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PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

PARLIAMENTARY ELECTIONS
ACT, No. 1 OF 1981

[Certified on 22nd January, 1981]

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Parliamentary Elections Act, No. 1 of 1981

[Certified on 22nd January, 1981]

L.D.—O. 54/80.

AN ACT TO MAKE PROVISION FOR THE PROCEDURE FOR THE ELECTION OF MEMBERS OF PARLIAMENT, THE CREATION OF OFFENCES RELATING TO SUCH ELECTIONS, THE GROUNDS FOR AVOIDING SUCH ELECTIONS, AND WHERE AN ELECTION HAS BEEN HELD VOID THE MANNER OF HOLDING FRESH ELECTIONS, THE MANNER OF DETERMINATION OF DISPUTED ELECTIONS, AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :—

1. This Act may be cited as the Parliamentary Elections Act, No. 1 of 1981, and shall come into operation on such date as may be appointed by the President by Order published in the *Gazette*.

Short title and date of operation.

PART I

PRELIMINARY

2. Each electoral district shall return such number of Members as the Commissioner of Elections (hereinafter referred to as the "Commissioner") has certified in the Order for the time being in force under Article 98 (8) of the Constitution.

Number of Members to be returned for each electoral district.

3. Each polling division and each polling district for the time being in force under the Registration of Electors Act, No. 44 of 1980, shall be deemed to be a polling division and a polling district, respectively, for the purposes of this Act.

Polling divisions, and polling districts.

4. The register of electors to be used in any electoral district for the purposes of this Act shall be the register of electors in operation for that electoral district on the date of the publication of the Proclamation or Order requiring the holding of an election, notwithstanding that a new register may have come into operation after the publication of such Proclamation or Order.

Registers of electors.

5. A register of electors referred to in section 4 shall be conclusive evidence for the purpose of determining whether a person is or is not entitled to vote at an election under this Act and the right of voting of any person whose name is for the time being contained in such register shall not be

Register of electors to be conclusive evidence of right to vote.

prejudiced by any appeal pending under any written law for the time being in force in respect of the entry of such person's name in the register, and any vote given by any such person during the pendency of such appeal shall be as good as though no such appeal were pending and shall not be affected by the subsequent decision of the appeal :

Provided that if any person, who by reason of his conviction of a corrupt practice or an illegal practice or by reason of any of the provisions of the Constitution is incapable of voting at an election under this Act, votes at such election, he shall, on conviction before a Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a period not exceeding six months :

Provided further that nothing in this section shall affect the liability of any person to any penalty for an infringement of the provisions relating to voting in person under section 26 or to plural voting under section 42.

**Returning
officers.**

6. (1) The Commissioner, shall, from time to time, by notice in the *Gazette*, appoint by name or by office a person to be the returning officer of each electoral district, and may appoint by name or by office one or more persons to assist the returning officer in the performance of his duties. A person so appointed to assist any returning officer shall have all the powers and may perform all the duties of the officer whom he is appointed to assist, and any reference in this Act to a returning officer shall, unless the context otherwise requires, be deemed to include a reference to an assistant returning officer. An appointment made by the Commissioner under this subsection may be revoked by him at any time.

(2) If any returning officer is by reason of illness or other cause prevented or disabled from performing any of his duties under this Act and there is no time for another person to be appointed by the Commissioner, the returning officer may appoint by name or by office, a deputy to act for him. Every such appointment shall as soon as possible be reported to the Commissioner and may be revoked by him, but without prejudice to the validity of anything already done by such deputy.

**Recognized
political
parties for
the purpose
of elections.**

7. (1) A political party shall, under and in accordance with the provisions of this Act, be entitled to be treated as a recognized political party for the purpose of elections.

(2) Subject to the other provisions of this Act, a political party entitled to be treated as a recognized political party under the Ceylon (Parliamentary Elections) Order in Council, 1946, on the day immediately preceding the date of coming into operation of this Act, shall be entitled to be treated as a recognized political party for the purpose of elections under this Act.

(3) Where a political party is entitled, by virtue of the operation of the provisions of subsection (2), to be treated as a recognized political party for the purpose of elections, the approved symbol allotted to such party under the said Order in Council shall be deemed to be the approved symbol allotted to that party for such purposes until the date on which such party ceases to be so entitled as hereinafter provided under this Act, or the date on which such party is allotted a new approved symbol by the Commissioner by order as hereinafter provided under this Act, whichever date is earlier.

(4) (a) The Commissioner shall, before the thirty-first day of January of each year, publish a notice calling upon the secretary of any political party, other than a party which is already entitled to be treated as a recognized political party for the purpose of elections, to make on behalf of that party a written application to the Commissioner, within such period as may be specified in such notice, that such party be treated as a recognized political party for the purpose of elections. The application shall also specify which one of the approved symbols such party desires to be allotted to such party if so treated.

(b) The secretary of a political party shall, at the time an application is made under paragraph (a), furnish to the Commissioner a copy of the constitution of such party and a list of office-bearers of such party.

(5) Upon a receipt of an application duly made under subsection (4) on behalf of any political party, the Commissioner shall, after such inquiry as he may deem fit,—

(a) if in his opinion such party is a political party and is organized to contest any election under this Act, make order—

(i) that such party shall be entitled to be treated as a recognized political party for the purpose of elections, subject however, to the provisions of this Act; and

(ii) allotting an approved symbol to such party, being the approved symbol specified in the application or any other approved symbol determined by him in his absolute discretion, but not being the approved symbol of any other political party which is entitled to be so treated ; or

(b) if in his opinion, such party is not a political party and is not organized to contest any election under this Act, make order disallowing the application.

(6) A political party shall not be entitled to be treated as a recognized political party under paragraph (a) of subsection (5) if its name is identical with the name of any party which is already entitled to be treated as a recognized political party, or in the opinion of the Commissioner so nearly resembles such name as to be calculated to mislead, confuse or deceive.

(7) The order of the Commissioner on any application made under subsection (4) shall be final and shall not be called in question in any court.

(8) A political party which is entitled to be treated as a recognized political party for the purpose of elections under this section shall hereinafter be referred to as a " recognized political party."

Recognized political parties to comply with certain requirements.

8. (1) It shall be the duty of the secretary of every recognized political party to submit to the Commissioner a copy of the constitution of such party together with a list of the office-bearers of such party—

(a) in the case of a recognized political party referred to in subsection (2) of section 7, within three months from the date of coming into operation of this Act ; and

(b) in the case of any other recognized political party, within three months from the date on which such party is entitled to be treated as a recognized political party under subsection (5) (a) of section 7.

(2) Where a recognized political party amends its constitution or changes its office-bearers, the secretary of such party shall, before the expiry of a period of thirty days from the date of such amendment or change, inform the Commissioner in writing of such amendment or change.

9. (1) Subject to subsection (2), where any recognized political party fails to comply with the provisions of section 8, such party shall cease to be a recognized political party.

Cessation of recognition a political party.

(2) The Commissioner may, upon application made in writing in that behalf by the secretary of a recognized political party, in his absolute discretion, extend the periods referred to in section 8 by a further period not exceeding sixty days.

PART II

NOMINATIONS

10. (1) The President shall, in every Proclamation dissolving Parliament or in any Order requiring the holding of an election, specify—

Nomination period and date of poll.

(a) the period (hereinafter referred to as the "nomination period") during which nomination papers shall be received by the returning officer during normal office hours at his office ; and

(b) the date on which the poll shall be taken.

(2) (a) The nomination period shall commence on the fourteenth day after the date of publication in the *Gazette* of the Proclamation or Order referred to in subsection (1) and expire at twelve noon on the twenty-first day after the date of publication of such Proclamation or Order.

(b) The date fixed under paragraph (b) of subsection (1) shall be—

(i) a day not less than three weeks and not more than eight weeks from the closing day of the nomination period ;

(ii) any day other than a Full Moon Poya day or any public holiday specified in the First Schedule to the Holidays Act, No. 29 of 1971 ; and if, after the publication of the Proclamation or Order referred to in subsection (1), the day specified in such Proclamation or Order is declared to be a public holiday, such declaration shall in no way affect the validity of anything done on such day for the purpose of taking the poll.

Notice of intention to contest elections.

11. After the date of publication in the *Gazette* of a Proclamation or Order requiring the holding of an election, the secretary of a recognized political party shall, if such party intends contesting such election, give the Commissioner written notice of such intention. Such notice shall be so given as to reach the Commissioner within seven days from that date.

Change of approved symbols of recognized political parties.

12. (1) Within seven days from the date of the publication in the *Gazette* of a Proclamation or Order requiring the holding of an election, the secretary of any recognized political party may make a written application in that behalf to the Commissioner that any such new approved symbol as shall be specified in such application, not being the approved symbol of any other such party, shall be allotted to such party in lieu of the existing approved symbol of such party.

(2) Upon the receipt of an application duly made under subsection (1) by the secretary of any recognized political party, the Commissioner shall make an order allotting to such party, in lieu of its existing approved symbol, the new approved symbol specified in such application or some other approved symbol determined by him in his absolute discretion, not being the approved symbol of any other recognized political party.

(3) An order made by the Commissioner under subsection (2) shall be final and shall not be called in question in any court.

Power of Commissioner to direct which one of the rival sections of a recognized political party is that party.

13. (1) Where the Commissioner has reasonable cause to believe that difficulties may arise at an election which is due to be held in any electoral district by reason of the fact that there are rival sections of a recognized political party all of whom claim to be that party, the Commissioner may, in order to remove such difficulties, issue in his absolute discretion a direction to the returning officer for that district that in the case of such election such recognized political party is either any one such section or none of such sections. It shall be the duty of such returning officer or any other officer, at such election, to act in accordance with that direction.

(2) No suit or other proceeding shall lie against—

- (a) the Commissioner by reason of his having issued a direction under subsection (1); or
- (b) a returning officer or any other officer for any act or thing done or omitted to be done in accordance with that direction.

(3) A direction issued to a returning officer under subsection (1) shall be final and shall not be called in question in any court.

(4) The preceding provisions of this section and any direction issued thereunder shall have effect notwithstanding anything to the contrary in any other provisions of this Act.

14. Any person who is qualified to be elected as a Member of Parliament in terms of Article 90 of the Constitution may be nominated as a candidate for election, as hereinafter provided.

Who may contest election.

15. (1) Any recognized political party or any group of persons contesting as independent candidates (hereinafter referred to as an "independent group") may, for the purpose of an election of Members of Parliament for any electoral district, submit one nomination paper setting out the names, in order of priority, of such number of candidates as is equivalent to the number of Members to be elected for that electoral district, increased by one-third. Where one-third of the number of Members to be elected for any electoral district is an integer and fraction, the integer immediately higher to that integer and fraction shall be deemed to be the one-third for the purposes of this subsection. Such nomination paper shall be substantially in form A set out in the First Schedule to this Act.

Nomination papers.

(2) The written consent of each candidate to be nominated by a recognized political party or an independent group shall be endorsed on the nomination paper.

(3) Each nomination paper shall be signed by the secretary of a recognized political party and in the case of an independent group by the candidate whose name appears first in the nomination paper (hereinafter referred to as the "group leader") and shall be attested by a Justice of the Peace or by a notary public.

(4) Such nomination paper shall be delivered to the returning officer at his office during normal office hours within the nomination period by the secretary of a recognized political party or by the candidate whose name appears first in such nomination paper (hereinafter referred to as the "authorized agent") in the case of a recognized political party, or by the group leader in the case of an independent group.

(5) Where, due to any reason whatsoever, the secretary of a recognized political party or the authorized agent or the group leader is unable to deliver a nomination paper,

the candidate whose name appears second on such nomination paper shall deliver such nomination paper to the returning officer as required by subsection (4).

(6) The returning officer shall as soon as practicable make a copy of each nomination paper received by him and display such copy on his notice board.

(7) The returning officer shall, on application made on any date after the publication of the Proclamation or Order requiring the holding of an election and before the expiry of the nomination period, supply free of charge a nomination paper to any recognized political party or any independent group ; but nothing in this Act shall be deemed to preclude the use of any form of nomination paper not supplied by the returning officer, so long as such form does not differ substantially from form A set out in the First Schedule to this Act.

(8) (a) Where it appears to the secretary of a recognized political party or an authorized agent or a group leader that there is any omission or clerical error in a nomination paper submitted by such party or independent group he may make an application to the returning officer before the expiry of the nomination period to correct such omission or error on such paper.

(b) Where the returning officer is satisfied that such omission or error is due to inadvertence, the returning officer may allow such secretary or authorized agent or group leader to correct such omission or error in his presence.

(c) For the purposes of this subsection, the omission of the name of a candidate, or the failure of a candidate to endorse his consent on a nomination paper, or the failure of the secretary of a recognized political party or a group leader to sign a nomination paper, or the failure of a Justice of the Peace or Notary Public to attest such signature shall be deemed not to be an omission or a clerical error due to inadvertence.

Deposits.

16. (1) A group leader or any person authorized by such group leader, shall, between the date of publication of the Proclamation or Order requiring the holding of an election and the submission of the nomination paper of that group, deposit in legal tender with the returning officer a sum calculated at two thousand rupees in respect of each candidate nominated by such group.

(2) No deposit made by a group leader or a person authorized by such group leader under subsection (1) shall be accepted by the returning officer unless it is made within the time prescribed in that subsection.

(3) Where a deposit under this section is accepted by the returning officer, such officer shall forthwith issue to the person by whom the deposit was made, a receipt in writing signed by such officer acknowledging his acceptance of such deposit, and the receipt shall state—

- (a) the name of the group leader by whom the deposit was made or of the authorized person by whom and on whose behalf the deposit was made ;
- (b) the number of candidates ;
- (c) the amount of the deposit ; and
- (d) the time and date of the deposit.

17. (1) Every deposit made with a returning officer under section 16 shall forthwith be credited by such officer to a deposit account and shall be disposed of according to the provisions of subsections (2), (3) and (4).

Disposal of deposits.

(2) Where a nomination paper of an independent group is rejected under the provisions of section 19, the deposit shall be returned to the person who made the deposit.

(3) Where the number of votes polled by any independent group does not exceed one-eighth of the total number of votes polled at the election in any electoral district, the deposit made in respect of the candidates of such group shall be declared forfeit and shall be transferred by the returning officer from the deposit account to the Consolidated Fund, and in every other case the deposit shall be returned to the person who made the deposit, as soon as may be after the result of the election is declared.

(4) For the purposes of this section, the number of votes polled at an election in any electoral district shall be deemed to be the number of votes actually counted and shall not include any votes rejected as void.

Consent to nomination an offence under certain circumstances.

18. Where any person who is not qualified to be elected as a Member of Parliament—

- (a) by reason of his conviction for a corrupt or illegal practice or by reason of the report of an Election Judge under the Ceylon (Parliamentary Elections) Order in Council, 1946, or under this Act, or by reason of the report of the Supreme Court under the Presidential Elections Act, 1981 ; or
- (b) by reason of the imposition of civic disability on him in terms of Article 81 (1) of the Constitution,

signifies his consent to be nominated as a candidate at an election under this Act, he shall be guilty of an offence, and shall, on conviction before a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding three months or to both such fine and imprisonment.

Rejection of nomination papers.

19. (1) The returning officer shall, immediately after the expiry of the nomination period, examine the nomination papers received by him and reject any nomination paper—

- (a) that has not been delivered in accordance with the provisions of subsection (4) or subsection (5) of section 15 ; or
- (b) that does not contain the total number of candidates required to be nominated in terms of Article 99 (2) of the Constitution ; or
- (c) in respect of which the deposit required under section 16 has not been made ; or
- (d) where the consent of one or more candidates nominated has not been endorsed on the nomination paper ; or
- (e) where the signature of the secretary in the case of a recognized political party, or of the group leader in the case of an independent group does not appear on the nomination paper or where such signature has not been attested as required by subsection (3) of section 15.

(2) Where any nomination paper has been rejected by the returning officer under subsection (1), the returning officer shall inform the secretary of the recognized political party or the group leader, as the case may be, who had

submitted such nomination paper the fact of such rejection. The decision of the returning officer to reject such nomination paper shall be final.

20. (1) Where in the case of any electoral district—

Uncontested elections.

- (a) not more than one nomination paper has been duly submitted ; or
- (b) after the rejection of a nomination paper or papers the candidates of only one recognized political party or one independent group stand nominated for election, then—

such number of candidates in the order in which their names appear in such nomination paper, as is equivalent to the number of Members to be elected for that electoral district, shall be declared elected by the returning officer.

(2) The returning officer shall forthwith make a return, which shall be substantially in form B set out in the First Schedule to this Act, to the Commissioner who shall cause the names of the Members so declared elected to be published in the *Gazette*.

21. Where, in the case of any electoral district, the returning officer finds at the expiry of the nomination period—

Procedure where no nomination papers are received.

- (a) that no nomination paper has been duly received on behalf of any recognized political party, or any independent group ; or
- (b) that all the nomination papers received by him have been rejected,

the returning officer, shall forthwith report to the Commissioner the fact that no nomination papers have been received or that all the nomination papers received by him have been rejected. The Commissioner shall, not later than seven days after the receipt of such report, publish a notice prescribing a second nomination period. Such period shall commence on the seventh day after the date of the publication

of the notice and expire at twelve noon on the tenth day after the publication of such notice. The provisions of this Act shall apply in relation to the second nomination period, subject however that the duration of the nomination period referred to in section 10 shall not be applicable to the second nomination period.

Contested
elections.

22. (1) If at the expiry of the nomination period and after the rejection of any nomination paper, candidates of more than one recognized political party or independent group stand duly nominated for election, the returning officer shall forthwith allot—

(a) to each recognized political party for the purpose of that election, the approved symbol of that party ; and

(b) in respect of each independent group, an approved symbol, and where there is more than one independent group an approved symbol and a distinguishing number determined—

(i) in the first instance by agreement among the group leaders ; or

(ii) in the absence of such agreement by lots cast or drawn in such manner as the returning officer may, in his absolute discretion, determine,

and such symbol shall be printed on the ballot paper opposite—

(i) the name of such party ; and

(ii) in the case of an independent group, the words "Independent Group" and the distinguishing number, if any, allotted to that group.

(2) The approved symbol of a recognized political party shall not, whether or not such party is contesting an election, be allotted under paragraph (b) of subsection (1) to any independent group.

(3) After the allocation of symbols under subsection (1) the returning officer shall forthwith—

- (a) adjourn such election to enable a poll to be taken in accordance with the provisions hereinafter set out ;
- (b) report to the Commissioner that the election is contested ; and
- (c) send to the Commissioner copies of the nomination papers of the recognized political parties and independent groups, a statement of the symbols allotted to each party or group, and where there is more than one independent group the distinguishing numbers allotted to each such group, and a statement giving the situation of the polling station or polling stations for each of the polling districts in that electoral district and the particular polling stations, if any, reserved for female voters.

(4) Unless the returning officer, considers it necessary or expedient in the special circumstances of any case to provide a separate polling station for the female voters of any polling district, there shall be for each polling district one polling station and no more.

(5) The polling station or stations for each polling district shall be situated within such polling district save where the returning officer, having regard to the special circumstances in any polling district, may decide upon a polling station outside such polling district. The location of the polling station shall be such as to cause the minimum inconvenience to the electors of the polling district.

23. No person other than the returning officer, the secretary of a recognized political party, the authorized agent, the group leader, the candidate whose name appears second on a nomination paper and one other person, if any, selected by each authorized agent or group leader shall, except with the consent of and for the purpose of assisting the returning officer, be entitled to be present at the proceedings under sections 15, 19, 20 and 22.

Persons
entitled
to be
present at
nomination.

PART III

THE POLL

Notice of
poll.

