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ELECTORAL COMMISSION TO MAKE ARRANGEMENTS FOR

CONTESTED ELECTIONS

Quebe Act, Act 8 1990.

- (1) The Electoral Commission shall make arrangements for the holding of a contested election at the time and place notified under Section 11.
- (2) The Electoral Commission shall-
  - (a) Provide one or more polling stations in each electoral area and allot the voters within the electoral area to the polling stations in such manner as it thinks most convenient;
  - (b) on or before the fourth day before the day of election give notice of the election in such manner as it may think fit, specifying-
    - (i) the day and hours fixed for voting;
    - (ii) the full name, address and occupation of each candidate, together with a description of the symbol which the Electoral Commission has allotted to each candidate;
    - (iii) the full names, addresses and occupations of the persons who nominated each candidate, and
    - (iv) the situation of the polling station or stations and a statement of the persons entitled to vote thereat;
  - (c) appoint such person as it may think fit, other than a candidate for election, or a nominator of any such candidate, to be in charge of each polling station who shall be known as the Presiding Officer and who shall be under the direction of the Electoral Commission and who shall have all the powers conferred upon a Polling Assistant by this Act;
  - (d) appoint in respect of each electoral area such persons as it may think fit, other than any candidate for election, or a nominator of any such candidate, to assist at the voting in the election who shall be known as Polling Assistants, and who shall be under the direction of the Presiding Officer;
  - (e)
    - (i) provide each Presiding Officer with a ballot box for each polling station in the electoral area and such number of ballot papers as in the opinion of the presiding Officer may be necessary;
    - (ii) ensure that each candidate shall provide the Presiding Officer with photographs of himself measuring

not more than the standard A4 size and the Presiding Officer shall affix one photograph together with the symbol of that candidate on the wall of each polling booth where the elector goes alone to place his mark.

- (f) provide the Presiding Officer at each polling station with instruments for making an official mark on the ballot papers;
- (g) provide the Presiding Officer at each polling station with copies of the Register of Electors or such part thereof as contains the names of the electors allotted to vote at such polling station;
- (h) cause to be published in each polling station the photograph of every candidate together with the symbol which the Electoral Commission has allotted to each candidate for whom a vote can be cast at such polling station;
- (i) do such other acts and things as may be necessary for conducting the election in the manner provided in this Act.

(1) Each nominated candidate may appoint two persons (hereinafter referred to as "polling agents") to attend at each polling station within the electoral area for which he is a candidate, for the purpose of detecting personation and making representations to Polling Assistants under the provisions of paragraph (e) of section 26, or to the Presiding Officer under the provisions of subsections (1) of section 30; and generally for drawing the attention of the Presiding Officer to irregularities in the procedure at a polling station.

(2) Notice in writing of the appointment, stating the names and addresses of the polling agents, together with the polling stations to which they have been assigned, shall be given by the candidate to the Returning Officer not later than three days before the first day appointed for the election and before four o'clock in the afternoon of the last day for the delivery of the notice.

(3) If any polling agent dies or becomes incapable of acting as such, the candidate may appoint another polling agent in his place, and shall give to the Returning Officer due notice in writing of the name and address of the polling agent so appointed.

(4) A candidate may do any act or thing which his polling agent is authorised to do under subsection (1).

PRECAUTIONS TO ENSURE SECRECY

Act

(1) Every ballot box shall be so constructed that the ballot papers can be put therein by the voter but cannot by him be withdrawn.

(2) The Presiding Officer shall cause to be placed at each polling station a ballot box in which shall be deposited the voters of ballots the elections. *ors.*

(3) Immediately before the commencement of voting the polling Officer at each polling station shall show the ballot box empty to such persons as may be lawfully present so that they may see that it is empty and shall in such person's presence close and place distinctive seals upon the ballot box being opened without breaking the seal and shall keep it so closed and sealed until the voting is completed and counting commenced.

(4) The Presiding Officer shall place the ballot box which he shall have cause to be prepared under this section, in the Polling Station in full view of the Presiding Officer, the Polling Assistants the Polling Agents, as the case may be, and such other persons as authorised to be present in the Polling Station throughout the voting time prescribed.

The Hours of voting shall be from seven o'clock in the morning to six o'clock in the afternoon, and no ballot paper may be placed in any ballot box outside these hours of voting.

