential, parliamentary, and provincial and district assembly elections:

1. Has completed eighteen years of age at the time of the election;
2. Has Afghan citizenship at the time of registration;
3. Is not deprived of any political and civil rights by an authoritative court
4. Is registered in the voters registration list.

2- Candidates qualifications

1. Each qualified Afghan can candidate himself or herself for the presidential post according to Article 62 of the Constitution, and for parliament according to Article 85 of the Constitution, and for provincial and district councils' elections.

2. Chief Justice, members of the Supreme Court and Attorney General cannot candidate themselves for presidential, parliamentary, provincial and district council elections, while in duty.

3. Officials of armed forces (Ministries of National Defense and Interior Affairs and General Department of National Security) while in duty, cannot candidate themselves for presidential, parliamentary, provincial and district council elections, unless they have resigned from their institutions (75) days before the holding of elections.

4. Judges, attorneys and officials who want to candidate themselves for the president's post or for parliamentary, provincial and district councils, shall resign (75) days before the holding of elections.

5. If the candidates in clause (4) of this sub-article are not elected, the consequences of resignation will not apply to them, if they return up to 20 days after the elections; they can continue to work in their previous jobs. However, the electoral time periods, the period between the end of the elections and return within 20 days will be counted as their legal leaves.

Location of Voting:

Article 14

(1) Electors shall cast their votes in the place where their names are registered in the voter registration list.

(2) The Independent Electoral Commission may exceptionally provide facilities for nomadic population, refugees and internally displaced persons, armed forces, IEC officials on duty and civil servants.

Penal Code of 1976

Article 259: If a member of the National Assembly, municipality and provincial or local councils requests something for himself or someone else or accepts a promise to this end or receives a gift and for this reason exerts his influence to obtain from the competent authorities of public services orders, decisions, instructions, premises, releases, agreements, imports, appointments, contracts and any other service and

privileges, shall be considered as a bribe-taker and shall be sentenced in accordance with the provision of the Law.