24. (1) Upon the receipt of a report under section 22 in respect of an electoral district the Commissioner shall publish a notice in the *Gazette* specifying—

- (a) the electoral district in which the election is contested;
- (b) the names of the candidates in order of priority as set out in the nomination paper of each recognized political party and independent group for election as Members of that electoral district and the approved symbol allotted to such party or group and in the case of an independent group the words "Independent Group" and the distinguishing number, if any;
- (c) the date of poll, being the date specified under section 10; and
- (d) the situation of the polling station or polling stations for each of the polling districts in that electoral district and the particular polling stations, if any, reserved for female voters.

(2) Where due to any emergency it is necessary that the situation of any polling station should be different from that specified in a notice published under subsection (1) the Commissioner may cause the situation of that station to be altered in such manner as he may, in his absolute discretion, determine.

(3) Where due to any emergency or unforeseen circumstances the poll for the election in any electoral district cannot be taken on the day specified in the notice relating to the election published under subsection (1), the Commissioner may, by Order published in the *Gazette*, appoint another day for the taking of such poll, and such other day shall not be earlier than the fourteenth day after the publication of the Order in the *Gazette*.

Death of
candidate
or candi-
dates after
nomination.

25. (1) Whenever the death occurs of a candidate between the adjournment of the election for the purposes of the poll and the commencement of the poll, the Commissioner shall, upon being satisfied of the fact of such death, direct the returning officer to expunge the name of that candidate from the nomination paper and shall publish a notice in the *Gazette* stating the fact of such death and that, notwithstanding such death, the nomination paper with the

omission of the name of the deceased candidate is valid in respect of the other candidates in the order in which their names appear in that nomination paper and that the poll shall be taken as specified in the notice published under section 24.

(2) (a) Notwithstanding the provisions of subsection (1), where, between the adjournment of the election for the purposes of the poll and the commencement of the poll, the deaths occur of more than one-third of the number of candidates nominated by any recognized political party or independent group, the Commissioner shall, upon being satisfied of the fact of such deaths, direct in writing the secretary of such party or the group leader, as the case may be, by which the deceased candidates were nominated, to nominate such number of candidates as is equivalent to the number of deceased candidates.

(b) Upon the receipt of a direction under paragraph (a), the secretary of a recognized political party or the group leader shall, within three days of the receipt of such direction, inform the Commissioner of the names and addresses of the candidates nominated in pursuance of such direction, arranged in order of priority in such form as may be determined by the Commissioner.

(c) The Commissioner shall direct the returning officer to expunge the names of the deceased candidates from the nomination paper and to enter the names of the candidates nominated under paragraph (b) on such nomination paper immediately after the last name in such nomination paper. The Commissioner shall publish a notice in the *Gazette* stating the fact of the deaths of the candidates referred to in paragraph (a) and that, notwithstanding such deaths, the nomination paper with the omission of the names of the deceased candidates and with the inclusion of the names of the candidates nominated under paragraph (b) is valid and that the poll shall be taken as specified in the notice published under section 24.

26. (1) A person who is entitled under this section to be treated as a postal voter for the purpose of an election in any electoral district may vote by post, and shall not vote in person, at such election.

Voting by
post.

Any person who votes in person at an election in contravention of the preceding provisions of this subsection shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding one year, or to both such fine and imprisonment.

(2) An application to be treated as a postal voter in any electoral district may be made—

- (a) by a member of the Sri Lanka Army, Sri Lanka Navy, Sri Lanka Air Force, or an officer or servant in the Department of Police, the Sri Lanka Government Railway, the Department of Posts and the Department of Telecommunications or the Sri Lanka Central Transport Board or any Regional Transport Board, on the ground that he is unable or likely to be unable to vote in person at the polling station allotted to him by reason of the particular circumstances of his employment as such member, officer or servant, and
- (b) by any other officer or servant in the public service or of the Central Bank of Ceylon, or the Local Government Service on the ground of the particular circumstances of his employment on the date of the poll for a purpose connected with the election or of his being likely to be employed for that purpose, and
- (c) by a candidate at a General Election on the ground that he is unable or likely to be unable to vote in person at the polling station allotted to him by reason of his candidature in some other electoral district.

(3) An application to be treated as a postal voter shall be made to the returning officer so as to reach him not earlier than the seventh day and not later than the fourteenth day after the date of publication of the Proclamation or Order requiring the holding of an election. Such application shall be substantially in the form prescribed for the purpose by the regulations contained in the Second Schedule to this Act.

(4) No application to be treated as a postal voter shall be allowed by a returning officer unless he is satisfied that the application is in accordance with the preceding provisions of this section.

(5) The returning officer may, for the purpose of the disposal of application to be treated as postal voters, by notice require any person to give such officer any such information as may be necessary for that purpose.

(6) The decision of a returning officer on an application to be treated as a postal voter shall be communicated in writing to the applicant.

(7) The decision of the returning officer to allow or disallow an application to be treated as a postal voter shall be final.

(8) Where an application to be treated as a postal voter is allowed by a returning officer, the applicant shall be a person entitled to be treated as a postal voter for the purpose of an election.

(9) The returning officer shall, as soon as practicable, send by post to each person who is entitled to be treated as a postal voter, to the address furnished by such person—

(a) a ballot paper ;

(b) a form of declaration of identity ;

(c) an envelope which shall be smaller than the envelope referred to in paragraph (d) of this subsection, and which shall be marked "ballot paper envelope" and also with the number printed on the postal ballot paper issued to such person, and in which the postal ballot paper shall be enclosed when it is returned duly marked ; and

(d) an envelope for the return of the aforementioned documents.

(10) The form of the ballot paper and the form of the declaration of identity which are to be used by persons entitled to be treated as postal voters, and the procedure to be followed at the proceedings on their issue, shall be according to the regulations contained in the Second Schedule to this Act.

(11) A ballot paper issued to a person entitled to be treated as a postal voter is in this Act referred to as a "postal ballot paper".

(12) The returning officer of any electoral district where there is an election shall, as soon as practicable, prepare a list (in this Act referred to as the "postal voters' list") specifying the name, address and number of the register

of electors of every person entitled to be treated as a postal voter. Such list shall be prepared in such manner as may be prescribed in that behalf by the regulations contained in the Second Schedule to this Act.

**Official
poll card.**

27. (1) The returning officer shall send to each elector whose name appears in the register a poll card (in this Act referred to as an "official poll card") in such form as may be determined by the Commissioner, and specifying—

- (a) the name and number of the electoral district ;
- (b) the name, qualifying address, and registration number of the elector as stated in the register ;
- (c) the polling division ;
- (d) the polling district ;
- (e) the polling station allotted to the elector ; and
- (f) the date and hours of the poll :

Provided that no such card shall be sent to an elector who is entitled to be treated as a postal voter.

(2) An official poll card under subsection (1) shall be so sent to an elector by ordinary post as to reach him at least seven days before the date of the poll. Where a post office fails to deliver such card to the person to whom it is addressed, it shall be retained until the date of the poll in such post office to be delivered to the addressee if he calls for it.

(3) Every person who—

- (a) without authority supplies any official poll card to any other person, or
- (b) sells or offers to sell any official poll card to any other person or purchases or offers to purchase any official poll card from any other person,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

(4) Every person, other than a public officer acting in the course of his duty has such officer, who has in his possession the official poll card of any other person, shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

28. (1) Subject to the general or special directions of the Commissioner, each returning officer shall appoint, and may revoke the appointment of, one or more persons, hereinafter called presiding officers, to preside at each polling station in his electoral district. If more than one presiding officer is appointed for any polling station, the returning officer may appoint one of the presiding officers to be the senior presiding officer who shall exercise general supervision over the other presiding officers, and over all arrangements for the conduct of the poll in that station.

Presiding officers.

(2) If any presiding officer is by reason of illness or other cause, prevented from acting at any election, and there is not time for another person to be appointed by the returning officer, the presiding officer may appoint a deputy to act for him. Every such appointment shall as soon as possible be reported to the returning officer and may be revoked by the returning officer, but without prejudice to the validity of anything already done by such deputy.

(3) The returning officer may, if he thinks fit, preside at any polling station, and the provisions of this Act relating to a presiding officer shall apply to such returning officer.

29. (1) For the purposes of an election in any electoral district, the returning officer of that district shall—

Facilities to be provided at polling stations.

- (a) appoint such officers and servants as may be necessary for taking the poll ;
- (b) furnish each polling station in that electoral district with such number of compartments as may be necessary to accommodate a reasonable number of voters at any one time and to ensure that the voters are screened from observation when they mark their ballot papers ;
- (c) furnish each presiding officer with a copy of that part of the register of electors containing the names of electors in such register assigned to his polling station and a list of such of the names of electors in that copy as appear in the postal voters' list. A distinguishing mark shall be placed against the name of every elector who is entitled to be treated as a postal voter in the part of that register supplied to each such presiding officer ;
- (d) furnish each presiding officer with such number of ballot boxes and ballot papers as, in the opinion of the returning officer, may be necessary for the number of voters assigned to that polling station :

- (e) provide each polling station with materials to enable voters to mark the ballot papers, with instruments for perforating or stamping thereon the official mark ;
- (f) do such other acts and things as may be necessary for effectually conducting the election in the manner provided by this Act.

(2) An election shall not be questioned by reason of noncompliance with the provisions of subsection (1) or any informality relative to polling stations.

Notices to be exhibited at polling stations.

30. (1) During the taking of the poll, the presiding officer at every polling station shall cause to be exhibited—

- (a) outside the polling station and in every compartment thereof, a notice substantially in the form set out in the Third Schedule to this Act, giving directions for the guidance of voters ; and
- (b) outside the polling station a notice specifying the name of each recognized political party contesting the election or in the case of an independent group contesting the election the words “Independent Group” for each such group and the distinguishing number, if any, allotted to it together with the names of the candidates in order of priority as set out in the nomination paper of each such recognized political party or independent group and the approved symbol allotted to each such party or group.

(2) Every notice under this section shall be in Sinhala, Tamil and English.

Ballot boxes.

31. Every ballot box shall be so constructed that the ballot papers can be put therein, but cannot be withdrawn therefrom, without the box being unlocked.

Ballot papers.

32. (1) The votes at every election in any electoral district shall be given by ballot. The ballot of each voter shall consist of a ballot paper in the form and containing the particulars hereinafter prescribed.

(2) Every ballot paper shall be substantially in form C set out in the First Schedule to this Act, and—

- (a) shall contain the names of the recognized political parties contesting the election, in Sinhala, Tamil and English, arranged alphabetically in Sinhala in

the order of the names of such parties and with the symbol allotted to each such party, set out against the name of each such party, and immediately thereafter, if there are any independent groups contesting the election, the words, "Independent Group" repeated for each group and the distinguishing number, if any, in the serial order and the symbol allotted to each such group ;

- (b) shall be capable of being folded ;
- (c) shall have a number printed on the reverse ; and
- (d) shall have attached a counterfoil with the same number printed on the face.

33. Unless the Commissioner, by notification in the *Gazette*, appoints any other hour, the poll in any electoral district shall open at seven o'clock in the forenoon of the day specified under section 24 and shall close at four o'clock in the afternoon of that day.

Hours
of poll

34. (1) The secretary of each recognized political party or its authorized agent or any group leader may appoint a reasonable number of polling agents for each polling station having regard to the need to revoke the appointment of any polling agent for that polling station during the poll. Notice in writing of every such appointment stating the names and addresses of the persons appointed shall be given by such secretary or authorized agent or group leader to the presiding officer at that station before the opening of the poll or during the poll.

Appointment
of
polling
agents.

(2) The secretary of a recognized political party or its authorized agent or a group leader may delegate the powers vested in such secretary, authorized agent or group leader under subsection (1), to any candidate nominated by such party or independent group for such election, so however, that such powers shall not be delegated to more than one candidate in respect of each polling division. Any delegation under this subsection shall be notified in writing to the returning officer not later than seven days before the date of the poll.

(3) Where such secretary, authorized agent or group leader or candidate referred to in subsection (2) after informing such presiding officer of the name of any polling agent appointed to act at such station, revokes the appointment of that polling agent and appoints another polling agent to such station, such secretary, authorized agent, or

group leader or candidate, as the case may be, shall inform such officer in writing of the revocation of such appointment and of the name and address of the new polling agent appointed to such station.

(4) Not more than two polling agents of each recognized political party or independent group shall at any time be admitted to or be allowed to remain in any polling station.

(5) No polling agent whose name had not been notified to the presiding officer as required by subsection (1) or subsection (3) shall be admitted to a polling station.

General
conduct of
the poll.

35. (1) No person shall be admitted to vote at any polling station other than the polling station set apart for the group of voters to which he belongs.

(2) The presiding officer shall keep order in his station, and shall regulate the number of voters to be admitted at a time and shall exclude all other persons except the candidates, the polling agents, the police officers on duty and other persons officially employed at the polling station.

(3) If any person misconducts himself in the polling station, or fails to obey the lawful orders of the presiding officer, the presiding officer may cause him to be removed forthwith from the polling station by any police officer or by any other person authorized in writing by the presiding officer or by the returning officer.

(4) Any person removed from a polling station under subsection (3)—

(a) shall not, except with the permission of the presiding officer, be allowed to enter the polling station again during the hours of the poll; and

(b) may, if he is charged with the commission of any offence in that station, be kept in custody until he can be brought before a Magistrate :

Provided that the powers conferred by this subsection shall not be exercised so as to prevent any voter who is otherwise entitled to vote at any polling station from having an opportunity of voting at such station.

Sealing of
ballot boxes
and
commence-
ment of
poll.

36. (1) Immediately before the commencement of the poll, the presiding officer at a polling station—

(a) shall show the ballot papers, the official seal, the official mark and the copies of the parts of the register of electors, to be used at the poll to such persons, if any, as may be present in such station; and

- (b) shall also show each ballot box to be used at the commencement of the poll empty to the persons aforesaid so that they may see that it is empty, and shall then lock it up and place his seal upon it in such manner as to prevent it being opened without breaking such seal, and shall place it in his view for the receipt of ballot papers and keep it so locked and sealed.

The duties imposed on the presiding officer by the preceding provisions of this section shall be performed by him in such manner as to ensure that the poll is opened at the hour fixed by this Act.

- (2) The provisions of subsection (1) shall apply to every ballot box which is to be used after the commencement of the poll.

37. (1) Each voter shall be given one ballot paper and shall have one vote.

Issue of
ballot
papers

(2) The ballot paper shall be delivered to the voter by the presiding officer or a person acting under his authority. Immediately before the ballot paper is delivered to the voter—

- (a) the number, name and description of the voter as stated in the copy of the register of electors shall be called out ;
- (b) the number of the voter shall be marked on the counterfoil, and the ballot paper detached therefrom ;
- (c) the ballot paper shall be either stamped, embosed or perforated with the official mark ; and
- (d) a mark shall be placed in the register against the name of the voter to denote that he has received a ballot paper, but without showing the particular ballot paper he has received.

38. (1) No ballot paper shall be delivered to a voter at an election—

Inspection
of voter
and mark-
ing with
the
appropriate
mark.

- (a) if he refuses to allow the presiding officer or a person acting under his authority to make the appropriate inspection ; or
- (b) if, having allowed such inspection, it discloses that such voter has already been marked with the appropriate mark ; or

- (c) if, having allowed such inspection, it discloses that such voter has not already been marked with the appropriate mark but such voter refuses to allow such officer or person to mark such voter with the appropriate mark,

and accordingly such voter shall, notwithstanding anything to the contrary in any other provisions of this Act, not be entitled to vote at such election.

(2) The presiding officer of a polling station shall enter on a list, substantially in form D set out in the First Schedule to this Act, the following particulars relating to each voter to whom a ballot paper was not delivered at such station under subsection (1)—

- (a) the number of such voter in the register of electors ;
- (b) the name of such voter as it appears in such register ;
and
- (c) the ground on which a ballot paper was not delivered to such voter.

Such list is in this Act called the “list of voters to whom ballot papers are not delivered under section 38.”

(3) In this section—

- (a) the expression “appropriate mark” means a mark made with indelible ink ;
- (b) the term “appropriate” with reference to any context connected with or relating to the inspection or marking of a voter, means—
 - (i) the little finger of his left hand or, if such finger is missing, any other finger of his left hand ;
or
 - (ii) if all the fingers of his left hand are missing, the little finger of his right hand or, if such finger is missing, any other finger of his right hand ; or
 - (iii) if all the fingers of his left and right hands are missing, such extremity of his left or right hand as such voter possesses.

**Manner
of
voting.**

39. (1) The voter, on receiving the ballot paper, shall forthwith proceed into the compartment to which he is directed by the presiding officer or any person acting under that officer’s authority and there secretly mark the ballot paper

as near as may be in accordance with the directions given for the guidance of voters in the Third Schedule to this Act and fold the ballot paper so as to conceal his vote, and shall then show to the presiding officer the reverse of the paper, so as to disclose the official mark, and put the ballot paper, so folded, into the ballot box in the presence of the presiding officer.

(2) The presiding officer may at any time while a poll is proceeding take such steps as may be necessary to ensure that no voter delays unduly in any place reserved for the marking of ballot papers.

40. (1) The presiding officer, or any person authorized by the presiding officer, may, if he thinks fit on the application of any voter, explain to the voter, within sight and hearing of the polling agents, if present, the method of voting specified in the directions given for the guidance of voters in the Third Schedule to this Act, but in so doing he shall carefully abstain from any action which might be construed by the voter as advice or a direction to vote for any particular recognized political party or independent group.

Assistance
to voters
to enable
them
to vote.

(2) The presiding officer, on the application of any voter who is incapacitated by blindness or other physical cause from voting in accordance with the directions given for the guidance of voters in the Third Schedule to this Act shall, in the presence of another member of his polling staff, mark the ballot paper of such voter in the manner directed by the voter and shall cause such ballot paper to be placed in the ballot box.

41. No voter shall be entitled to vote by proxy at any election in any electoral district.

Voting by
proxy
forbidden.

42. If any person at an election under this Act—

Plural
voting to
be an
illegal
practice.

- (a) votes in more than one electoral district or asks for a ballot paper for the purpose of so voting; or
 - (b) votes more than once in the same electoral district or asks for a ballot paper for the purpose of so voting,
- he shall be guilty of an illegal practice.

43. (1) The presiding officer at any polling station may in his discretion, and, if required so to do by a polling agent, shall, require any voter, before he is given a ballot paper, to make and subscribe all or any of the declarations

Power to
require
voter
to make
declara-
tions.

in forms E, F, G and H set out in the First Schedule to this Act. Every such declaration shall be exempt from stamp duty.

(2) If any person refuses to make any such declaration, the presiding officer may refuse to give him a ballot paper.

(3) If any person wilfully makes a false statement in any such declaration, he shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

Spoilt
ballot
papers.

44. A voter who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used as a ballot paper may, on delivering to the presiding officer the ballot paper so inadvertently dealt with, and proving the fact of such inadvertence to the satisfaction of the presiding officer, obtain another ballot paper in place of the ballot paper so delivered up (in this Act called a "spoilt ballot paper"), and the spoilt ballot paper shall be immediately cancelled by the presiding officer.

Tendered
votes.

45. If a person representing himself to be a particular elector named in the register applies for a ballot paper after another person has voted as such elector, the applicant shall on making and subscribing a declaration, which shall be exempt from stamp duty and which shall be substantially in form I set out in the First Schedule to this Act, be entitled to receive a ballot paper and to vote in the same manner as any other voter, but the ballot paper, in this Act called a "tendered ballot paper", shall be of a colour different from the other ballot papers, and, before being placed in the ballot box, shall be endorsed by the presiding officer with the name of the voter and his number in the register, and that number shall be entered on a list, in this Act called the "tendered votes list", which shall be substantially in form J set out in the First Schedule to this Act. Tendered ballot papers shall be dealt with in the manner hereinafter provided.

Closure
of poll.