The voting at an election shall be conducted in the following manner-

(a) Every elector desiring to record his vote shall present himself to a Polling Assistant at the polling station at which he is entitled to vote, and the Polling Assistant, after satisfying himself that-

- (i) the name of such elector appears in the copy of the Register of Electors, or part thereof, provided for that polling station; and
- (ii) he has not already voted; shall deliver to him a ballot paper and the elector shall proceed to the polling booth where in secret he shall mark the ballot paper;

Provided that the Presiding Officer may before any ballot paper is delivered to the elector, require the elector to submit to being searched in private by a person appointed by the Presiding Officer for the purpose of ensuring that no ballot paper relating to the election is already in his possession, and if the elector in such case does not submit to a search he shall not be entitled to receive a ballot paper or to

vote; and provided that no female elector shall be searched except by a female.

(b) Immediately before Polling Assistant delivers a ballot paper to an elector-

(i) he shall call out the elector's serial ward number and his name and address as stated in the Register of Electors;

(ii) he shall examine the elector's left hand for traces of the ink (if any) referred to in paragraph (e), and if he is satisfied that there are such traces he shall not deliver any ballot paper to that elector;

(iii) he shall mark the ballot paper or papers with any official mark which may be prescribed by the Electoral Commission;

(iv) the number of the elector in the copy of the Register of Electors shall be marked on the counterfoil of the ballot paper or ballot papers.

(v) a mark shall be placed against the number of the elector in the copy of the Register of Electors to denote that a ballot paper or ballot papers have been delivered, but without stating or showing the printed number of the ballot paper or ballot papers which have been delivered.

(c) A Polling Assistant may, and, if required by a candidate or polling agent, shall put to any persons applying for a ballot paper or papers at the time of his application, but not afterwards, the following questions, or any of them-

(i) "Are you the person whose name is on the Register of Electors as (reading the entry in the Register)?"

(ii) "Have you already voted at the present election at this or any other polling station?"

(d) No person who is required by the Polling Assistant to answer these questions, or either of them,

shall be provided with a ballot paper or allowed to vote until he has answered the same to the satisfaction of the Presiding Officer.

- (e) An elector, if the Electoral Commission so direct, immediately before receiving a ballot paper, shall submit to having his left thumb or a finger of the left hand marked with indelible ink.
- (f) The elector shall then go alone to the booth or enclosure, put his mark against the symbol of the candidate of his choice secretly and then come out of the booth or enclosure with his ballot paper folded which he will then cast in full view of everyone present.
- (g) An elector who has accidentally dealt with a ballot paper in such manner that it cannot conveniently be used as a valid ballot paper may, on delivering such ballot paper, and any other ballot paper issued to him bearing the same serial number to the Presiding Officer and after satisfying the Presiding Officer that the ballot paper has been spoiled by accident, obtain another ballot paper or other ballot papers in the place of the ballot paper or ballot papers so delivered up, and the spoiled ballot paper or ballot papers and any other ballot paper bearing the same number shall be immediately cancelled by the Presiding Officer writing the word "CANCELLED" across the face of the same, and the Presiding Officer shall preserve all such cancelled ballot papers and shall deliver them to the Returning Officer as herein after mentioned.
- (h)
  - (i) An elector shall not place on the ballot paper any writing or mark by which he may be identified.
  - (ii) For the purpose of subparagraph (i), a fingerprint or other mark caused by merely handling a ballot paper shall not be regarded as a mark of identification.

- (i) If any elector, by reason of blindness, or other physical disability, is unable to cast his vote or votes in person, he may call the Presiding Officer or the Assistant Returning Officer aside and inform him, no other person being within hearing of the name or names of the candidate or candidates for whom he wishes to vote, and the Presiding Officer or Polling Assistants shall record that elector's vote by placing a mark on the ballot paper against the symbol signifying the elector's choice.
- (j) If on the day of voting an elector will be engaged on official duties in connection with the election, which a Returning Officer is satisfied will preclude the elector from recording his vote, such Returning Officer may, on application by such elector, made not less than seven days before the day or days appointed for voting at the polling station at which the elector is entitled to vote, provide such elector with a certificate of authorisation in a form approved by the Electoral Commission to authorise the Presiding Officer of the Polling Station at which the elector is entitled to vote to record the vote or votes of such elector. The elector shall insert in the appropriate place in the certificate the name or names of the candidate or candidates for whom he wishes to record his vote or votes and the Returning Officer shall then seal the certificate in the presence of the elector and cause it to be transmitted to the Presiding Officer authorised to record the vote or votes, as the case may be. A Presiding Officer on the day of voting, shall record the vote or votes for the recording of which he has an authority given in accordance with the provisions of this paragraph, in conformi-

ty with the directions contained in such authority.