46. No ballot paper shall be delivered to a voter after the hour fixed for the closing of the poll. But if at the hour aforesaid there is in any polling station any voter to whom a ballot paper has been delivered, such voter shall be allowed to record his vote.

Procedure
on closure
of poll.

47. (1) As soon as practicable after the closure of the poll, the presiding officer of each polling station shall, in the presence of the polling agents make up into separate packets, sealed with his own seal and the seals of such polling agents as desire to affix their seals—

- (a) each ballot box at that station, each such box remaining locked as it was at the time of the opening of the poll and being sealed after the closure of the poll so as to prevent the introduction of any ballot papers thereafter ;
 - (b) the key of each ballot box ;
 - (c) the unused and spoilt ballot papers placed together ;
 - (d) the marked copies of the register of electors and the counterfoils of the ballot papers ;
 - (e) the list of voters to whom ballot papers are not delivered under section 38 ; and
 - (f) the tendered votes list,
- and shall deliver the packets to the counting officer.

(2) The packets shall be accompanied by a statement substantially in form K set out in the First Schedule to this Act, (hereinafter referred to as "the ballot paper account") made by the presiding officer, showing the number of ballot papers entrusted to him and accounting for them under the heads of—

- (a) ballot papers issued to voters, other than spoilt ballot papers ;
- (b) spoilt ballot papers ; and
- (c) unused ballot papers.

48. The presiding officer of a polling station may do, by officers appointed to assist him, any act which he is required or authorized by this Act to do at that polling station except ordering the arrest, exclusion or removal of any person from the station.

Presiding
officer may
act through
officers
appointed
to assist
him.

PART IV

COUNTING OF VOTES AND DECLARATION OF RESULT

49. (1) Subject to the general or special directions of the Commissioner, each returning officer shall appoint, and may revoke the appointment of, a counting officer to be in charge of the counting of votes at each counting centre,

Counting
officers.

and such number of assistants and clerks and other officers to assist such counting officer in the performance of his duties.

(2) The returning officer may, if he thinks fit, perform the duties of a counting officer and the provisions of this Act relating to a counting officer shall apply to such returning officer.

Notice of count.

50. The returning officer shall make arrangements for counting the votes as soon as possible after the close of the poll and shall give notice in writing to each secretary or the authorized agent of a recognized political party and the group leader of any independent group contesting the election, of the situation of each counting centre, the date and time of the commencement of the count, and a statement setting out the counting centres and the polling station or stations assigned to each such counting centre.

Appointment of counting agents.

51. (1) The secretary of each recognized political party or its authorized agent or a group leader may appoint—

(a) not more than five agents (hereinafter referred to as "counting agents") to attend at the counting of votes at each counting centre where such counting centre has been assigned more than one polling station under section 50 ;

(b) not more than two counting agents to attend at the counting of votes at each counting centre where such counting centre has been assigned only one polling station under section 50.

(2) Any candidate to whom the power of appointing polling agents has been delegated under section 34 may, in like manner, be delegated the power of appointing counting agents in respect of any counting centre referred to in paragraph (b) of subsection (1).

(3) Notice in writing stating the names and addresses of the persons appointed under subsection (1) or subsection (2) shall be given by the secretary of such recognized political party or its authorized agent or the group leader or the candidate referred to in subsection (2), to the counting officer before the counting of votes commences. The counting officer may refuse to admit to the counting centre any counting agent whose name and address have not been so given.

The count.

52. (1) The counting officer shall commence the counting of votes after he has received all the ballot boxes from every polling station assigned to his counting centre under section 50.

(2) Before the counting officer proceeds to count the votes, he or a person authorized by him shall in the presence of such of the counting agents as attend—

- (a) show such counting agents the ballot paper account and permit them to take copies thereof, and
- (b) open each ballot box, and having taken out the ballot papers therein, count and record the number of such papers in each such box and then mix together the whole of the papers contained in the ballot boxes.

(3) The counting officer, while counting the votes, shall keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers printed on the reverse of such papers.

(4) The counting officer shall as far as practicable proceed continuously with counting the votes and shall endorse "rejected" on any ballot paper which he may reject as invalid.

(5) The counting officer shall not count the tendered ballot papers but shall place them in separate packets according to the recognized political party or independent group they support and shall mark each packet with the name of such party or the words "Independent Group" and the distinguishing number, if any, of such group, as the case may be, and hand over such packets to the returning officer

(6) The counting officer, his assistants and clerks and the counting agents but no other person except with the consent of the counting officer may be present at the counting of the votes.

53. (1) Any ballot paper—

- (a) which does not bear the official mark ; or
- (b) on which votes are given for—
 - (i) more than one recognized political party ; or
 - (ii) more than one independent group ; or
 - (iii) a combination of one or more recognized political parties and independent groups ; or
- (c) on which anything is written or marked by which the voter can be identified except the printed number on the reverse ; or
- (d) which is unmarked ; or
- (e) which is void for uncertainty,

Ballot
papers
to be
rejected.

shall be rejected by the counting officer. The counting officer shall endorse the word "rejected" on any such ballot paper.

(2) Where the counting officer is satisfied that any mark made on a ballot paper clearly indicates the intention of the voter to give his vote and the recognized political party or independent group for which he gives his vote, the counting officer shall not reject the ballot paper under subsection (1) on the ground solely that it has not been marked in all respects in accordance with the directions given for the guidance of voters in the Third Schedule to this Act.

(3) Where the counting officer is satisfied that a ballot paper is not a forged or counterfeit ballot paper he shall not reject it solely on the ground that it is not stamped or perforated with the official mark. Before deciding not to reject a ballot paper under the preceding provisions of this section the counting officer shall show it to each counting agent if present and hear his views thereon.

(4) Before rejecting a ballot paper the counting officer shall show it to each counting agent if present and hear his views thereon taking all proper precautions to prevent any person from seeing the number printed on the reverse of the paper.

(5) The counting officer shall not count any ballot paper which is rejected by him under subsection (1).

(6) The counting officer shall draw up a statement showing separately the number of ballot papers rejected, under each of the grounds specified in subsection (1), and shall on request allow any counting agent to copy the statement.

(7) The counting officer shall prepare a written statement in words as well as in figures of the number of votes given for each recognized political party and independent group, and such statement shall be certified by the counting officer and witnessed by one of his assistants or clerks and the counting agents of any party or group as are present and desire to sign. The counting officer shall on request allow any counting agent to copy the statement.

(8) Before the counting officer makes a written statement referred to in subsection (7), such number of recounts may be made as the counting officer deems necessary; and a recount or recounts shall be made upon the application of a counting agent so however that the maximum number of recounts that shall be so made, on the application of any counting agent or all the counting agents, shall not exceed two.

(9) The decision of the counting officer as to any question arising in respect of any ballot paper shall be final and conclusive.

54. Any power, duty or function of a counting officer under section 52 or section 53 may be exercised, performed or discharged for and on his behalf by any of his assistants or clerks acting under the supervision and direction of such officer.

Special provisions relating to powers, duties and functions under sections 52 and 53.

55. Upon the completion of the counting at any counting centre, the counting officer shall forthwith deliver in sealed packets to the returning officer—

Closure of the count.

- (a) the counted ballot papers ;
- (b) the rejected ballot papers ;
- (c) the tendered ballot papers ;
- (d) the ballot paper account ;
- (e) the packets referred to in paragraphs (c) to (f) of section 47 (1) ;
- (f) the record of the count under subsection (2) (b) of section 52 ;
- (g) the statement under section 53 (6) ; and
- (h) the written statement under section 53 (7) of the number of votes given to each recognized political party or independent group.

56. The postal ballot papers in respect of any electoral district shall be counted in accordance with the postal voters' regulations set out in the Second Schedule to this Act at a separate counting centre or such number of counting centres as may be determined by the returning officer.

Counting of postal ballot papers.

57. The returning officer shall, before he proceeds to declare the result of an election, give notice in writing to the secretary or the authorized agent of a recognized political party or the group leader of an independent group contesting that election, of the time and place at which the result will be declared.

Notice of declaration of result.

58. Each recognized political party or independent group which has nominated candidates at an election for any electoral district may appoint not more than two agents to attend at the proceedings at the declaration of the result. Notice in writing of such appointments stating the names

Appointment of agents to attend at the declaration of the result.

and addresses of the persons appointed shall be given by the secretary of such recognized political party or its authorised agent or the group leader to the returning officer before the proceedings at the declaration of the result commence. The returning officer may refuse to admit to the place where such proceedings take place any agent whose name and address have not been so given.

Persons entitled to be present at the declaration of the result,

59. Except with the consent of the returning officer, no person other than the returning officer, the persons appointed to assist him, and the agents appointed under section 58 may be present at the declaration of the result.

Declaration of the result,

60. (1) After the receipt of the documents referred to in section 55 the returning officer shall from the statements under subsection (7) of section 53 furnished to him by all the counting officers, (including the counting officers of the counting centre or centres where postal ballot papers were counted) add up and determine the number of votes given for each recognized political party and independent group. The returning officer shall, before he opens a sealed packet referred to in paragraph (h) of section 55, upon a request made by an agent appointed under section 58, permit such agent to inspect the seals on such packet.

(2) Upon such determination, the returning officer shall forthwith declare elected, in accordance with the provisions of Article 99 of the Constitution, such number of Members which the electoral district is entitled to return as has been specified by the Commissioner in the Order published in accordance with the provisions of paragraph (8) of Article 93 of the Constitution.

Special provisions relating to powers, duties or functions under section 60.

61. Any power, duty or function of a returning officer under section 60 may be exercised, performed or discharged for and on his behalf by any of his assistants or clerks acting under the supervision and direction of such officer.

Publication of result in the *Gazette*.

62. The returning officer shall forthwith after the result has been declared by him, make a return, substantially in form L set out in the First Schedule to this Act, to the Commissioner, who shall cause the names of the Members so elected to be published in the *Gazette*.

Disposal of ballot papers, &c.

63. (1) The returning officer shall retain the packets and all documents forwarded to him under section 55 for a period of six months reckoned from the date of the receipt

thereof and thereafter shall cause the said packets and documents to be destroyed unless otherwise directed by the Commissioner.

(2) An Election Judge may make an order that any ballot paper or other document relating to an election which has been sealed as required by this Act be inspected, copied, or produced at such time and place and subject to such conditions as the Judge may deem expedient, but shall not make such an order unless he is satisfied that such inspection, copying or production is required for the purpose of instituting or maintaining a prosecution or an election petition in connection with the election. Save as aforesaid, no person shall be allowed to inspect any such ballot paper or document while it is in the custody of the returning officer.

PART V

FILLING OF VACANCIES

Filling of vacancies.

64. (1) Where the seat of a Member of Parliament becomes vacant as provided in Article 66 of the Constitution (other than paragraph (g) of that Article) or by virtue of the provisions of paragraph 13 (a) of Article 99 of the Constitution, the Secretary-General of Parliament shall inform the Commissioner who shall direct the returning officer of the electoral district which returned such Member to fill the vacancy as provided for under paragraph 13 (b) of Article 99 of the Constitution within one month of such direction.

(2) The returning officer shall forthwith after complying with the direction of the Commissioner, make a return, substantially in form M set out in the First Schedule to this Act to the Commissioner who shall cause the name of the Member so declared elected to be published in the Gazette.

(3) Where all the candidates whose names appear in the nomination paper submitted by any recognized political party or independent group in respect of an electoral district have been exhausted by election or otherwise and thereafter a vacancy occurs to be filled by a Member nominated by such party or group, the returning officer of such electoral district shall inform the Commissioner that there remains no candidate on the nomination paper of the party or group to which the Member who vacated the seat belonged, to be declared elected to fill such vacancy.

(4) Upon the receipt of such information the Commissioner shall require the secretary of the recognized political party or the group leader of the independent group to which the Member who vacated the seat belonged, to nominate a member of such party or group to fill the vacancy. Upon the receipt of such nomination the Commissioner shall declare such person to be a Member for the electoral district in respect of which the vacancy occurred, and cause the name of the Member so declared to be published in the *Gazette*.

Procedure where a recognised political party exercises right to change order of priority in the nomination paper.

65. (1) Where a recognized political party has exercised its right in pursuance of paragraph (12) of Article 99 of the Constitution, it shall be the duty of the secretary of such party to inform the Commissioner in such form as may be determined by the Commissioner, that such party has exercised such right.

(2) Upon receipt of such information, the Commissioner shall forthwith direct the returning officer of the electoral district to amend the nomination paper in the manner specified in such direction.

PART VI

OFFENCES

Offences relating to nomination papers, ballot papers, official poll cards.

66. Every person who—

- (a) forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to the returning officer any nomination paper knowing the same to be forged ; or
- (b) forges or counterfeits or fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper ; or
- (c) without due authority supplies any ballot paper to any person ; or
- (d) sells or offers to sell any ballot paper to any person or purchases or offers to purchase any ballot paper from any person ; or
- (e) not being a person entitled under this Act to be in possession of any ballot paper which has been marked with the official mark in accordance with this Act, has any such ballot paper in his possession ; or
- (f) puts into any ballot box anything other than the ballot paper which he is authorized by law to put in ; or

- (g) without due authority takes out of any polling station any ballot paper or is found in possession of any ballot paper outside a polling station ; or
- (h) without due authority destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers in use or intended to be used for the purposes of an election ; or
- (i) without due authority prints any ballot paper or what purports to be or is capable of being used as a ballot paper at an election ; or
- (j) manufactures, constructs, imports into the Republic, has in his possession, supplies or uses for the purpose of an election, or causes to be manufactured, constructed, imported into the Republic, supplied or used for the purpose of an election, any appliance, device or mechanism by which a ballot paper may be extracted, affected or manipulated after having been deposited in a ballot box during the polling at an election ; or
- (k) wilfully makes a false statement in any application to be treated as a postal voter under this Act, or in any declaration of identity sent to him under the postal voters' regulations set out in the Second Schedule to this Act ; or
- (l) without due authority destroys, takes, opens, or otherwise tampers or interferes with, any application to be treated as a postal voter, or any declaration of identity, or any covering envelope or ballot paper envelope within the meaning of the postal voters regulations set out in the Second Schedule to this Act ; or
- (m) without due authority prints any official poll card or what purports to be or is capable of being used as an official poll card at an election ; or
- (n) without due authority places an appropriate mark on any voter at any election or what purports to be or is capable of being mistaken for that mark ; or
- (o) fraudulently defaces an appropriate mark placed on any voter at an election without due authority ; or
- (p) votes at an election knowing that he is legally incapable of, or disqualified from, so voting,

shall be guilty of an offence and shall, on conviction by the High Court, be liable to imprisonment of either description for a term not exceeding two years and shall, by conviction, become incapable, for a period of seven years from the date of his conviction, of being registered as an

elector or of voting at an election under this Act, or of being elected as a Member of Parliament, and if at that date he has been elected as a Member of Parliament, his election shall be vacated from the date of such conviction.

Certain persons not to canvass or act as Agents.

67. (1) No person shall canvass for, or act as agent of, or speak on behalf of, a candidate, or in any way participate in an election, if such person is a person on whom civic disability has been imposed by a resolution passed by Parliament in terms of Article 81 of the Constitution, and the period of such civic disability specified in such resolution has not expired.

(2) Every person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

Certain acts prohibited on polling day.

68. (1) No person shall, not any date on which a poll is taken at a polling station, do any of the following acts within the precincts, or a distance of half a kilometre of the entrance, of that polling station :—

- (a) canvassing for votes ;
- (b) soliciting the vote of any elector ;
- (c) persuading any elector not to vote for any particular recognized political party or independent group ;
- (d) persuading any elector not to vote at the election ;
- (e) distributing or exhibiting any handbill, placard, poster, drawing, photograph of a candidate, or notice relating to the election (other than any official hand-bill, placard, poster or notice) or any symbol allotted under section 22 to any recognized political party or independent group.

Every person who contravenes the provisions of this subsection shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one hundred rupees or to imprisonment of either description for a term not exceeding one month or to both such fine and imprisonment.

(2) No person shall, on any date on which a poll is taken at any polling station—

- (a) use or operate, within or at the entrance of a polling station or in any public or private place in the neighbourhood thereof, any megaphone or loud-speaker or other apparatus for magnifying or reproducing the human voice, or

- (b) shout or otherwise act in a disorderly manner within or at the entrance of a polling station or in any public or private place in the neighbourhood thereof,

so as to cause annoyance to any person visiting the polling station for the poll or so as to interfere with the work of the officers and other persons on duty at the polling station. Every person who contravenes the provisions of this subsection shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one hundred rupees or to imprisonment of either description for a term not exceeding one month or to both such fine and imprisonment.

(3) Any police officer may take such steps, and use such force, as may be reasonably necessary for preventing any contravention of the provisions of subsection (2) and may seize any apparatus used for such contravention.

69. No person—

- (a) shall, at any time during the period commencing from the first day of the nomination period in respect of an election and ending one week after the result of the poll taken at such election is declared by the returning officer under this Act, conduct, hold or take part in any procession, other than a procession on May 1 in the year, or any procession for religious or social purposes ; or

- (b) shall, at any procession held or conducted during the period referred to in paragraph (a), do any act or thing calculated to promote the election referred to in the said paragraph (a).

Every person who contravenes any of the preceding provisions of this section shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one hundred rupees, or to imprisonment of either description for a term not exceeding one month, or to both such fine and imprisonment.

70. No public meeting shall be held during the period commencing forty-eight hours before the date of the poll and ending one week after the Members of Parliament for all the electoral districts in respect of which a poll has been taken on such date have been declared elected by the respective returning officers.

Every person who contravenes any of the preceding provisions of this section shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable

Restriction
on
processions.

Restriction
on public
meetings.

to a fine not exceeding one hundred rupees, or to imprisonment of either description for a term not exceeding one month, or to both such fine and imprisonment.

General provisions relating to offences under sections 66, 67, 68, 69 and 70.

71. (1) Every person who attempts to commit an offence specified in section 66 or section 67 or section 68 or section 69 or section 70 shall be liable to the punishment prescribed for that offence.

(2) Every offence under section 66 or section 67 or section 68 or section 69 or section 70 shall be a cognizable offence within the meaning of the Code of Criminal Procedure Act, No. 15 of 1979.

(3) In a prosecution for an offence in relation to a nomination paper, ballot box, ballot paper or marking instrument at an election, the property in such nomination paper, ballot box, ballot paper, marking instrument, as well as the property in the counterfoil of any ballot paper, may be stated to be in the returning officer at that election.

(4) A prosecution for an offence under section 66 or section 67 or section 68 or section 69 or section 70 shall not be instituted without the sanction of the Attorney-General.

Printing, &c. of election publications by persons other than candidates.

72. Every person who, not being a candidate, prints, publishes, distributes or posts up, or causes to be printed, published, distributed or posted up, any advertisement handbill, placard or poster which refers to an election and which does not bear upon its face the names and addresses of its printer and publisher, shall be guilty of an offence and shall on conviction by a Magistrate be liable to a fine not exceeding five hundred rupees :

Provided, however, that a person shall not be guilty of an offence under the preceding provisions of this section, in relation to any advertisement, handbill, placard or poster, if he satisfies the Magistrate that the omission of the aforesaid names and addresses or any such name or address, as the case may be, arose from inadvertance or from some other reasonable cause of a like nature and did not arise from any want of good faith.

Restriction on number of election offices.

73. (1) A person who is an authorized agent or a group leader at an election in any electoral district, or is the agent of such authorized agent or group leader, shall not have—

(a) during the period commencing from the first day of the nomination period at such election and ending on the day immediately preceding the date on which a poll is taken at such election, any election

office, other than one notified central election office in the electoral district, and one notified branch election office in each polling district ;

- (b) during the period commencing on the day immediately preceding the date of such poll and ending on the day immediately following such date, any election office, other than one notified central election office in the electoral district and one notified branch election office in respect of each candidate nominated by any recognized political party or independent group for that electoral district.

(2) The use of the ordinary place of residence of any authorized agent or group leader or candidate referred to in subsection (1) as an election office shall be deemed not to be a contravention of the provisions of that subsection.

(3) Every person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one hundred rupees, or to imprisonment of either description for a term not exceeding one month, or to both such fine and imprisonment.

(4) Every person who attempts to commit any offence specified in this section shall be liable to the punishment prescribed for that offence.

(5) A prosecution for an offence under this section shall not be instituted without the sanction of the Attorney-General.

(6) For the purposes of this section, the term "notified", in relation to any election office, means notified to the officer in charge of the police station for the area, and the returning officer for the electoral district, in which that office is situated, before such office is established.

74. (1) During the period commencing from the first day of the nomination period at an election and ending on the day following the day on which a poll is taken at such election, no person shall, for the purpose of promoting such election display—

Provisions relating to display of handbills, posters, &c.

- (a) in any premises, whether public or private, any flag or banner except in or on any vehicle that is used for the conveyance of a candidate at such election ;
or

- (b) any handbill, placard, poster, drawing, notice, photograph of a candidate, symbol or sign on any place to which the public have a right of, or are granted, access except in or on any premises on any day on which an election meeting is due to be held in that premises ; or

(c) any handbill, placard, poster, drawing, notice photograph of a candidate, symbol, sign, flag or banner, on or across any public road; or

(d) any handbill, placard, poster, drawing, notice, photograph of a candidate, symbol or sign in or on any vehicle, except in or on any vehicle that is used for the conveyance of a candidate at such election.

(2) Every person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one hundred rupees or to imprisonment of either description for a term not exceeding one month or to both such fine and imprisonment.

(3) Every person who attempts to commit an offence specified in this section shall be liable to the punishment prescribed for that offence.

(4) Every offence under this section shall be a cognizable offence within the meaning of the Code of Criminal Procedure Act, No. 15 of 1979.

(5) Any police officer may take such steps, and use such force, as may be reasonably necessary for preventing any contravention of the provisions of subsection (1) and may seize and remove any handbill, placard, poster, notice, drawing, symbol, photograph of a candidate, sign, flag or banner used in such contravention.

Candidate not to visit residences for canvassing, &c.

75. (1) Any candidate or a member of the family of a candidate, who, at any time during the period commencing on the last day of the nomination period and ending on the day immediately following the day of the poll, visits the residence of any elector for the purpose of—

(a) soliciting or canvassing the vote of such elector, or

(b) persuading such elector not to vote for a particular recognized political party or independent group, or

(c) persuading such elector not to vote at such election, or

(d) distributing or exhibiting any handbill, placard poster, drawing, notice, photograph of a candidate, symbol or sign,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one hundred rupees or to imprisonment of either description for a term not exceeding one month or to both such fine and imprisonment.

(2) For the purposes of this section, "member of the family" means the spouse, son, daughter or parent, of a candidate, or the spouse of the son or daughter of a candidate.

76. (1) Every officer, clerk, candidate, and agent authorized to attend at a polling station, or at the counting of the votes, shall, before so attending make a statutory declaration of secrecy, substantially in form N set out in the First Schedule to this Act. Such declaration shall be made by the returning officer in the presence of a Justice of the Peace and by a presiding officer or a counting officer in the presence of a Justice of the Peace or of the returning officer, and when made by any other person shall be made in the presence of the returning officer or of a Justice of the Peace or of a presiding officer or of a counting officer.

(2) Every officer, clerk, candidate, and agent in attendance at a polling station shall maintain, and aid in maintaining, the secrecy of the voting in such station, and shall not communicate, except for some purpose authorized by law, before the poll is closed, to any person any information as to the name or number on the register of electors of any elector who has or has not applied for a ballot paper or voted at that station, or as to the official mark.

(3) No such officer, clerk, candidate or agent, and no person whosoever shall attempt to obtain in the polling station information as to the recognized political party or independent group for which any voter in such station is about to vote or has voted, or communicate at any time to any person any such information obtained in a polling station as to the recognized political party or independent group for which any voter in such station is about to vote or has voted, or as to the number on the reverse of the ballot paper given to any voter at such station.

(4) Every officer, clerk, candidate and agent in attendance at the counting of the votes shall maintain, and aid in maintaining, the secrecy of the voting, and shall not attempt to ascertain at such counting the number on the reverse of any ballot paper or communicate any information obtained at such counting as to the recognized political party or independent group for which any vote is given by any particular ballot paper.

(5) No person, except a presiding officer acting for a purpose authorized by this Act, or a person authorized by the presiding officer and acting for such purpose as aforesaid, shall communicate or attempt to communicate with any voter after such voter has received a ballot paper and before he has placed the same in a ballot box.

(6) Every person who acts in contravention of the provisions of this section shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate,

be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding six months.

(7) Every person who is convicted of an offence under this section shall, by conviction, become incapable for a period of seven years from the date of his conviction, of being registered as an elector or of voting at an election under this Act.

Corrupt Practices

Personation.

77. (1) Every person who at any election—

- (a) votes in person or by post as some other person, whether that other person is living or dead or is a fictitious person ; or
- (b) votes more than once in or under his own name at such election,

shall be guilty of the offence of personation which shall be a cognizable offence within the meaning of the Code of Criminal Procedure Act, No. 15 of 1979.

(2) For the purposes of this section, a person who—

- (a) has applied for a ballot paper for the purpose of voting in person ; or
- (b) has made an application to be treated as a postal voter ; or
- (c) has marked, whether or not validly, and returned a ballot paper issued for the purpose of voting by post,

shall be deemed to have voted.

Treating.

78. Every person who, corruptly, by himself or by any other person, either before, during or after an election, directly or indirectly gives or provides or causes to be given or provided, or is accessory to the giving or providing, or pays or engages to pay wholly or in part the expense of giving or providing any meat, drink, refreshment or provision or any money or ticket or other means or device to enable the procuring of any meat, drink, refreshment, or provision, to or for any person for the purpose of corruptly influencing that person or any other person to give or refrain from giving his vote at such election or on account of any such person or any other person having voted or refrained from voting or being about to vote or refrain from voting at such election, and every elector who corruptly accepts or takes any such meat, drink, or refreshment or provision or any such money or ticket or who adopts such other means or device to enable the procuring of such meat, drink, refreshment, or provision shall be guilty of the offence of treating.

Undue
influence.

79. (1) Every person who directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of any force, violence, or restraint, or inflicts or threatens to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at an election, or who by abduction, duress, or any fraudulent device or contrivance impedes or prevents the free exercise of the franchise of any elector, or thereby compels, induces, or prevails upon any elector either to give or refrain from giving his vote at an election shall be guilty of the offence of undue influence.

(2) Every person who, at any time during the period commencing from the first day of the nomination period at any election and ending on the day following the date of the poll at such election,—

- (a) utters at any religious assembly any words for the purpose of influencing the result of such election or inducing any elector to vote or refrain from voting for any recognized political party or independent group at such election ; or
- (b) for such purpose distributes or displays at any religious assembly, any handbill, placard, poster, drawing, notice, photograph of a candidate, symbol, sign, flag or banner ; or
- (c) holds or causes to be held a public meeting at a place of worship for the purpose of promoting the election or the election campaign of any recognized political party or independent group at such election,

shall be guilty of the offence of undue influence.

(3) Any member or official of a religious order or organization—

- (a) who denies, or threatens to deny, to any member or adherent of that order or organization, or to any member of the family of such member or adherent, any spiritual ministrations, service or benefit, to which such member or adherent would in the ordinary course have been entitled ; or
- (b) excludes, or threatens to exclude, such member or adherent from such order or organization,

in order to induce or compel such member or adherent to vote or refrain from voting for any recognized political party or independent group at an election, or to support

or refrain from supporting any political party or independent group at such election, or on account of such member or adherent having voted or refrained from voting for a recognized political party or independent group at such election, or having supported or refrained from supporting any such recognized political party or independent group at such election, shall be guilty of the offence of undue influence.

(4) Any person who, being the employer of any other person,—

- (a) terminates or threatens to terminate such employment; or
- (b) denies or threatens to deny to such other person any benefit or service which such other person already enjoyed, or would have enjoyed, in the ordinary course of such employment.

in order to induce or compel such other person to vote or refrain from voting for any recognized political party or independent group at an election, or to support or refrain from supporting any recognized political party or independent group at such election, or on account of such other person having voted or refrained from voting for any recognized political party or independent group at such election, or having supported or refrained from supporting any recognized political party or independent group at such election, shall be guilty of the offence of undue influence.

Bribery.

80. The following persons shall be deemed guilty of the offence of bribery : —

- (a) every person who directly or indirectly, by himself or by any other person on his behalf, gives, lends, or agrees to give or lend, or offers, promises, or promises to procure or to endeavour to procure, any money or valuable consideration to or for any elector, or to or for any person on behalf of any elector or to or for any other person, in order to induce any elector to vote or refrain from voting, or corruptly does any such act as aforesaid on account of such elector having voted or refrained from voting at an election under this Act ;
- (b) every person who, directly or indirectly, by himself, or by any other person on his behalf, gives or procures, or agrees to give or procure, or offers, promises, or promises to procure or to endeavour

- to procure any office, place or employment to or for any elector or to or for any person on behalf of any elector, or to or for any other person, in order to induce such elector to vote or refrain from voting, or corruptly does any such act as aforesaid on account of any elector having voted or refrained from voting at an election under this Act ;
- (c) every person who, directly or indirectly by himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement, or agreement as aforesaid to or for any person in order to induce such person to procure or endeavour to procure the return of any person as a Member of Parliament, or the vote of any elector at an election under this Act ;
- (d) every person who upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement procures or engages, promises or endeavours to procure, the return of any person as a Member of Parliament, or the vote of any elector at an election under this Act ;
- (e) every person who advances or pays or causes to be paid any money to or to the use of any other person with the intent that such money or any part thereof shall be expended in bribery at an election under this Act or who knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at such election ;
- (f) every elector who, before or during an election under this Act, directly or indirectly, by himself or by any other person on his behalf, receives, agrees, or contracts for any money, gift, loan, or valuable consideration, office, place or employment, for himself or for any other person, for voting or agreeing to vote or for refraining or agreeing to refrain from voting at such election ;
- (g) every person who, after an election under this Act, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or to refrain from voting at such election ;

- (h) every person who directly or indirectly, by himself or by any other person on his behalf, on account of and as payment for voting or for having voted or for agreeing or having agreed to vote for any recognized political party or independent group at an election, or on account of and as payment for his having assisted or agreed to assist any recognized political party or independent group at an election, applies to any candidate nominated by such recognized political party or independent group, or to his agent or agents, for the gift or loan of any money or valuable consideration, or for the promise of the gift or loan of any money or valuable consideration or for any office, place or employment or for the promise of any office, place or employment ;
- (i) every person who directly or indirectly, by himself or by any person on his behalf, in order to induce any other person to agree to be nominated as a candidate or to refrain from becoming a candidate or to withdraw if he has become a candidate gives or procures any office, place or employment or agrees to give or procure or offers or promises to procure or to endeavour to procure any office, place or employment to or for such other person, or gives or lends, or agrees to give or lend, or offers or promises to procure or to endeavour to procure any money or valuable consideration to or for any person or to or for such other person, or to or for any person on behalf of such other person.

**Punishment
and
incapacities
for
corrupt
practice.**

81. (1) Every person who—

- (a) commits the offence of personation, or aids, abets, counsels or procures the commission of the offence of personation ; or
- (b) commits the offence of treating, undue influence or bribery ; or
- (c) makes or publishes, before or during an election, for the purpose of affecting the result of that election, any false statement of fact in relation to the personal character or conduct of any candidate ; or
- (d) makes or publishes, before or during an election, for the purpose of affecting the result of that election, any false statement of the withdrawal of any candidate at such election,

shall be guilty of a corrupt practice, and shall on conviction by the High Court be liable, in the case referred to in paragraph (a) of this subsection, to rigorous imprisonment for a term not exceeding twelve months, and, in any other case, to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

(2) Every person who is convicted of a corrupt practice shall, by conviction, become incapable for a period of seven years from the date of his conviction of being registered as an elector or of voting at any election under this Act or of being elected as a Member of Parliament, and if at that date he has been elected as a Member of Parliament, his election shall be vacated from the date of such conviction.

(3) A prosecution for a corrupt practice shall not be instituted without the sanction of the Attorney-General.

82. (1) Where a corrupt practice is committed in connection with an election under this Act by any candidate who was not elected as a Member at the election or with his knowledge or consent or by any of his agents, such candidate shall on conviction by the High Court be liable, in the case of the offence of personation, to imprisonment for a term not exceeding twelve months, and, in any other case, to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment :

Special provisions relating to punishment and incapacity for a corrupt practice by an unsuccessful candidate at an election.

Provided, however, that such candidate shall not be convicted of such corrupt practice under this section consisting of the offence of treating or undue influence committed by any of his agents if he proves to the High Court—

- (a) that no corrupt or illegal practice was committed at the election by such candidate and any such offence was committed contrary to the orders and without the sanction or connivance of such candidate ; and
- (b) that such candidate took all reasonable means for preventing the commission of corrupt and illegal practices at the election ; and
- (c) that any such offence was of a trivial, unimportant and limited character ; and
- (d) that in all other respects the election was free from any corrupt or illegal practice on the part of such candidate and his agents.

(2) Every person who is convicted of a corrupt practice under this section shall, by conviction, become incapable for a period of seven years from the date of his conviction of being registered as an elector or of voting at an election under this Act or of being elected as a Member of Parliament, and if at that date he has been so elected, his election shall be vacated from the date of such conviction.

(3) A prosecution for a corrupt practice under this section shall not be instituted against any candidate at an election under this Act who was not elected as a Member at such election—

- (a) except within the period during which an election petition could, if such candidate had been elected as a Member at such election, have been presented against him in connection with his election ; and
- (b) except by a person who would have had a right to present such petition under section 95 ; and
- (c) except with the sanction of the Attorney-General.

(4) Nothing in the preceding provisions of this section shall be deemed or construed to preclude or prevent a candidate who was not elected as a Member at an election under this Act from being prosecuted for a corrupt practice in connection with such election under section 81.

Illegal Practices

Certain expenditure to be illegal practice.

83. (1) No payment or contract for payment shall, at an election, be made—

- (a) on account of the conveyance of electors to or from the poll, whether for the hiring of vehicles or animals of transport of any kind whatsoever, or for railway fares, or otherwise ; or
- (b) to or with an elector on account of the use of any house, land, building, or premises for the exhibition of an address, bill, or notice, or on account of the exhibition of any address, bill, or notice.

(2) Subject to such exception as may be allowed in pursuance of this Act, if any payment or contract for payment is knowingly made in contravention of this section either before, during, or after an election, the person making such payment or contract shall be guilty of an illegal practice, and any person receiving such payment or being a party to any such contract, knowing the same to be in contravention of this section, shall also be guilty of an illegal practice.

(3) Subject to any such express exceptions as are or may be made by or under this Act, a person shall not let, lend, employ, hire, borrow or use, or aid or abet any other person to let, lend, employ, hire, borrow or use, any vehicle, vessel or animal, in any electoral district during the period commencing one hour before the time of the opening of the poll at an election in that district, and ending one hour after the time of the closure of such poll—

- (a) for the purpose of the conveyance of voters to or from the poll ; or
- (b) for any other purpose, other than—
 - (i) any legitimate business ; or
 - (ii) any official business, that is, to say, the performance of any duty or the discharge of any function accruing from or connected with or incidental to any office, service or employment, held or undertaken or carried on by him.

Any person acting in contravention of this subsection shall be guilty of an illegal practice.

(4) Notwithstanding anything in the preceding provisions of this section—

- (a) where it is the ordinary business of an elector as an advertising agent to exhibit for payment bills and advertisements, a payment to or contract with such elector, if made in the ordinary course of business, shall not be deemed to be an illegal practice within the meaning of this section ;
- (b) where electors are unable at an election to reach their polling stations from their place of residence without crossing the sea or a branch or arm thereof or a river, means may be provided for conveying such electors by sea to their polling stations, or to enable them to cross the river in order to reach their polling stations ;
- (c) the conveyance of a person at his own expense to or from the poll at an election in, or the use by any person at his own expense for the purpose of the conveyance of himself to or from the poll of, any public transport service provided by the Sri Lanka Central Transport Board, or any Regional Transport Board or the Sri Lanka Government Railway, shall be deemed not to be an illegal practice within the meaning of this section ;

(d) where the returning officer for any electoral district is satisfied, upon written application in that behalf made to him by any person, or on behalf of such person by any other person not being a candidate, so as to reach such officer seven days before the day on which a poll is to be taken at an election in that district, that such person is unable, by reason of any physical disability to convey himself to and from the poll on foot or in any public transport service referred to in paragraph (c) of this subsection, the returning officer may give such person written authority to use any vehicle, vessel or animal for the purpose of conveying himself to and from the poll, and accordingly the use of a vehicle, vessel or animal for the purpose of such conveyance by such person shall be deemed not to be an illegal practice within the meaning of this section.

(5) Where at any poll taken in any electoral district any police officer, either of his own motion or after an investigation which he is hereby required to carry out on the complaint of any person, is satisfied that any vehicle, vessel or animal is being used in contravention of the provisions of subsection (1) or subsection (3), that officer shall stop and seize such vehicle, vessel or animal, and take it to a police station and detain it therein until the conclusion of the poll.

(6) The High Court may, on the conviction of any person for the commission of an illegal practice within the meaning of this section, make order declaring that any vehicle, vessel or animal used in or in connection with the commission of such practice shall be forfeited to the Republic.

84. (1) Where there is published in any newspaper any false statement concerning, or relating to,—

False reports in newspapers.

(a) the utterances or activities at an election of any candidate, or any recognized political party or independent group which is contesting such election, or

(b) the conduct or management of such election by such candidate, or any such recognized political party, or independent group,

and such statement is capable of influencing the result of such election, then, every person who at the time of such publication was the proprietor, the manager, the editor, the publisher or other similar officer of that newspaper or was purporting to act in such capacity, shall each be guilty of an illegal practice unless such person proves that such publication was made without his consent or connivance, and that he exercised all such diligence to prevent such publication as he ought to have exercised having regard to the nature of his function in such capacity and in all the circumstances.

(2) In this section, the term "newspaper" includes any journal, magazine, pamphlet or other publication.

85. (1) No person shall, for the purpose of promoting an election, be engaged or employed for payment or promise of payment for any purpose or in any capacity whatever, except for the purpose or in the capacities following—

Certain employment to be illegal.

(a) a reasonable number of polling agents for each polling district having regard to the need to revoke the appointment of any polling agent for that polling district during the poll; and not more than the number of counting agents referred to in section 51 for each counting centre;

(b) a reasonable number of clerks and messengers having regard to the area of the electoral district and the number of electors on the register of electors for such district.

(2) Subject to such exception as may be allowed in pursuance of this Act, if any person is engaged or employed in contravention of this section, either before, during, or after an election, the person engaging or employing him shall be guilty of an illegal practice.

86. A candidate or his agent, who prints, publishes, distributes or posts up or causes to be printed, published, distributed or posted up any advertisement, handbill, placard or poster which refers to an election and which does not bear upon its face the names and addresses of its printer and publisher shall be guilty of an illegal practice.

Printing, &c., of election publications.

87. (1) Every person who commits an illegal practice shall on conviction by the High Court be liable to a fine not exceeding three hundred rupees and shall by conviction become incapable for a period of three years from the date of his conviction of being registered as an elector or of

Punishment on conviction for illegal practices.

voting at an election under this Act or being elected as a Member of Parliament, and if at that date he has been elected as a Member of Parliament, his election shall be vacated from the date of such conviction.