- (k) A civil servant or an employee of a public corporation or commercial firm or mining company or mission or a member of the Sierra Leone Police Force or the Republic of Sierra Leone Military Forces if transferred by his employer or superior officer to a place of employment in another constituency between the time of his registration under the provisions of the Franchise and Electoral Registration Act, 1961, and the time of the next general election for members of Parliament a f t e r s u c h registration may, not less than seven days before a poll is appointed to be taken at the station at which he is entitled to vote, apply to the Returning Officer, who, if he is satisfied that that application is well founded and supported by the written confirmation of the employer or superior officer that the employee was so transferred, shall provide the elector making such application with the certificate of authorisation described in the paragraph (j); and the elector and the Returning Officer shall then act as set out in that paragraph and the appropriate Presiding Officer shall record that elector's vote.

*Act. Section.*

Every ballot paper shall have a number printed thereon and shall be attached to a counterfoil bearing the same number as is printed on the ballot paper. The ballot paper shall be numbered in such manner that no elector shall receive ballot papers bearing the same numbers as any ballot papers delivered to any other elector in that electoral area.

Every voter shall vote without undue delay and shall quit the polling station as soon as he has put his ballot paper in the ballot box.

- (1) No person shall be permitted to vote at any polling



station other than the one allocated to him under the provisions of paragraph (a) of subsection (2) of section 22.

(2) The Presiding Officer shall regulate the admission of electors to the polling station, and shall exclude all other persons except candidates, polling agents, polling Assistant, constables on duty, and any other person who in his opinion has lawful reason to be admitted.

(3) Every elector present in a polling station shall comply with any directions of the Presiding Officer for regulating the casting of votes and generally shall conduct himself in an orderly manner.

#### PERSONATION

(1) If at the time a person applies for a ballot paper or after he has so applied and before he has left the polling station, a polling agent declares to the Presiding Officer that he has reasonable cause to believe that the applicant has committed the offence of personation and undertakes to substantiate the charge in a court of law or, if the Presiding Officer himself has reasonable cause to believe that an applicant for a ballot paper has committed the offence of personation, the Presiding Officer may order a constable to arrest such person and the order of the Presiding Officer shall be sufficient authority for the constable to do so.

(2) A person in respect of whom a polling agent makes a declaration in accordance with subsection (1) of this section or whom the Presiding Officer has reasonable cause to believe has committed the offence of personation shall not, by reason thereof, be prevented from voting, but the Presiding Officer shall cause the words "Protested against for personation" to be placed against his name in the marked copy of the Register of Electors or part thereof:

Provided that where a person in respect of whom such declaration is made admits to the Presiding Officer that he is not the person he held himself out to be, he shall not be permitted to vote if he has not already done so, and if he has already voted, the Presiding Officer shall make a note of the number of the ballot paper delivered to him, and upon the count being taken, such ballot paper shall be invalid.

(3) A person arrested under the provisions of this section shall be deemed to be a person taken into custody by a constable for an offence in respect of which he may be arrested without a warrant.

If a person representing himself to be an elector named in the Register of Electors applies for a ballot paper after another person has voted as such elector, the applicant shall, upon giving satisfactory answers to the questions set out in paragraph (c) of section 26, be entitled to receive a ballot paper or ballot papers as the case may be, and record his vote or votes in the same manner as any other elector, but every such ballot paper (hereinafter called a tendered ballot paper) shall be of a colour differing from the other ballot papers.

(1) The Presiding Officer shall keep order in the polling station.

(2) If any person misconducts himself in a polling station or fails to obey any lawful order of the Presiding Officer, such person may, by order of the Presiding Officer, be removed from the Polling Station by any constable, or by any other person authorised in writing by the Presiding Officer, in that behalf; and the person so removed shall not, without the permission of the Presiding Officer, again enter the polling station during the the day of the election; and any person so removed may, if the Presiding Officer considers it necessary, be arrested and charged with the commission of an offence in such polling station and shall be deemed to be a person taken into custody by a constable for an offence in respect of which he may be arrested without a warrant:

Provided that the provisions of this section shall not be exercised so as to prevent any elector who is otherwise entitled to vote at any polling station from having an opportunity of so voting.

(1) On the day appointed for an election, or where the time appointed for an election consists of a number of days, on the last day for voting appointed under the provisions of section 9, the Presiding Officer at each polling station shall, at the expiration of the hours of voting prescribed by or under the provisions of section 25, close the polling station and cease to receive any votes and shall as soon as is practicable thereafter, in the presence of any polling agents in attendance, make up into separate packets, each sealed with his own seal-

- (a) the ballot box in use at the polling station, upon opened and sealed so as to prevent the introduction of additional ballot papers;
- (b) any certificates he has received under paragraphs (j) and (k) of section 26;
- (c) the unused and spoilt ballot papers, placed together;
- (d) the tendered ballot papers in separate packets relating to each candidate;
- (e) the marked copies of the Register of Electors or the part thereof;

and shall deliver the packets to the Returning Officer.

FORM D FIRST SCHEDULE

(2) The packets shall be accompanied by a statement to be called the Ballot Papers Account, which shall be in the Form D prescribed in the First Schedule, prepared by the Presiding Officer showing the number of ballot papers entrusted to him and accounting for them under the following heads-

- (a) number of spoilt ballot papers; and
- (b) number of unused ballot papers; and

- (c) number of persons marked on the Register of Electors as having been issued with a ballot paper.

COUNTING AGENTS

*subsection -*  
(1) Each candidate shall appoint one person, hereinafter referred to as a counting agent, for each polling station to attend at the counting of votes.

(2) Notice in writing of the appointment, stating the name and address of the counting agent, shall be given by the candidate to the Returning Officer not later than three days before the last day of the election and before four o'clock in the afternoon of the last day for the delivery of the notice; and the Returning Officer may refuse to admit to the place where the votes are counted any person purporting to be a counting agent in respect of whom such notice has not been given.

(3) If a counting agent dies or becomes incapable of acting as such, the candidate shall appoint another counting agent in his place, and shall immediately give to the Returning Office notice in writing of the name and address of the counting agent so appointed.

(1) At the time and place appointed for counting the Returning Officer, after the receipt of the ballot box from the Presiding Officer in the polling station shall then open the ballot box and taking out the ballot papers, cause them to be counted, subject to the provisions of subsection (2) of section 30 and of sections 37 and 38 and the number of valid ballot papers to be recorded, but so that the ballot papers of each candidate shall be kept separate from the *ballot* ~~sub~~lot papers of the other candidates.

(2) From the time of delivery of the sealed packets by the Presiding Officer under the provisions of subsection (1) of section 33 until the counting of votes the Returning Officer shall keep packets in safe custody.

Except with the consent of the Returning Officer, no person other than the Counting Officer, Counting Assistants, Polling Staff, the candidates and their counting agents may be present at the counting of votes.

At any counting of votes in terms of subsection (1) of section 35, any ballot paper-

- (a) which bears a number or mark or

variation indicating that it was issued for use at a polling station other than that at which it was used to vote; or

(b) which bears the same number as another ballot paper found in the same ballot box and which has already been counted; or

(c) not bearing any official mark (if any such mark has been prescribed by the Electoral Commission); or

(d) on which anything is written or marked by which the voter may be identified (other than a fingerprint) except the printed number thereon; shall not be

counted.

#### "REJECTION OF VOID BALLOT PAPERS

(1) The Returning Officer shall endorse the word "Rejected" on any ballot paper which, under the provisions of section 37, is not counted. The Returning Officer shall add the word "Rejection objected to" if an objection to his decision is made by any counting agent.

(2) The Returning Officer shall not allow any tendered ballot paper to be counted as a vote in favour of any candidate.

#### RETURNING OFFICER'S DECISION FINAL

The decision of the Returning Officer as to any question arising in respect of any ballot paper shall be final and subject to review only on an election petition questioning the election.

(1) A candidate or his counting agent may, if present when the counting or any recount of the votes is completed, require the Returning Officer to have the votes recounted or again recounted but the Returning Officer may refuse to do so if in his opinion the request is unreasonable.

(2) No step shall taken on the completion of the counting or any re-count of votes until the candidates and counting agents present at the completion thereof have been given a reasonable opportunity to exercise the right conferred by this section.

#### EQUALITY OF VOTES

Where an equality of votes is found to exist between any candidates and the addition of a vote would entitle any

any one of them to be declared elected, the Returning Officer shall order a re-count of the votes cast. If there be again an equality of votes, as ascertained by such re-count, there shall be a second casting of votes, and if there are more than two candidates, the first two candidates obtaining the highest votes shall be the only Candidates entitled to offer themselves for the second voting.