(2) A prosecution for an illegal practice shall not be instituted without the sanction of the Attorney-General.

Special provisions relating to punishment and incapacity for an illegal practice by an unsuccessful candidate at any election.

88. (1) Where an illegal practice is committed in connection with an election under this Act by any candidate who was not elected as a Member at the election or with his knowledge or consent or by any of his agents, such candidate shall on conviction by the High Court be liable to a fine not exceeding three hundred rupees :

Provided, however, that such candidate shall not be convicted of such illegal practice under this section committed by any of his agents if he proves to the High Court—

- (a) that no corrupt or illegal practice was committed at the election by such candidate and the illegal practice which is the subject-matter of the prosecution was committed contrary to the orders and without the sanction or connivance of such candidate ; and
- (b) that such candidate took all reasonable means for preventing the commission of corrupt and illegal practices at the election ; and
- (c) that the offence or offences constituting such illegal practice was or were of a trivial, unimportant and limited nature ; and
- (d) that in all other respects the election was free from any corrupt or illegal practice on the part of such candidate and his agents.

(2) Every person who is convicted of an illegal practice under this section, shall, by conviction, become incapable for a period of three years from the date of his conviction of being registered as an elector or of voting at an election under this Act or of being elected as a Member of Parliament, and if at that date he has been elected as a Member of Parliament, his election shall be vacated from the date of such conviction.

(3) A prosecution for an illegal practice under this section shall not be instituted against any candidate at an election under this Act who was not elected as a Member at such election—

- (a) except within the period during which an election petition could, if such candidate had been elected as a member at such election, have been presented against him in connection with his election ; and
 - (b) except by a person who would have had the right to present such petition under section 95 ; and
 - (c) except with the sanction of the Attorney-General.
- (4) Nothing in the preceding provisions of this section shall be deemed or construed to preclude or prevent a candidate who was not elected as a Member at an election under this Act from being prosecuted for an illegal practice in connection with such election under section 87.

Excuse for Corrupt or Illegal Practice

89. Where, upon the trial of an election petition respecting an election under this Act, the Election Judge reports that a candidate at such election has been guilty by his agents of the offence of treating or undue influence or of any illegal practice in reference to such election, and the Election Judge further reports, after giving the Attorney-General an opportunity of being heard, that the candidate has proved to the court—

Report exonerating candidate in certain cases of corrupt or illegal practices.

- (a) that no corrupt or illegal practice was committed at such election by the candidate and the offences mentioned in the said report were committed contrary to the orders and without the sanction or connivance of such candidate ; and
- (b) that such candidate took all reasonable means for preventing the commission of corrupt and illegal practices at such election ; and
- (c) that the offences mentioned in the said report were of a trivial, unimportant and limited character ; and
- (d) that in all other respects the election was free from any corrupt or illegal practice on the part of such candidate and of his agents,

then the election of such candidate shall not, by reason of the offences mentioned in such report, be void; nor shall the candidate be subject to any incapacity under this Act.

Power of Court to except innocent act from being illegal.

90. Where, on application made, it is shown to an Election Judge or to a Judge of the Supreme Court by such evidence as seems to the Judge sufficient—

- (a) that any act or omission of a candidate at an election, or of any of his agents or other person, would, by reason of being a payment, engagement, employment, or contract in contravention of this Act or of otherwise being in contravention of any of the provisions of this Act, be but for this section an illegal practice ; and
- (b) that any such act or omission arose from inadvertence or from accidental miscalculations or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith,

and in the circumstances it seems to the Judge, after giving the candidates, the returning officer, and any elector within the electoral district an opportunity of being heard, to be just that the candidate in question and his agent or other person, or any of them, should not be subject to any of the consequences under this Act of the said act or omission, the Judge may make an order allowing such act or omission to be an exception from the provisions of this Act which would otherwise make the same an illegal practice, payment, employment, or hiring, and thereupon such candidate, agent or person shall not be subject to any of the consequences under this Act of the said act or omission.

PART VII

ELECTION PETITIONS

Avoidance by conviction of candidate.

91. The election of a candidate as a Member is avoided by his conviction for any corrupt or illegal practice.

Avoidance of election on election petition.

92. (1) The election in respect of any electoral district shall be declared to be void on an election petition on any of the following grounds which may be proved to the satisfaction of the Election Judge, namely—

- (a) that by reason of general bribery, general treating or general intimidation or other misconduct or other circumstances, whether similar to those enumerated before or not, a section of electors was prevented from voting for the recognized political party or independent group which it preferred and thereby materially affected the result of the election.

- (b) non-compliance with the provisions of this Act relating to elections, if it appears that the election was not conducted in accordance with the principles laid down in such provisions and that such non-compliance materially affected the result of the election.

(2) The election of a candidate as a Member shall be declared to be void on an election petition on any of the following grounds which may be proved to the satisfaction of the Election Judge, namely—

- (a) that a corrupt or illegal practice was committed in connection with the election by the candidate or with his knowledge or consent or by any agent of the candidate ;
- (b) that the candidate personally engaged a person as a canvasser or agent or to speak on his behalf knowing that such person had within seven years previous to such engagement been found guilty of a corrupt practice under the law relating to the election of the President or the law relating to Referenda or under the Ceylon (Parliamentary Elections) Order in Council, 1946, or under this Act, by a court of competent jurisdiction or by the report of an Election Judge ;
- (c) that the candidate personally engaged a person as a canvasser or agent or to speak on his behalf knowing that such person had been a person on whom civic disability had been imposed by a resolution passed by Parliament in terms of Article 81 of the Constitution, and the period of such civic disability specified in such resolution had not expired ;
- (d) that the candidate was at the time of his election a person disqualified for election as a Member.

93. Every election petition shall be tried by the Court of Appeal in terms of Article 144 of the Constitution.

Court of Appeal to try election petitions.

94. The place of the trial of an election petition shall be in or as near as practicable to the electoral district to which that petition relates.

Place of trial of election petition.

95. An election petition may be presented to the Court of Appeal by any one or more of the following persons, namely :—

Who may present petition.

- (a) some person claiming to have had a right to be returned or elected at such election ;

- (b) some person alleging himself to have been a candidate at such election.

Relief which may be claimed.

96. All or any of the following reliefs to which the petitioner may be entitled may be claimed in an election petition, namely :—

- (a) a declaration that the election in respect of any electoral district is void ;
- (b) a declaration that the return of any person elected was undue ;
- (c) a declaration that any candidate was duly elected and ought to have been returned.

Parties to a petition.

97. (1) A petitioner shall join as respondents to his election petition—

- (a) where the petition, in addition to claiming that the election of all or any of the returned candidates is void or was undue, claims a further declaration that he himself or any other candidate has been duly elected, all the contesting candidates, other than the petitioner, and where no such declaration is claimed, all the returned candidates ; and
- (b) any other candidate or person against whom allegations of any corrupt or illegal practice are made in the petition.

(2) Any candidate not already a respondent to an election petition shall, upon application in that behalf made by him to the Election Judge, be entitled to be joined as a respondent to such petition :

Provided that no candidate shall be entitled to be joined of his own motion as a respondent to such petition under the preceding provisions of this section unless he has given such security for costs as the Election Judge may determine.

Contents of the petition.

98. An election petition—

- (a) shall state the right of the petitioner to petition under section 95 of this Act ;
- (b) shall state the holding and result of the election ;
- (c) shall contain a concise statement of the material facts on which the petitioner relies ;

- (d) shall set forth full particulars of any corrupt or illegal practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt or illegal practice and the date and place of the commission of such practice, and shall also be accompanied by an affidavit in support of the allegation of such corrupt or illegal practice and the date and place of the commission of such practice ;
- (e) shall conclude with a prayer as, for instance, that the election in respect of any electoral district should be declared void, and shall be signed by all the petitioners :

Provided, however, that nothing in the preceding provisions of this section shall be deemed or construed to require evidence to be stated in the petition.

99. (1) The Election Judge may, upon such terms to costs or otherwise as he may deem fit, allow the particulars of any corrupt or illegal practice specified in an election petition to be amended or amplified in such manner as may in his opinion, be necessary for ensuring a fair or effective trial of the petition so, however, that he shall not allow such amendment or amplification if it will result in the introduction of particulars of any corrupt or illegal practice not previously alleged in the petition.

Special provisions relating to the procedure before an Election Judge.

(2) Every election petition shall be tried as expeditiously as possible and every endeavour shall be made to conclude the trial of such petition within a period of six months after the date of the presentation of such petition. The Election Judge shall make his order deciding such petition without undue delay after the date of the conclusion of the trial of such petition.

100. At the conclusion of the trial of an election petition the Election Judge shall determine whether the Member whose return or election is complained of, or any other and what person, was duly returned or elected, or whether the election was void, and shall certify such determination in writing.

Determination of Election Judge.

Such certificate shall be kept in the custody of the Registrar of the Court of Appeal to be dealt with as hereinafter provided.

Report of
Judges as
to corrupt
or illegal
practice.

101. At the conclusion of the trial of an election petition the Election Judge shall also make a report setting out—

- (a) whether any corrupt or illegal practice has or has not been proved to have been committed by or with the knowledge and consent of any candidate at the election, or by his agent, and the nature of such corrupt or illegal practice, if any; and
- (b) the names and descriptions of all persons, if any, who have been proved at the trial to have been guilty of any corrupt or illegal practice :

Provided, however, that before any person, not being a party to an election petition nor a candidate, is reported by an Election Judge under this section, the Election Judge shall give such person an opportunity of being heard and of giving and calling evidence to show why he should not be so reported.

Such report shall be kept in the custody of the Registrar of the Court of Appeal to be dealt with as hereinafter provided.

Appeal on
question of
law against
determination
under
section 100
and any
other
decision or
order of
Election
Judge.

102. (1) An appeal of the Supreme Court shall lie against—

- (a) the determination of an Election Judge under section 100, or
- (b) any other decision or order of an Election Judge.

(2) Any such appeal may be preferred, either by the petitioner or by the respondent in the election petition, before the expiry of a period of one month next succeeding the date of the determination or decision against which the appeal is preferred.

(3) Notice of the filing of a petition of appeal, accompanied by a copy of the petition, shall, within ten days of the filing thereof, be served by the appellant on the other party or each of the other parties to the election petition and on the Attorney-General. Such service on a party may be effected in any manner prescribed in the Parliamentary Election Petition Rules set out in the Fourth Schedule to this Act for the service of the notice and copy of an election petition.

(4) Every appeal preferred under this section shall, for the purposes of the application of the Stamp Ordinance, be deemed to be an appeal in a civil action of the value of ten thousand rupees.

(5) Every appeal under this section shall be heard by the Supreme Court in terms of Article 130 of the Constitution and shall, as far as practicable, be given priority over other business of that Court. The Court may give all such directions as it may consider necessary in relation to the hearing and disposal of each appeal.

(6) The Attorney-General shall be entitled to appear or be represented in any appeal under this section.

103. (1) At the time of the filing of a petition of appeal or within three days afterwards, security for the payment of all costs, charges and expenses that may become payable by the appellant shall be given on behalf of the appellant.

Security by appellant for costs, &c., of appeal.

(2) The security shall be an amount of not less than ten thousand rupees. The security required by this section shall be given by a deposit of money.

(3) If the security as in this section provided is not given by the appellant, no further proceedings shall be had on the appeal, and the respondent may apply to the Supreme Court for an order directing the dismissal of the appeal and for the payment of the respondent's costs. The costs of hearing and deciding such application shall be paid as ordered by the Supreme Court, and in default of such order shall form part of the general costs of the appeal.

(4) The deposit of money by way of security for the payment of the costs, charges and expenses payable by the appellant shall be made by payment to the Registrar of the Supreme Court which shall be vested in and drawn upon from time to time by the Chief Justice for the purposes for which security is required by this section.

(5) The Registrar of the Supreme Court shall keep a book open to the inspection of all parties concerned in which shall be entered from time to time the amount and the appeal to which it is applicable.

(6) Money so deposited shall, if and when the same is no longer needed for securing the payment of the costs, charges and expenses payable by the appellant, be returned or otherwise disposed of as justice may require by order of the Chief Justice.

(7) Such order may be made after such notice of intention to apply and proof that all just claims have been satisfied or otherwise sufficiently provided for as the Chief Justice may require.

(8) Such order may direct payment to the party in whose name the same is deposited or to any person entitled to receive the same.

Power of
the Supreme
Court in
appeal.

104. (1) The Supreme Court may, upon any appeal preferred under section 102 affirm, vary or reverse the determination or decision of the Election Judge to which the appeal relates.

(2) Where the Supreme Court reserves on appeal the determination of the Election Judge under section 100, that Court shall decide whether the Member whose return or election was complained of in the election petition, was duly returned or elected, or whether the election was void, and a certificate of such decision shall be issued by that Court.

(3) The Supreme Court may, in the case of any appeal under section 102, order that the election petition to which the appeal relates shall be tried anew in its entirety or in regard to any matter specified by that Court and give such directions in relation thereto as that Court may think fit.

(4) The Supreme Court may make any order which it may deem just as to the costs of the appeal and as to the costs of, and incidental to, the presentation of the election petition and of the proceedings consequent thereon, and may by such order reverse or vary any order, as to costs made by the Election Judge; and the provisions of the Parliamentary Election Petition Rules set out in the Fourth Schedule to this Act as to the award, taxation and recovery of costs shall, *mutatis mutandis*, apply in relation to the award of such costs by the Supreme Court and the taxation and recovery thereof.

Transmission
to President
of certificate
and report.

105. (1) Where no appeal is preferred against the determination of an Election Judge under section 100 within the period hereinbefore specified in that behalf, the Election Judge shall transmit to the President the certificate of such court issued under that section, together with the report of such Judge made under section 101.

(2) Where an appeal is preferred to the Supreme Court under section 102, the Election Judge shall transmit to the Supreme Court the certificate of the Election Judge issued under section 100 together with the report of the Election Judge made under section 101.

(3) Where the determination of the Election Judge is reversed by the Supreme Court in appeal, the Supreme Court shall transmit to the President the certificate of the decision of that Court issued under section 104, together with—

- (a) the report of the Election Judge made under section 101, if it is in the opinion of the Supreme Court not affected by the decision in the appeal ; or
- (b) if the Supreme Court considers it necessary, a report in respect of the matters referred to in section 101 made by the Supreme Court in accordance with the provisions of that section.

106. Upon the transmission to the President of the certificate of the determination of an Election Judge or of the decision of the Supreme Court as required by section 105, the determination or decision, as the case may be, shall take effect and accordingly—

Effect of certificate.

- (a) the return or the election shall be confirmed ; or
- (b) the return or the election shall be altered in accordance with such determination or decision, as the case may be ; or
- (c) where the determination or the decision is to the effect that the election in respect of any electoral district is to be declared void, the President shall, within one month of the receipt of such certificate, by Order published in the *Gazette* require the holding of an election in respect of that electoral district.

107. (1) (a) The President shall, upon receipt of the report of the Election Judge or of the Supreme Court transmitted to him under section 105, forthwith cause a copy of the report to be published in the *Gazette*.

Effect of report.

(b) (i) Where the report referred to in paragraph (a) is to the effect that a corrupt or illegal practice has been committed by any person, that person shall be subject to the same incapacities as if at the date of the said report

he had been convicted of that practice and the returning officer shall expunge the name of such person from any nomination paper in respect of the election which was the subject-matter of the election petition.

(ii) Where the report referred to in paragraph (a) is to the effect that such corrupt or illegal practice was committed with the knowledge and consent of a person who was a candidate at an election or by his agent, that person shall be subject to the same incapacities as aforesaid.

(2) It shall be the duty of every registering officer forthwith to peruse every such report which is published in the *Gazette* under subsection (1), and forthwith to delete from the register of electors the name of every person appearing from the report to be incapable of voting at an election.

Time for presentation.

108. (1) Every election petition shall be presented within twenty-one days of the date of publication of the result of the election in the *Gazette* :

Provided that an election petition questioning the return or the election upon the ground of a corrupt or illegal practice and specifically alleging a payment of money or other act to have been made or done since the date aforesaid by the member whose election is questioned or by an agent of the member or with the privity of the member in pursuance or in furtherance of such corrupt or illegal practice may, so far as respects such corrupt or illegal practice, be presented at any time within twenty-eight days after the date of such payment or act.

(2) An election petition presented in due time may, for the purpose of questioning the return or the election upon an allegation of a corrupt or illegal practice, be amended with the leave of the Election Judge within the time within which an election petition questioning the return or the election upon that ground may be presented.

Prohibition of disclosure of vote.

109. No elector who has voted at an election shall, in any proceeding to question the election, be required to state for which recognized political party or independent group he has voted.

Votes to be struck off at a scrutiny.

110. (1) On a scrutiny at the trial of an election petition the following votes only shall be struck off, namely :—

- (a) the vote of any person whose name was not on the register of electors assigned to the polling station at which the vote was recorded ;
- (b) the vote of any person whose vote was procured by bribery, treating, or undue influence ;

- (c) the vote of any person who committed or procured the commission of personation at the election ;
- (d) where the election was a General Election, the vote of any person proved to have voted at such General Election in more than one electoral district ;
- (e) the vote of any person, who, by reason of the operation of paragraphs (e), (f), (g), (h), (i) and (j) of Article 89 of the Constitution, was incapable of voting at the election ;
- (f) the vote of any person who, not being entitled to vote in person at the election by reason of subsection (1) of section 26, voted in person at the election.

(2) The vote of a registered elector shall not, except in the case specified in paragraph (e) of subsection (1), be struck off at a scrutiny by reason only of the voter not having been or not being qualified to have his name entered on the register of electors.

(3) On a scrutiny, any tendered vote proved to be a valid vote shall, on the application of any party to the petition, be added to the poll.

111. The procedure and practice on election petitions shall be in accordance with the Parliamentary Election Petition Rules set out in the Fourth Schedule to this Act.

Procedure and practice on election petitions.

112. On an election petition the decision of a counting officer whether or not a ballot paper shall be rejected under section 53 shall not be questioned.

Rejection of ballot paper by counting officer to be final.

PART VIII

GENERAL

113. If at any time after the President has ordered or fixed the date for an election, it is shown to his satisfaction that in any electoral district owing to any cause whatsoever no election has been held in pursuance of such Order he may at any time by notice in the *Gazette* issue another Order that an election shall be held in that district.

Power to order elections.

Failure to comply with provisions of Act.

114. No election shall be invalid by reason of any failure to comply with the provisions of this Act relating to elections if it appears that the election was conducted in accordance with the principles laid down in such provisions, and that such failure did not affect the result of the election.

Death, withdrawal or disqualification of candidate not to invalidate nomination paper of party or group.

115. The death, or withdrawal, or disqualification under any written law for election or for sitting and voting as a Member, whether before or after the election of the Member, of any person or persons nominated by a recognized political party or independent group for election at that election shall not invalidate or in any way affect the nomination paper of that party or group, and accordingly the candidature or election of any other person nominated by the party or group on that nomination paper shall not be invalidated by reason only of the fact of the death, withdrawal or disqualification of such person or persons.

Use of schools as polling stations.

116. (1) A returning officer may use, free of charge, as a polling station any school or any portion of a school in receipt of a grant, or in respect of which a grant is made out of moneys provided by Parliament.

(2) A returning officer shall make good any damage done to, and defray any expenses incurred by the persons having control over, any such school or portion thereof as aforesaid by reason of its being used as a polling station.

Secretary of a recognized political party or group leader to act as his own agent or assist his agent.

117. The secretary of a recognized political party which has nominated candidates for election at any election under this Act or its authorized agent, or a group leader may himself do any act or thing which a polling agent or counting agent or other agent of such political party or independent group, if appointed, would have been required or authorized to do, or may assist such agent in doing any such act or thing, but before acting under this section the secretary of the recognized political party or its authorized agent or a group leader shall make a declaration under section 76, required to be made by such agent.

118. Where an act or thing is required or authorized to be done in the presence of the agent or agents of a recognized political party or independent group at an election under this Act, the non-attendance of any agent or agents of such party or group at the time and place appointed for the purpose shall not, if that act or thing is otherwise duly done invalidate the act or thing done.

Non-attendance of the agents of recognized political party or independent group.

119. No person who has voted at an election under this Act shall, in any legal proceeding, be required to state for which recognized political party or independent group he has voted.

Prohibition of disclosure of vote.

120. No misnomer or inaccurate description of any person or place named or described in any register, notice or other document whatsoever prepared or issued under or for the purposes of this Act shall in any wise affect the operation of this Act as respects that person or place if that person or place is so designated in such register, notice or document as to be identifiable.

Inaccurate description of places and persons.

121. (1) Where any notice is required by this Act to be published and, if in the opinion of the authority who is required to publish such notice, the prescribed mode of publication does not give sufficient publicity to the notice, he may, in addition to publishing the notice as required by this Act, exhibit copies of the notice in conspicuous places within the electoral district to which the notice relates or take such other steps as he may deem necessary for giving publicity thereto.

Publication of notices, &c.

(2) Every person who, without lawful authority, destroys, mutilates, defaces or removes any notice which is exhibited by any authority under subsection (1) or any document which is made available for inspection in accordance with this Act shall be guilty of an offence and shall on conviction before a Magistrate be liable to a fine not exceeding fifty rupees.

122. (1) Any person, being the employer of any other person who is entitled to vote in person at an election, shall, upon application in writing in that behalf made by such other person, grant such other person leave, without loss of pay, for such continuous period (not less than four hours in duration) as that person may deem sufficient to enable such other person to vote in person at that election.

Duty of employers to grant leave to enable employees to vote.

(2) Any person who contravenes or fails to comply with the provisions of subsection (1) shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees, or to imprisonment of either description for a term not exceeding one month, or to both such fine and imprisonment.

Requisition-
ing
of premises
for use as
polling
stations.

123. (1) Where the Commissioner considers that any premises, other than any school referred to in section 116, are required for the purpose of being used as a polling station, he may requisition those premises for that purpose by order in writing addressed to and served on the person in actual possession of those premises, or, where no person is in such actual possession, on the owner of such premises.

(2) Where any premises are requisitioned under subsection (1), the period of such requisition shall not extend beyond four weeks.

(3) In this section, "premises" means any land, building or part of a building and includes a hut, shed or structure or any part thereof.

Compensation for
requisitioning
premises.

124. (1) Where any premises are requisitioned under section 123 the Commissioner shall pay, out of moneys provided for the purpose by Parliament, compensation for such requisition to the person who was in actual possession of those premises immediately before the requisition or, where no person was in such actual possession, the owner of those premises, and shall make good any damage done to those premises during the period of the requisition.

(2) The amount of compensation payable under subsection (1) in respect of any premises shall be determined by taking into consideration—

(a) the rent payable in respect of those premises, or, where no rent is so payable, the rent payable for similar premises in the locality, and

(b) if, in consequence of the requisition of those premises, the person who was in actual possession of those premises immediately before the requisition was compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.

(3) Where any person entitled to compensation under this section is aggrieved by the decision of the Commissioner in regard to the amount of the compensation, that person may appeal in writing to the Court of Appeal from that decision.

125. (1) Subject to the provisions of subsection (2), the secretary of a recognized political party or the group leader of an independent group whose party or group is contesting an election in an electoral district shall, at any time between the last day of the nomination period and the day which is the seventh day before the day of the poll to be taken at such election, be entitled to send free of any charges for postage to each elector whose name appears in the register of electors for such electoral district one postal communication by ordinary post containing matter relating to such election only.

Right of secretary of recognized political party or group leader to send matter relating to elections post free.

(2) The right to send a postal communication conferred on a person by subsection (1) shall be subject to the following conditions, and if any such condition is not complied with, such communication may be rejected by the Postmaster-General or any person acting under his authority :—

- (a) such communication shall be open for examination, and shall not exceed thirty grams in weight ; and
- (b) the length and width of, and the manner of franking, arranging and handling, such communication shall be as determined from time to time by the Postmaster-General.

126. (1) Every recognized political party or independent group which has submitted a nomination paper in respect of any electoral district shall, subject to such conditions as may be determined by the Director-General of Broadcasting, be entitled, upon application made in that behalf within one week from the last day of the nomination period, to the use of broadcasting facilities during the period commencing from the day after the last day fixed for making such application and ending seventy-two hours prior to the commencement of the poll.

Political broadcasts.

(2) In the allocation of broadcasting time during the period referred to in subsection (1) to any recognized political party or independent group which makes an applica-

tion in that behalf, the Director-General of Broadcasting shall ensure that each party or group shall be permitted to use—

(a) in the case of radio broadcasting, a total period not exceeding forty-five minutes which may be used on one occasion or on not more than three occasions and each such occasion shall not exceed fifteen minutes ;

(b) in the case of television broadcasting, a total period not exceeding forty-five minutes which may be used on one occasion or on not more than three occasions and each such occasion shall not exceed fifteen minutes.

(3) Where two or more recognized political parties or independent groups agree to debate any matter of national importance, it shall be the duty of the Director-General of Broadcasting to afford broadcasting facilities to such parties or groups, so however that the time permitted for such debate shall not exceed the time allotted to each such party or group under subsection (2).

(4) The order in which each recognized political party or independent group shall use the broadcasting facilities shall be determined—

(a) in the first instance by agreement among such parties and groups ; or

(b) in the absence of such agreement by lots cast or drawn in such manner as the Director-General of Broadcasting may, in his absolute discretion, determine.

(5) The broadcasting facilities under this section shall be used only by a candidate or candidates nominated by any recognized political party or independent group to contest an election under this Act.

(6) No candidate shall, save and except as provided in this section, directly or indirectly use broadcasting facilities for the purpose of promoting his own election.

**State
assistance to
recognized
political
parties.**

127. (1) Every recognized political party which qualifies under the succeeding provisions of this section shall be entitled to receive in respect of a General Election, financial assistance by way of a grant from the State.

(2) The first payment under this section shall be payable in respect of the first General Election to be held after this Act shall come into operation to any recognized political party which contested the General Election held in July, 1977 and polled not less than one *per centum* of the total number of valid votes polled at that General Election.

(3) The grant referred to in subsection (1) shall be payable to any recognized political party in respect of an electoral district, if that party—

(a) has polled not less than one *per centum* of the total number of valid votes polled at the last preceding General Election ; and

(b) has submitted a nomination paper in respect of that district at the General Election in respect of which such grant is payable.

(4) Every recognized political party which qualifies under subsection (3), shall, on application made in that behalf to the Commissioner by the secretary of such party, be entitled to receive a sum calculated at the rate of fifty cents per vote polled by such party in that district at the last preceding General Election.

(5) Every payment under this section shall be paid into the official bank account of the recognized political party within ten days from the last day of the nomination period.

(6) When any dispute arises in respect of the payment of the grant under this section, such dispute shall be referred to the Commissioner whose decision thereon shall be final.

128. The Commissioner shall—

(a) exercise general direction and supervision over the administrative conduct of elections under this Act ;

(b) have power to issue to Deputy and Assistant Commissioners of Elections, returning officers, presiding officers and other election officers such directions as he may deem necessary to ensure effective execution of the provisions of this Act ;

(c) execute and perform all other powers and duties which are conferred and imposed upon him by or under this Act.

Powers of
Commis-
sioner.

129. If any difficulty arises in first giving effect to any of the provisions of this Act, the Commissioner may, by Order published in the *Gazette*, issue all such directions as he may deem necessary with a view to providing for any special or

Removal of
difficulties.

unforeseen circumstances or to determining or adjusting any question or matter for the determination or adjustment of which no provision or effective provision is made by this Act.

Repeal

130. Part I and Parts IV to VI (both inclusive) of the Ceylon (Parliamentary Elections) Order in Council, 1946, are hereby repealed.

**Interpre-
tation.**

131. In this Act, unless the context otherwise requires—

“approved symbol” means a symbol approved by the Commissioner for the purposes of this Act by notification published in the *Gazette* ;

“candidate” means a person who is nominated as a candidate at an election by a recognized political party or an independent group ;

“Commissioner of Elections” means the Commissioner of Elections appointed under Article 103 of the Constitution ;

“election” means an election for the purpose of electing a Member of Parliament ;

“Election Judge” means the President of the Court of Appeal or any Judge of that Court nominated by such President or one or more of such Judges nominated by such President, of whom such President may be one ;

“elector”, “electoral district”, “register of electors”, and “registering officer” shall have the same meanings as in the Registration of Electors Act, No. 44 of 1980 ; and

“voter” means a person who, whether his name does or does not appear in a register of electors, applies to vote, or votes, at an election.

FIRST SCHEDULE

FORM A

SECTION 15 (1)

FORM OF NOMINATION PAPER

Nomination paper for the electoral district

Thebeing a recognized political party/* An independent group of candidates hereby nominates the following persons, in the order of priority in which their names appear, as candidates for election as Members for the above-mentioned electoral district.

(1)	(2)	(3)	(4)
Name of candidate	Address	Occupation	Signature of candidates signifying consent and certifying that he is not subject to any disqualification for election

.....
Signature of secretary of recognized political party/ group leader.*

Name :

Address :

Signed by the abovenamed

.....
*Secretary of recognized political party/*group leader in my presence*
at..... on this
.....day of..... 19.....

.....
Justice of the Peace or notary public.

*Delete whichever is inapplicable.

Parliamentary Elections Act, No. 1 of 1981

FORM B

SECTION 20

RETURN WHERE MEMBERS ARE ELECTED UNCONTESTED

I hereby certify that the following Members of theparty which is a recognized political party/*an independent group of candidates were elected uncontested for the electoral district.....

Name of Member elected	Address
.....
.....
.....

.....
 Returning officer.
 Electoral district.....

Date :.....

FORM C

SECTION 32

FORM OF FRONT OF BALLOT PAPER

Counterfoil No.	"A" PARTY	•
<i>Note.</i> —The counterfoil is to have a number to correspond with that on the back of the ballot paper.	"B" PARTY	•
The name of each recognized political party and the words "independent group" must be printed in Sinhala, Tamil and English.	"C" PARTY	•
	"INDEPENDENT GROUP" 1	•
	"INDEPENDENT GROUP" 2	•
	"INDEPENDENT GROUP" 3	•

* Here print symbol of each party or group

FORM D

SECTION 38

LIST OF VOTERS TO WHOM BALLOT PAPERS ARE NOT DELIVERED UNDER SECTION 38

Name and Number of Electoral District :

Polling Division :

Polling District :

Polling Station :

Date of Poll :

Number of voter in register of electors	Name of voter	Reason for not delivering ballot paper		
		Refuses appropriate inspection	Already marked with the appropriate mark	Refuses to be marked with appropriate mark

.....
Signature of presiding officer.

Parliamentary Elections Act, No. 1 of 1981

FORM E

SECTION 43

DECLARATION

I,(name in full) of(address), hereby declare that I am the same person whose name appears as A.B. on the register of electors now in force for this electoral district.

.....
(Signature or thumb mark of voter.)

Declared before me this.....day of19.....

.....
(Signature of presiding officer.)

Name and Number of Electoral District :.....
Polling Division :.....
Polling District :.....
Polling Station :.....

FORM F

SECTION 43

DECLARATION

I,(name in full) of(address), hereby declare that I have not already voted either here or elsewhere at this election of Members for this electoral district.

.....
(Signature or thumb mark of voter.)

Declared before me this.....day of19.....

.....
(Signature of presiding officer.)

Name and Number of Electoral District :.....
Polling Division :.....
Polling District :.....
Polling Station :.....

FORM G

SECTION 43

DECLARATION

I,(name in full) of(address), hereby declare that I am not legally incapable of, or disqualified from, voting at this election of Members for this electoral district.

.....
(Signature or thumb mark of voter.)

Declared before me this.....day of19.....

.....
(Signature of presiding officer.)

Name and Number of Electoral District :.....
Polling Division :.....
Polling District :.....
Polling Station :.....

FORM H

SECTION 43

DECLARATION (WHEN THE ELECTION IS A GENERAL ELECTION)

I,(name in full) of(address) hereby declare that I have not already voted at this General Election in any other electoral district

.....
(Signature or thumb mark of voter.)

Declared before me this day of 19.....

.....
(Signature of presiding officer.)

Name and Number of Electoral District :.....

Polling Division :.....

Polling District :.....

Polling Station :.....

FORM I

SECTION 45

DECLARATION

I solemnly and sincerely declare that I am the same person whose name appears as
.....(name) No.....(serial number) in the register of electors
for the electoral district

.....
(Signature or thumb mark of voter.)

Declared before me this day of 19.....

.....
(Signature of presiding officer.)

Name and Number of Electoral District :.....

Polling Division :.....

Polling District :.....

Polling Station :.....

FORM J

SECTION 45

TENDERED VOTES LIST

No. of voter	Name of voter

.....
(Signature of presiding officer.)

Date :.....

Name and Number of Electoral District :.....

Polling Division :.....

Polling District :.....

Polling Station :.....

FORM K

SECTION 47

BALLOT PAPER ACCOUNT

Name and Number of Electoral District :.....

Polling Division :.....

Polling District :.....

Polling Station :.....

No. of ballot papers received :

No. of ballot papers issued other than spoilt ballot papers :.....

Spoilt ballot papers :.....

Unused ballot papers :.....

No. of tendered ballot papers received :.....

No. of tendered ballot papers issued to voters :.....

No. of unused tendered ballot papers :.....

.....
(Signature of presiding officer.)

Date :.....

FORM L

SECTION 62

RETURN AFTER A POLL HAS BEEN TAKEN

I hereby certify that the following Members, nominated by the recognized political party or independent group shown against the name of each such Member, were elected for electoral district No.....at the election held on.....

Name of Member elected	Recognized political party or independent group which nominated the Member

Dated atthis.....day of.....19...

.....
Returning officer.
Electoral district.....

FORM M

SECTION 64

RETURN AFTER FILLING OF A VACANCY

I hereby certify thatwhose name appears on the nomination paper submitted bywhich is a recognized political party* / an independent group of candidates*, was declared elected as a member for electoral district No in terms of paragraph 13 (b) of Article 99 of the Constitution.

Dated at.....this.....day of.....19.....

.....
Returning officer.
Electoral district.....

*Delete whichever is inapplicable.

Parliamentary Elections Act, No. 1 of 1981

FORM N

SECTION 76

FORM OF DECLARATION OF SECRECY

I solemnly promise and declare that I will not at this election for electoral district No.....
to anything forbidden by section 76 of the Parliamentary Elections Act, 1981 which has been
read to me.

.....
Signature of declarant.

Declared before me this day of 19

.....
Signature of person taking declaration

Note.—The section must be read to the declarant by the person taking the declaration.

SECOND SCHEDULE

[Section 26]

Postal Voters' Regulations—1981

1. These regulations may be cited as the Postal Voters' (Parliamentary Elections) Regulations, 1981. Short title.

2. For the purposes of these regulations, unless the context otherwise requires,—
"issue" includes the original and any subsequent issue ;
"postal ballot paper" means a ballot paper issued to a postal voter
"postal voter", with reference to an election, means a person entitled to be treated as a postal voter for the purpose of that election ;
"Schedule" means the Schedule to these regulations ;
"the Act" means the Parliamentary Elections Act, 1981. Interpretation.

3. An application to be treated as a postal voter shall be substantially in the form "A" in the Schedule. Form of application to be treated as a postal voter.

4. (1) Subject to the provisions of this regulation, the record and list of postal voters kept by the returning officer under the Act shall be in such form as appears to him to be convenient. Record and list of postal voters.
(2) The address to which the ballot paper of a postal voter is to be sent shall be specified opposite his name in the postal voters' list.
(3) The names in the postal voters' list shall be numbered consecutively.
(4) As soon as the postal voters' list has been prepared, the returning officer shall publish it by making a copy thereof available for inspection at his office.

5. A postal ballot paper shall be in the same form as, and indistinguishable from, the ballot papers delivered to voters, who are not postal voters.

6. The form of declaration of identity sent to a postal voter with his postal ballot paper shall be substantially in the form "B" in the Schedule.

7. There may be appointed persons to assist the returning officer as clerks at the proceedings on the issue of postal ballot papers : Appointment of clerks.
Provided that no person shall be so appointed who has been employed by or on behalf of a candidate in or about the election.

Persons entitled to be present at issue and receipt of postal ballot papers.

8. (1) No person other than—
- (a) the returning officer and his clerks,
 - (b) an authorized agent or a group leader,
 - (c) a person appointed by an authorized agent or a group leader to attend in his place, and
 - (d) any agents appointed under paragraph (2) of this regulation,

may be present at the proceedings on the issue of postal ballot papers.

(2) Where postal ballot papers are to be issued simultaneously in two or more batches, each authorized agent or group leader may appoint one or more agents up to the number he may be authorized by the returning officer to appoint not exceeding the number of such batches, so, however, that the number authorized shall be the same in the case of each authorized agents or group leader.

(3) Notice of the appointment stating the names and addresses of the persons appointed under paragraph (2) of this regulation shall be given by the authorized agent or group leader to the returning officer before the time fixed for the issue of the postal ballot papers.

(4) If an agent dies or becomes incapable of acting, the authorized agent or group leader may appoint another agent in his place and shall forthwith give to the returning officer notice in writing of the name and address of the agent appointed.

(5) Agents may be appointed and notices of their appointment may be given to the returning officer by the candidate whose name appears second on the nomination paper instead of by the authorized agent or the group leader.

(6) In these regulations, references to agents shall be taken as references to agents whose appointments have been duly made and notified and, in the case of agents appointed under paragraph (2) of this regulation, who are within the number authorized by the returning officer.

(7) An authorized agent or group leader may himself do any act or thing which any agent of his, if appointed, would have been authorized to do or, may assist his agent in doing any such act or thing.

(8) Where in these regulations any act or thing is required or authorized to be done in the presence of the authorized agent or group leader or their agents the non-attendance of any such person or persons at the time and place appointed for the purpose shall not, if the act or thing is otherwise validly done, invalidate the act or thing done.

Declaration of secrecy.

9. (1) Every person attending the proceedings on the issue of postal ballot papers shall make a declaration of secrecy substantially in the form "C" in the Schedule before the issue of such ballot papers.

(2) A declaration under paragraph (1) of this regulation shall be made by the returning officer in the presence of a Justice of the Peace and when made by any other person shall be made in the presence of the returning officer or a Justice of the Peace.

(3) Every person attending the proceedings in connection with the issue of postal ballot papers shall maintain and aid in maintaining the secrecy of the voting and shall not—

- (a) except for some purpose authorized by law, communicate, before the poll is closed, to any person any information obtained at those proceedings as to the official mark made on postal ballot papers; or
- (b) except for some purpose authorized by law, communicate to any person at any time information obtained at those proceedings as to the number on the back of a postal ballot paper.

(4) Every person who acts in contravention of the provisions of paragraph (3) of this regulation shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding six months.

10. (1) The returning officer shall, not later than ten days after the last day of the nomination period at an election, notify each authorized agent and group leader of the time and place at which he will issue the postal ballot papers and of the number of agents he may appoint under paragraph (2) of regulation 8 to attend the said issue.

Notice of issue of postal ballot papers.

(2) Where any subsequent issue of ballot papers is made, the returning officer shall notify each authorized agent and group leader as soon as practicable of the time and place at which he will make such subsequent issue and of the number of agents he may appoint under paragraph (2) of regulation 8 to attend the issue.

11. (1) The postal ballot paper issued to each postal voter shall be stamped on the back, or perforated, with the official mark; and the number and name of such voter shall be called out, and the number of such voter shall be marked on the counterfoil of each such ballot paper, and a mark shall be placed in the postal voters' list against the number of such voter to denote that he has been issued such ballot paper but without showing the particular ballot paper issued to him.

Official mark to be made on postal ballot papers.

(2) The number of the postal voter to be marked on the counterfoil of the postal ballot paper issued to him shall be the number of such voter in the postal voters' list.

(3) The number printed on the postal ballot paper issued to a postal voter shall be marked on the form of declaration of identity sent to such voter. The number so marked is hereinafter referred to as the "marked number on the declaration of identity".

12. Where a returning officer is satisfied that two entries in the postal voters' list relate to the same postal voter, he shall not issue, in respect of that voter, more than one postal ballot paper.

Refusal to issue postal ballot papers.

Interpretation of the expression "marked number on the ballot paper envelope" and the expression "covering envelope".

13. (1) The number marked on the ballot paper envelope is referred to in these regulations as the "marked number on the ballot paper envelope".

(2) The envelope for the return of the postal ballot paper duly marked and enclosed in the ballot paper envelope and of the form of declaration of identity duly filled up is referred to in these regulations as the "covering envelope".

Delivery to post office of envelopes addressed to postal voters.

14. All envelopes addressed to postal voters shall be counted and forthwith delivered by the returning officer to the nearest post office, and the postmaster shall stamp with the post office date stamp a form of receipt to be presented by the returning officer stating the number of envelopes so delivered and shall immediately forward such envelopes for delivery to the persons to whom they are addressed.

Sealing up of postal voters' list and counterfoils.

15. (1) The returning officer, as soon as practicable after the completion of the issue of the postal ballot papers, and in the presence of the agents of the authorized agents and group leaders, shall make up in separate packets—

(a) the marked copies of the postal voters' list; and

(b) the counterfoils of the postal ballot papers which were issued,

and shall seal such packets.

(2) The sealed packet containing the marked copies of the postal voters' list may be opened by the returning officer for the purpose of a subsequent issue of postal ballot papers, and, on completion of the issue, the copies shall be again made up and sealed in accordance with paragraph (1) of this regulation.

Provision of postal voters' ballot box.

16. (1) The returning officer shall, at the proceedings on the original issue of the postal ballot papers to postal voters, provide a ballot box or ballot boxes for the reception of the covering envelopes that may be received from postal voters. Every such ballot box shall be treated as a ballot box for the purposes of section 56 of the Act.

(2) Every ballot box referred to in paragraph (1) of this regulation shall be shown open and empty to such agents of the authorized agents and group leaders as are present, and shall be sealed with the seal of the returning officer and the seals of such of the agents as desire to affix their seals, and shall be marked "postal voters' ballot box" and with the number and name of the electoral district for which the election is held, and the returning officer shall make provision for the safe custody of such ballot box.

Receipt of covering envelopes from postal voters.

17. The returning officer shall, immediately on receipt of a covering envelope before the close of the poll, place it unopened in the postal voters' ballot box.

18. Subject to the general or special directions of the Commissioner, the returning officer shall appoint, and may revoke the appointment of, a counting officer to be in charge of the counting of votes at the counting centre, or each counting centre where postal ballot papers are to be counted, and such number of assistants and clerks and other officers to assist such counting officer in the performance of his duties.

Counting officers.

19. The returning officer shall make arrangements for counting the votes on the postal ballot papers as soon as possible after the close of the poll and shall give notice in writing to each secretary or the authorized agent of a recognized political party and the group leader of any independent group contesting the election of the situation of the counting centre or each counting centre where postal ballot papers are to be counted and the date and time of the commencement of such count.

Notice of the count.

20. Each recognized political party or independent group which has nominated candidates at an election for any electoral district may appoint not more than two agents (hereinafter referred to as "counting agents") to attend at the counting of the votes at each counting centre where postal ballot papers are to be counted before the commencement of such count. Notice in writing of such appointments stating the names and addresses of the persons appointed shall be given by the secretary of such recognized political party or its authorized agent or the group leader to the counting officer before the commencement of the count. The counting officer may refuse to admit to the counting centre any counting agent whose name and address have not been so given.

Appointment of counting agents.

21. Except with the consent of the counting officer no person, other than the counting officer, the persons appointed to assist him and the counting agents may be present at the counting of the votes.

Persons entitled to be present at the count.

22. The provisions of section 76 of the Act shall apply at the proceedings at the counting of the postal ballot papers.

Maintenance of secrecy at the court.

23. Every postal voters' ballot box shall be opened by the counting officer, in the presence of the counting agents after the close of the poll and before such officer proceeds to count the votes.

Opening of postal voters' ballot box.

24. (1) Where a postal voters' ballot box is opened, the counting officer shall count and note the number of covering envelopes, and shall then open each covering envelope separately.

Opening of the covering envelopes.

(2) When the counting officer opens a covering envelope and—
(a) finds therein—

(i) a declaration of identity and a ballot paper envelope,
or

(ii) a declaration of identity, and a ballot paper not enclosed in a ballot paper envelope, or

(iii) only a declaration of identity, or

(iv) only a ballot paper not enclosed in a ballot paper envelope, or

(v) only a ballot paper envelope, or

(b) finds nothing therein,

the succeeding provisions of this regulation shall apply.

(3) In the cases referred to in sub-paragraph (a) (i) and sub-paragraph (a) (ii) of paragraph (2) of this regulation, the counting officer shall satisfy himself that the declaration of identity has been duly signed and witnessed and that the marked number on the declaration of identity corresponds, in the case referred to in the aforesaid sub-paragraph (a) (i), to a similar marked number on the ballot paper envelope and, in the case referred to in the aforesaid sub-paragraph (a) (ii), to a similar marked number on the ballot paper. If he is so satisfied, he shall place such declaration in a separate receptacle (hereinafter referred to as the "receptacle for declarations of identity") and, in the case referred to in the aforesaid sub-paragraph (a) (i), the ballot paper envelope, and, in the case referred to in the aforesaid sub-paragraph (a) (ii), the ballot paper, in another receptacle (hereinafter referred to as the "receptacle for postal voters' ballot papers").

(4) Where in the cases referred to in sub-paragraph (a) (i) and sub-paragraph (a) (ii) of paragraph (2) of this regulation, the counting officer is not so satisfied as is required by paragraph (3) of this regulation, he shall—

(a) mark on the declaration of identity the words "declaration of identity rejected";

(b) show such declaration to such counting agents as are present and, if any objection is made by any agent to the decision of the counting officer regarding such declaration, add to the words marked on such declaration under the preceding sub-paragraph (a) the words "rejection objected to";

(c) attach to such declaration, in the case referred to in the aforesaid sub-paragraph (a) (i), the ballot paper envelope or, in the case referred to in the aforesaid sub-paragraph (a) (ii), the ballot paper; and

(d) place such declaration and the documents which under the preceding sub-paragraph (c) are attached to such declaration in a receptacle (hereinafter referred to as the "receptacle for rejected votes of postal voters").

(5) In the case referred to in sub-paragraph (a) (iii) of paragraph (2) of this regulation, the counting officer shall mark on the declaration of identity the words "declaration of identity rejected, no ballot paper and no ballot paper envelope received" and shall place such declaration in the receptacle for rejected votes of postal voters.

(6) In the case referred to in sub-paragraph (a) (iv) of paragraph (2) of this regulation, the counting officer shall mark on the ballot paper the words "rejected, no declaration of identity received", and shall place the ballot paper in the receptacle for rejected votes of postal voters.

(7) In the case referred to in sub-paragraph (a) (v) of paragraph (2) of this regulation, the counting officer shall open the ballot paper envelope in order to ascertain whether a declaration of identity is enclosed therein.

(8) If, on opening the ballot paper envelope under paragraph (7) of this regulation, a declaration of identity and a ballot paper are found in such envelope, the counting officer shall satisfy himself that such declaration has been duly signed and witnessed and that the marked number on the declaration of identity corresponds to a similar marked number on such ballot paper and—

(a) if so satisfied, shall place such declaration in the receptacle for declarations of identity and place such ballot paper in the receptacle for postal voters' ballot papers, and

(b) if not so satisfied, shall—

(i) mark on such declaration the words "declaration of identity rejected";

(ii) show such declaration to such counting agents as are present and, if any objection is made by any agent to the decision of the counting officer regarding such declaration, add to the words marked on such declaration under the preceding sub-paragraph (i) the words "rejection objected to";

(iii) attach to such declaration the ballot paper envelope and such ballot paper; and

(iv) place such declaration and the documents which under the preceding sub-paragraph (iii) are attached to such declaration in the receptacle for rejected votes of postal voters.

(9) If, on opening the ballot paper envelope under paragraph (7) of this regulation, the counting officer finds—

(a) only a declaration of identity, or

(b) only a ballot paper, or

(c) nothing,

he shall—

(i) in the case referred to in the preceding sub-paragraph (a), mark on such declaration the words "declaration of identity rejected, no ballot paper received";

(ii) in the case referred to in the preceding sub-paragraph (b) mark on such ballot paper the words "rejected, no declaration of identity received";

(iii) in the case referred to in the preceding sub-paragraph (c), mark on the ballot paper envelope the words "rejected, no contents received"; and

(iv) if a declaration of identity or a ballot paper is found in the ballot paper envelope, attach such declaration or ballot paper to such envelope; and

place the ballot paper envelope and the document or documents, if any, attached to such envelope under the preceding sub-paragraph (iv) in the receptacle for rejected votes of postal voters.

(10) In the case referred to in sub-paragraph (b) of paragraph (2), the counting officer shall mark on the covering envelope the words "rejected; no contents received", and shall place such envelope in the receptacle for rejected votes of postal voters.

(11) A declaration of identity shall not be deemed to be duly signed and witnessed unless it is signed and witnessed in accordance with the instructions contained on the back of the form of declaration of identity.

Opening of ballot paper envelopes.

25. (1) On the conclusion of the proceedings under regulation 24 the counting officer shall open separately each ballot paper envelope placed in the receptacle for postal voters' ballot papers.

(2) Where a ballot paper envelope does not contain any ballot paper, the counting officer shall mark on that envelope the words "no ballot paper enclosed", and shall place it in the receptacle for rejected votes of postal voters.

(3) Where a ballot paper envelope contains a ballot paper, the counting officer shall—

- (a) if the marked number on such envelope corresponds to a similar marked number on such ballot paper, place such ballot paper in the receptacle for postal voters' ballot papers; and
- (b) if such envelope contains a ballot paper and the marked number on such ballot paper does not correspond to the marked number on such envelope mark on such envelope the word "rejected", attach such ballot paper to such envelope and place them in the receptacle for rejected votes of postal voters.

Sealing up of rejected votes and declarations of identity.

26. On the conclusion of the proceedings under regulation 25, the counting officer shall put the contents of the receptacle for rejected votes of postal voters and the contents of the receptacle for the declarations of identity into two separate packets and shall seal up such packets.

The count.

27. (1) Before the counting officer proceeds to count the votes, he or a person authorized by him shall, in the presence of such of the counting agents as attend, take out the ballot papers placed in the receptacle for postal voters' ballot papers and count and record the number of such papers in such receptacle.

(2) In counting the votes, in the ballot papers placed in the receptacle for postal voters' ballot papers, the provisions of subsections (3) and (4) of section 52 and sections 53 and 54 of the Act shall apply.

Closure of the count.

28. Upon the completion of the counting, the counting officer shall forthwith deliver in sealed packets to the returning officer—

- (a) the counted ballot papers;
- (b) the rejected ballot papers;
- (c) the written statement of the number of votes given to each recognized political party or independent group prepared in terms of subsection (7) of section 53 of the Act;
- (d) the record of the count under regulation 27 (1);
- (e) the statement drawn up in terms of subsection (6) of section 53 of the Act; and
- (f) the two sealed packets referred to in regulation 26.

SCHEDULE TO THESE REGULATIONS
FORM A

REGULATION 3

APPLICATION TO BE TREATED AS A POSTAL VOTER

To: the Returning Officer of Electoral District No.
(give number and name of electoral district)

I, hereby declare that my name appears as in the register of electors of the above-mentioned electoral district. The serial number, the polling division and the polling district under which my name appears in the register are as follows:

- Polling division letter:
- Polling district number:
- Serial number of my name:

I hereby apply to be treated as a postal voter at the election of members for the above-mentioned electoral district because I am unable/likely to be unable to vote in person at the polling station allotted to me.

* (1) by reason of the particular circumstances of my employment—

- *(a) as a member of the Sri Lanka Army/Sri Lanka Navy/Sri Lanka Air Force ;
- *(b) as an officer or servant in the Department of Police/Sri Lanka Government Railway/Department of Posts/Department of Telecommunications/Sri Lanka Central transport Board/..... Regional Transport Board ;
- *(c) as an officer or servant in the public service appointed*/likely to be appointed for duties connected with the election ;
- *(d) as an officer or servant of the Central Bank of Ceylon appointed*/likely to be appointed for duties connected with such election ;

* (2) by reason of my candidature in electoral district.....
(give number and name of electoral district).

The address to which my ballot paper and other documents should be sent is as follows:—

If the applicant is not entitled to function as a certifying officer in accordance with the note appearing below, state official designation and address of applicant's certifying officer.

If the applicant is entitled to function as a certifying officer, state applicant's official designation and address.

Date: Signature of Applicant

I hereby certify that I am unable*/likely to be unable*/the applicant is unable*/likely to be unable*/to vote in person at the polling station allotted to me*/him for the reason stated by me*/him in this application.

My official designation and address as stated in this application are correct.

Date and official frank:

.....
Signature and designation of certifying officer*/applicant.

*Delete inapplicable words.

NOTE

1. Every application shall be made to the returning officer of the electoral district where the applicant is registered as an elector not earlier than the seventh day and not later than the fourteenth day after the date of publication of the Proclamation or Order requiring the holding of an election.

2. Every application shall be duly filled in as otherwise it is liable to rejection by the returning officer.

3. Every applicant will be informed of the decision of the returning officer.

4. The ballot paper and other documents will be despatched to any applicant whose application has been allowed to his name and address as stated in his application if he is entitled to function as a certifying officer or, if he is not so entitled, under the care of the certifying officer whose official designation and address are stated in his application.

5. The expression "certifying officer",—

(a) in relation to any applicant who, being a member of the Sri Lanka Army or Sri Lanka Navy or Sri Lanka Air Force,—

(i) is the Commander of that Army or the Captain of that Navy or the Commander of that Air Force, or is the officer in immediate charge of the unit or establishment in which the applicant is serving, means that applicant ; or

(ii) is not a person referred to in clause (i) of this subparagraph, means the officer in immediate charge of the unit or establishment in which the applicant is serving ;

(b) in relation to any applicant who, being an officer or servant in the public service or the Central Bank of Ceylon ;

(i) is the officer in immediate charge of any office means the applicant ; or

(ii) is not a person referred to in clause (i) of this subparagraph, means the officer in immediate charge of the office in which the applicant is serving ; or

(c) in relation to any applicant who is a candidate at a General Election, means the returning officer for the electoral district in which the applicant is registered as an elector.

FORM B

Form of declaration of identity

FRONT OF FORM

Regulation 6

Serial number of ballot paper

(to be inserted by returning officer).

* I hereby declare that I am the person to whom the ballot paper bearing the above serial number and the envelope containing such ballot paper (which have been now handed over to me) were sent under the care of the officer mentioned below who is a witness to my signature.

* * I hereby declare that I am the person to whom the ballot paper numbered as above and the envelope containing such ballot paper (both of which I now produce) were sent direct.

Voter's Signature.

Date : _____.

The ballot paper and the envelope referred to were sent to the above-named person under my care in my capacity as his certifying officer. The above-named person is personally known to me, being a candidate at the pending General Election*/being employed in the unit*/establishment*/office in my charge.

The ballot paper handed over to the voter was marked immediately by him in the compartment provided in my office. The marked ballot paper was placed in the ballot paper envelope by the voter and the envelope was sealed in my presence and that of the voter.

The above declaration of identity was signed in my presence by the voter before voting.

* * The above named person who is personally known to me has shown me the ballot paper and the envelope referred to above and has signed the above declaration in my presence.

Signature and Designation of Witness.

Date and official frank : _____.

(see instructions on back of this form)

* Delete if inapplicable.

* * Applicable only in respect of voters to whom the ballot paper and other documents were sent direct under their official designation and address and should be deleted if inapplicable. The witness to the declaration in respect of such voters will be as specified in the instructions overleaf.

BACK OF FORM

A. Instructions to voter in respect of whom ballot paper and other documents have been despatched under the care of his certifying officer.

1. Before signing the declaration, the voter in respect of whom the ballot paper and other documents have been despatched under the care of his certifying officer shall see—

(i) the envelope in which the form of declaration of identity and the ballot paper were forwarded to the voter under the care of such officer ;

(ii) that the serial number of the ballot paper specified in the declaration of identity is the same as the number appearing on the ballot paper handed over to him.

The voter shall then sign the declaration in the presence of such officer who shall function as his witness.

2. The voter has only one vote.

3. The voter shall vote by marking a ballot paper with a cross in the space provided for the purpose on the right hand side of such paper opposite the name and symbol of the recognized political party or independent group for which he votes, thus X.

4. THE VOTER SHALL NOT ALLOW ANY PERSON TO SEE HOW HE HAS VOTED.

5. Immediately after voting the voter shall fold the ballot paper, obtain the small envelope provided on which are printed the words "ballot paper envelope" from his witness, place the marked ballot paper in it without showing the front of the ballot paper and fasten the envelope up. The envelope shall then be sealed in the presence of the voter and his witness.

The voter shall then place the sealed ballot paper envelope, together with his completed declaration of identity in the other larger enclosed envelope addressed to the returning officer, fasten the envelope and hand it over to his witness for despatch without delay.

6. A POSTAL BALLOT PAPER SHALL NOT BE DEEMED TO BE DULY RETURNED, UNLESS IT IS RETURNED SO AS TO REACH THE RETURNING OFFICER BEFORE THE CLOSE OF THE POLL ON THE POLLING DAY APPOINTED, AND IS ACCOMPANIED BY THE DECLARATION OF IDENTITY DULY SIGNED AND WITNESSED.

B. Instructions to voter in respect of whom ballot paper and other documents were sent direct to him under his official designation and address.

1. Before signing the declaration of identity, the voter shall show the person before whom he is to sign such declaration—

(a) the ballot paper bearing the same number as is specified in such declaration ; and

(b) the envelope in which the voter has received the form of declaration of identity and the ballot paper.

2. The voter shall sign the declaration of identity in the presence of a witness who shall—

(a) if the voter is a member of the Sri Lanka Army, Sri Lanka Navy, or Sri Lanka Air Force, be a Commissioned Officer of such Army, Navy, or Air Force ;

(b) if the voter is an officer or servant in the public service or the Central Bank of Ceylon, be a superior officer of such service, or if the voter has no superior officer, any other officer of such service.

3. The voter has only one vote.

4. The voter shall vote by marking a ballot paper with a cross in the space provided for the purpose on the right hand side of such paper opposite the name and symbol of the recognized political party or independent group for which he votes, thus X.

5. THE VOTER SHALL NOT ALLOW ANY PERSON TO SEE HOW HE HAS VOTED.

6. Immediately after voting, the voter shall place the marked ballot paper in the enclosed small envelope on which are printed the words "ballot paper envelope" and fasten it up. The envelope shall then be sealed in the presence of the voter and the witness. The voter shall then place the sealed ballot paper envelope together with the declaration of identity, in the other larger enclosed envelope addressed to the returning officer and despatch them by post without delay. Unless the voter returns the ballot paper at once it may be too late to be counted.

7. A POSTAL BALLOT PAPER SHALL NOT BE DEEMED TO BE DULY RETURNED, UNLESS IT IS RETURNED SO AS TO REACH THE RETURNING OFFICER BEFORE THE CLOSE OF THE POLL ON THE POLLING DAY APPOINTED AND IS ACCOMPANIED BY THE DECLARATION OF IDENTITY DULY SIGNED AND WITNESSED.

FORM C

Regulation 9 (1)

Form of Declaration of Secrecy

I solemnly promise and declare that I will not at these proceedings do anything forbidden by paragraph (3) of regulation 9 of the regulations contained in the Second Schedule to the Parliamentary Elections Act, 1981, which has been read to me.

Signature of declarant.

Signature of persons before whom the
declaration is made.

Date: _____.

Note.—The paragraph referred to must be read to the declarant by the person before whom the declaration is made.

THIRD SCHEDULE

[Section 30]

FORM OF DIRECTIONS FOR THE GUIDANCE OF A VOTER IN VOTING
WHICH SHALL BE EXHIBITED OUTSIDE EVERY POLLING STATION AND IN
EVERY COMPARTMENT OF EVERY POLLING STATION

Every voter shall have one vote which may be given to a recognized political party or to an independent group.

The voter will go into one of the compartments and place a cross (thus X) on the right-hand side of the ballot paper opposite the name and symbol of the recognized political party or the number and symbol of the independent group for which he votes.

The voter will then fold up the ballot paper so as to show the official mark on the reverse and without showing the face of the paper to anyone, show the official mark on the reverse to the presiding officer and put the paper into the ballot box, and forthwith quit the polling station.

If the voter inadvertently spoils a ballot paper, he can return it to the presiding officer, who will, if satisfied of such inadvertence, give him another ballot paper.

If the voter—

- (i) votes for more than one recognized political party, or
- (ii) votes for more than one independent group, or
- (iii) votes for a combination of one or more recognized political parties and independent groups, or
- (iv) places any mark on the paper by which he may be afterwards identified,

his ballot paper will be void and will not be counted.

FOURTH SCHEDULE

Parliamentary Election Petition Rules, 1981

1. These rules may be cited as the Parliamentary Election Petition Rules, 1981.

Short title.

2. In these rules, unless the context otherwise requires—

Interpretation.

“Commissioner” means the Commissioner of Elections appointed under Article 103 of the Constitution;

“Court” means the Election Court;

“Registrar” means the Registrar of the Court of Appeal; and

“the Act” means the Parliamentary Elections Act, 1981.

3. (1) The presentation of an election petition shall be made by delivering it at the office of the Registrar, and the Registrar or the officer of his department to whom the petition is delivered shall, if required, give a receipt in the following form:—

Manner of presentation of petition.

Received on theday of 19..... at the Registry of the Court of Appeal, a petition touching the election of A.B., C. D., members for electoral districts purporting to be signed by (insert the names of petitioners).

Registrar.

(2) With the petition two copies thereof shall also be left.

4. The following form, or one to the like effect, shall be sufficient:—

Form of election petition.

IN THE COURT OF APPEAL OF THE REPUBLIC OF SRI LANKA

The Parliamentary Elections Act, 1981

Election for (state the electoral district) holden on the day of 19

The petition of X., of (or of X., of and Y., of as the case may be), whose names are subscribed.

(1) Your petitioner X (is a person claiming to have had a right to be returned or elected at the above election or was a candidate at the above election) and your petitioner Y here state in like manner the right of each petitioner).

(2) And your petitioners state that the election was holden on the day of 19, when A.B., C.D., and E.F., were candidates, and the Returning Officer has returned A.B., C.D. as being duly elected.

(3) And your petitioners say that (here state the facts and grounds on which the petitioners rely).

Wherefore your petitioners pray that it might be determined that the said A.B. and C.D. were not duly elected or returned and that the election was void (or that the said E.F. was duly elected and ought to have been returned, or as the case may be.)

(Signed) X

Y.

Where more than one petition is presented in relation to same election.

5. Where more petitions than one are presented relating to the same election or return, all such petitions shall be dealt with as one petition, so far as the inquiry into the same is concerned.

List of votes objected to where seat claimed by unsuccessful candidate.

6. When a petitioner claims the seat for an unsuccessful candidate, the party complaining of or defending the election or return shall, six days before the day appointed for trial deliver to the Registrar, and also at the address, if any, given by the petitioners and respondent, as the case may be, a list of the votes intended to be objected to, and of the heads of objection to each such vote, and the Registrar shall allow inspection and office copies of such lists to all parties concerned; and no evidence shall be given against the validity of any vote, nor upon any head of objection not specified in the list, except by leave of the Court upon such terms as to amendment of the list, postponement of the inquiry, and payment of costs, as may be ordered.

List of objections in recriminatory case.

7. The respondent in a petition complaining of an undue return and claiming the seat for some person may lead evidence to prove that the election of such person was undue, and in such case such respondent shall, six days before the day appointed for trial, deliver to the Registrar, and also at the address, if any, given by the petitioner, a list of the objections to the election upon which he intends to rely, and the Registrar shall allow inspection of office copies of such lists to all parties concerned; and no evidence shall be given by a respondent of any objection to the election not specified in the list, except by leave of the Court, upon such terms as to amendments of the list, postponement of the inquiry; and payment of costs, as may be ordered.

Appointment of agent by petitioner.

8. With the petition the petitioner or petitioners shall leave at the office of the Registrar a writing signed by him or them, giving the name of some person entitled to practise as an Attorney-at-Law whom he or they authorize to act as his or their agent or stating that he or they act for himself or themselves, as the case may be, and in either case giving an address within the city of Colombo at which notices may be left; and if no such writing be left or address given, then all notices may be given by having the same at the office of the Registrar. Every such writing shall be stamped with the duty payable thereon under the law for the time being in force

9. Any person returned as a member may at any time, after he is returned, send or leave at the office of the Registrar a writing signed by him on his behalf, appointing a person entitled to practise as an Attorney-at-Law to act as his agent in case there should be a petition against him, or stating that he intends to act for himself, and in either case giving an address within the city of Colombo at which notices addressed to him may be left, and if no such writing be left or address given, all notices and proceedings may be given or served by leaving the same at the Office of the Registrar. Every such writing shall be stamped with the duty payable thereon under the law for the time being in force.

Appointments
of agent
by respon-
dent

10. The Registrar shall cause to be kept a book at his office in which shall be entered all addresses and the names of agents given under either of the two last preceding rules, which book shall be open to inspection by any person during his office hours.

Registrar to
keep book
with
addresses
and names
of agents

11. (1) At the time of the presentation of the petition or within three days afterwards, initial security in the sum of twenty thousand rupees shall be given on behalf of the petitioner for the payment of all costs, charges and expenses that may become payable by the petitioner.

Security by
petitioner for
costs, &c.,
of election
petition

(2) The Court may, at any time during the hearing of an election petition, determine the number of charges constituting each distinct ground on which the petitioner relies and order the petitioner to give additional security calculated at the rate of five thousand rupees for each such charge for the payment of all costs, charges and expenses that may become payable by the petitioner. The security determined under this paragraph shall be payable on behalf of the petitioner within seven days from such determination.

(3) The security referred to in paragraph (1) or (2) shall be given by a deposit of money.

(4) If security as in this rule provided is not given by the petitioner, no further proceedings shall be had on the petition, and the respondent may apply to the Court for an order directing the dismissal of the petition and for the payments of the respondent's costs. The costs of hearing and deciding such application shall be paid as ordered by the Court, and in default of such order shall from part of the general costs of the petition.

(5) At the conclusion of the proceedings had on the petition, the Court shall refund to the petitioner the balance sum remaining from the security deposited under paragraph (1), or paragraphs (1) and (2), after deducting from such security a sum calculated at the rate of five thousand rupees for each such charge constituting each distinct ground on which the petitioner relies, as the Court has determined.

12.(1) The deposit of money by way of security for payment of costs, charges, and expenses payable by the petitioner shall be made by payment to the Registrar which shall be vested in and drawn upon from time to time by the President of the Court of Appeal for the purposes for which security is required by these rules. A receipt shall be given by the Registrar for the same.

Security by
deposit of
money.

(2) The Registrar shall keep a book open to the inspection of all parties concerned in which shall be entered from time to time the amount and the petition to which it is applicable.

Return of money so deposited.

13. (1) Money so deposited shall, if and when the same is no longer needed for securing payment of such costs, charges and expenses, be returned or otherwise disposed of as justice may require by order of the President of the Court of Appeal.

(2) Such order may be made after such notice of intention to apply and proof that all just claims have been satisfied or otherwise sufficiently provided for as the President of the Court of Appeal may require.

(3) Such order may direct payment either to the party in whose name the same is deposited or to any person entitled to receive petition.

Service of notice of petition and copy of petition on the respondent.

14. (1) Notice of the presentation of a petition, accompanied by a copy thereof shall, within ten days of the presentation of the petition.—

(a) be served by the petitioner on the respondent; or

(b) be delivered at the office of the Registrar for service on the respondent, and the Registrar or the officer of his department to whom such notice and copy is delivered shall, if required, give a receipt in such form as may be approved by the President of the Court of Appeal.

(2) The service under paragraph (1) of notice of the presentation of a petition and copy thereof by the petitioner on the respondent may be effected either by delivering such notice and copy to the agent appointed by the respondent under rule 9 or by posting them in a registered letter to the address given under rule 9 at such time that, in the ordinary course of post, the letter would be delivered within the time abovementioned or by a notice published in the *Gazette* stating that such petition has been presented and that a copy of it may be obtained by the respondent on application at the office of the Registrar.

(3) Where notice of the presentation of a petition, accompanied by a copy thereof, is delivered under paragraph (1) at the office of the Registrar for service on the respondent, such service may be effected in the same manner as the service of a notice issued by a court is effected under the Civil Procedure Code.

When petition to be deemed at issue.

15. On the expiration of the time limited for making petitions, the petition shall be deemed to be at issue.

List of petitions.

16. The Registrar shall make out the election petition list. In it he shall insert the names of the agents of the petitioners and respondents appointed under rule 8 and rule 9 respectively, and the addresses to which notices may be sent, if any. The list may be inspected at the office of the Registrar at any time during office hours, and shall be affixed for that purpose upon a notice-board appropriated to proceedings under the Act, and headed "The Parliamentary Elections Act, 1981."

Time and place of trial of election petition.

17. The time and place of the trial of each election petition shall, subject to the provisions of section 94 of the Act be fixed by the court and not less than fourteen days' notice thereof shall be

given to the petitioner and responded by letter directed to the address left by such petitioner or respondent with the Registrar ; or, if no such address has been left, by notice in the Gazette.

18. The Court may from time to time, by order made on the application of a party to the petition, postpone the beginning of the trial to such day as the court may name ; and such order, when made, shall forthwith be published by the Registrar in the Gazette.

Postpone-
ment of
trial.

19. No formal adjournment of the Court for the trial of an election petition shall be necessary, but the trial is to be deemed adjourned and may be continued from day to day until the inquiry is concluded ; and in the event of any Judge who begins the trial being disabled by illness or otherwise, it may be recommenced and concluded by another Judge.

Adjournment
and continu-
ation of
trial.

20. (1) An election petition shall not be withdrawn without the leave of the Court ; and such leave may be given upon such terms as to the payment of costs and otherwise as the Court may think fit.

Withdrawal
of election
petition.

(2) Before leave for the withdrawal of an election petition is granted, there shall be produced affidavits as required by this rule by all the parties to the petition and their Attorneys-at-Law and by all the said parties who were candidates at the election ; but the court may, on cause shown dispense with the affidavit of any particular person if it seems to the Court on special grounds to be just so to do.

(3) Each affidavit shall state that, to the best of the deponent's knowledge and belief, no agreement or terms of any kind whatsoever has or have been made, and no undertaking has been entered into in relation to the withdrawal of the petition ; but if any lawful agreement has been made with respect to the withdrawal of the petition, the affidavit shall set forth that agreement, and shall make the foregoing statement subject to what appears from the affidavit.

(4) The affidavits of the applicant and his Attorney-at-Law shall further state the ground on which the petition is sought to be withdrawn.

21. (1) An application for leave to withdraw a petition shall be in writing signed by the petitioner or petitioners or his or their agent or agents. It shall state the ground on which the application is supported.

Form of
application
to
withdraw
petition.

(2) The following form shall be sufficient :—

“The Parliamentary Elections Act, 1981, Electoral district petition of (state name of petitioner) presented day of 19....

The petitioner applies to withdraw his petition upon the following ground (here state the ground), and prays that a day may be appointed for hearing his application.

Dated this day of 19....

(Signed)

(3) The application for leave to withdraw shall be left at the office of the Registrar.

Copy of application to be given to respondent

22. A copy of such application shall be given by the petitioner to the respondent, and a notice in the following terms signed by the petitioner shall be published forthwith in the *Gazette* by the petitioner at his own expense:—

“The Parliamentary Elections Act, 1981

In the election petition for in which is petitioner and respondent.

Notice is hereby given that the above petitioner did on the day of lodge at the office of the Registrar of the Court of Appeal an application for leave to withdraw the petition, of which application the following is a copy:—

And take notice that under “The Parliamentary Election Petition Rules, 1981”, any person who might have been a petitioner in respect of the said election may, within five days after the date of publication of this notice, give notice in writing to the Registrar of the Court of Appeal of his intention on the hearing of the application to be substituted as a petitioner.

(Signed)

Application to be substituted as petitioner on withdrawal

23. Any person who might have been a petitioner in respect of the election to which the petition relates may, within five days after such notice is published by the petitioner, give notice in writing, signed by him or on his behalf, to the Registrar, of his intention to apply at the hearing to be substituted for the petitioner, but the want of such notice shall not defeat such application, if in fact made at the hearing.

Time and place of hearing of application.

24. The time and place of hearing the application shall be fixed by the Court but shall not be less than a week after the application for leave to withdraw has been left at the office of the Registrar as hereinbefore provided, and notice of the time and place appointed for the hearing shall be given to such person or persons, if any, as shall have given notice to the Registrar of an intention to apply to be substituted as petitioners, and otherwise in such manner and such time as the Court directs. -

Substitution of another petitioner.

25. (1) On the hearing of the application for withdrawal any person who might have been a petitioner in respect of the election to which the petition relates, may apply to the Court to be substituted as a petitioner for the petitioner so desirous of withdrawing the petition.

(2) The Court may if the Court thinks fit, substitute as a petitioner any such applicant as aforesaid, and may further, if the proposed withdrawal is in the opinion of the Court induced by any corrupt, bargain or consideration, by other direct that the security given on behalf of the original petitioner shall remain as security for any costs that may be incurred by the substituted petitioner, and that to the extent of the sum named in such security the original petitioner shall be liable to pay the costs of the substituted petitioner.

(3) If no such order is made with respect to the security given on behalf of the original petitioner, security to the same amount as would be required in the case of a new petition and subject to the like conditions, shall be given on behalf of the substituted petitioner before he proceeds with his petition, and within three days after the order of substitution.

(4) Subject as aforesaid a substituted petitioner shall stand in the same position as nearly as may be, and be subject to the same liabilities as the original petition.

(5) If a petition is withdrawn, the petitioner shall be liable to pay the costs of the respondent.

(6) Where there are more petitioners than one, no application to withdraw a petition shall be made except with the consent of all the petitioners.

26. An election petition shall not be abated by reason only of a dissolution of Parliament and accordingly in the event of such dissolution such petition shall be heard or continued to be heard, and determined as though Parliament had not been dissolved but was in session.

Non-abatement of election petition by reason only of a dissolution of Parliament.

27. (1) An election petition shall be abated by the death of a sole petitioner or of the survivor of several petitioners.

Abatement of petition by death

(2) The abatement of a petition shall not affect the liability of the petitioner or of any other person to the payment of costs previously incurred.

28. (1) Notice of abatement of a petition, by death of the petitioner or surviving petitioner, shall be given by the party or person interested in the same manner as notice of an application to withdraw a petition, and the time within which application may be made to the Court to be substituted as a petitioner shall be one calendar month, or such further time as upon consideration of any special circumstances the Court may allow.

Application to be substituted as petitioner on abatement

(2) Any person who might have been a petitioner in respect of the election to which the petition relates may apply to the Court to be substituted as a petitioner.

(3) The Court may, if the Court thinks fit, substitute as a petitioner any such applicant who is desirous of being substituted and on whose behalf security to the same amount is given as is required in the case of a new petition.

29. (1) If before the trial of an election petition a respondent dies or resigns or gives notice in writing to the Court that he does not intend to oppose the petition, the petition shall not be abated but shall continue whether or not any person applies to be admitted as respondent as hereinafter provided.

On death, resignation or notice not to oppose of respondent, the petition to continue

(2) Notice of the fact that a respondent has died, or resigned, or that he has given notice in writing that he does not intend to oppose the petition, shall be published in the *Gazette* by the Registrar.

(3) Any person who might have been a petitioner in respect of the election to which the petition relates may apply to the Court to be admitted as a respondent to oppose the petition within ten days after such notice has been published in the *Gazette* or such further time as the Court may allow.

(4) The manner and time of the respondent's giving notice to the Court that he does not intend to oppose the petition, shall be by leaving notice thereof in writing at the office of the Registrar, signed by the respondent not less than six days before the day appointed for trial, exclusive of the day of leaving such notice.

Respondent
not opposing
petition
not to
appear as
party.

30. A respondent who has given notice of his intension not to oppose a petition shall not be allowed to appear or act as a party against such petition in any proceedings thereon.

Counter-
manding
notice of
trial where
petition
abated, &c.

31. After receiving the petitioner's application for leave to withdraw or notice of the respondent's intention not to oppose or of the abatement of the petition by death, or of the happening of any of the events mentioned in rule 29, if such notice be received after notice of trial shall have been given, and before the trial has commenced, the Registrar shall forthwith countermand the notice of trial. The countermand shall be given in the same manner, as near as may be, as the notice of trial.

Costs.

32. All costs of and incidental to the presentation of a petition and to the proceedings consequent thereon shall be defrayed by the parties to the petition in such manner and in such proportions as the Court may determine, regard being had to the disallowance of any costs which may, in the opinion of the Court, have been caused by vexatious conduct, unfounded allegations, or unfounded objections, on the part either of the petitioner or the respondent and regard being had to the discouragement of any needless expense by throwing the burden of defraying the same on the parties by whom it has been caused, whether such parties are or are not on the whole successful.

Taxation
and
recovery of
costs.

33. (1) Costs shall be taxed by the Registrar upon the order by which the costs are payable in such manner as shall be specified in such order; and costs when taxed may be recovered in the same manner as the costs of an action at law.

(2) The President of the Court of Appeal may direct that the whole or any part of any moneys deposited by way of security under the provisions of rules 11 and 12 may be applied in the payment of taxed costs.

(3) The office fees payable for inspection, office copies and other proceedings under these rules shall be such as may be prescribed by the President of the Court of Appeal.

34. Any person who is on the roll of Attorneys-at-Law may act as agent for any party to an election petition.

Attorney-at-Law may act as agent under these rules.

35. An agent shall, immediately upon his appointment as such, leave written notice thereof at the office of the Registrar.

Notice of appointment of agent.

36. Service of notices and proceedings upon such agent shall be sufficient for all purposes.

Service of notices on agents.

Annual subscription of Bills and Laws of the Parliament Rs. 30 (Local), Rs. 40 (Foreign), payable to the SUPERINTENDENT, GOVERNMENT PUBLICATIONS BUREAU, P. O. Box 500, COLOMBO 1, before 15th December each year in respect of the year following. Late subscriptions will be accepted on the condition that Bills and Laws issued before the date of payment will not be supplied.