Upon the conclusion of the counting of the votes the Returning Officer shall seal up in separate packets (a) the counted and (b) the rejected and tendered ballot papers, the ballot papers for each candidate being kept separate from those of any other candidate as each packet shall be endorsed on the outside by the Returning Officer with the name of the candidate for whom the votes represented by the ballot papers therein were cast. He shall not open the sealed packet containing the marked copy of the Register of Electors nor the sealed packets containing the counterfoils of used ballot papers, but shall proceed, in the presence of the counting agents, to verify the ballot paper account given by each Pre-Officer by comparing it with the number of ballot papers counted or rejected in accordance with section 35 and the unused and spoilt papers in his possession, and shall reseal each packet after examination. The Returning Officer shall prepare a statement as to the result of the verification and showing the number of ballot papers rejected, which shall be in the Form E prescribed in the First schedule and shall, on request by any counting agent, allow him to copy the statement. The Returning Officer shall receive results of counted ballot papers from the Counting Officer from each polling station.

When the result of the election has been ascertained, the Returning Officer shall-

- (a) forthwith declare to be elected the candidate or candidates, as the case may be, for whom the majority of votes has been cast;
- (b) forthwith publish at the place of counting, the number of votes cast in favour of each candidate and the name or names of the candidates whom he has declared to be elected;
- (c) send notification of election in writing to the successful candidate or candidates;

- (d) deliver personally to the Secretary of the Electoral Commission the sealed packages containing the voting papers and all other documents relating to the election, including all forms whether used or unused; and
- (e) (i) in the case of an election to Parliament certify to the Electoral Commission in writing the result of the election; or
- (ii) in the case of an election to a Local Authority, inform the Minister and the Electoral Commission in writing of the result of the election.

#### PUBLICATION OF RESULTS

(1) The Electoral Commission, on receipt of the results of an election in accordance with section 43 shall forthwith cause to be published in the Gazette the result of the election, together with the number of votes recorded for each candidate.

(2) The Secretary of the Electoral Commission shall retain in safe custody the voting papers and other documents transmitted to him under seal by the Returning Officer for a period of six months on the expiration of which period he shall destroy such of them as are not required for the investigation or trial of any election petition or offence.

#### POWER OF POLLING ASSISTANTS

A Polling Assistant may be authorised by the Presiding Officer to do any act which the Presiding Officer is required or authorised to do at a polling station by this Act, except that he may not order the arrest or search of any person, or the exclusion or removal of any person from the polling station.

**NEW  
DOCUMENT**



*Electoral Revision Amendment Act 1990 Act No. 8*  
Nomination of Candidates (*Act No 14 of 1962*)

(1) Every candidate shall be nominated in writing by three electors of the electoral area for which he is a candidate and no candidate may be nominated for more than one electoral area.

(2) The writing shall be subscribed by the candidate and the persons nominating him —

- (a) in the case of the election of a Member of Parliament referred to in paragraph (b) of subsection (1) of section 43 of the Constitution of Sierra Leone 1978 (Act No. 12 of 1978), in the Form A;
- (b) in the case of the election of a Paramount Chief to whom paragraph (a) of subsection (1) of section 43 of the said Constitution refers, in the Form B".
- (c) in the case of elections for membership of a Local Authority, in the Form C;

as prescribed in the First Schedule.

(3) The writing shall be accompanied by a certificate in writing signed by the Leader and Secretary-General of the Recognised Party or such other official of that Party as the Leader and Secretary-General may authorise in writing in that behalf, to the effect that the candidate has been duly selected to stand for election in respect of the electoral area in question in accordance with the Constitution of the Recognised Party.

(4) A Returning Officer shall provide nomination papers and shall supply any elector with such number of nomination papers as he may reasonably require and shall, at the request of any elector, the candidate and all his nominators being present, complete any nomination paper on that elector's behalf.

(5) Each candidate, or one of the persons nominating his shall deliver his nomination papers, subscribed as provided in the foregoing provisions of this section, at the office of the Returning Officer before four o'clock in the afternoon of the last day for the delivery of nomination papers."

Deposit

(1) Every candidate for election as a Member of Parliament under paragraph (b) of subsection (1) of section 43 of the Constitution of Sierra Leone, 1978 (Act No. 12 of 1978) shall, at the time when his nomination paper is delivered at the office of the Returning Officer in accordance with section 12, deposit or cause to be deposited with the Returning Officer the sum of ~~One Thousand~~ *(Le.10,000)* Leones or a written receipt issued by or on behalf of the Accountant-General for Le.10,000 (Ten Thousand Leones) received from or on account of that candidate in respect of that sum and the nomination shall not be valid until the deposit has been made.

(2) The deposit shall be non-refundable and shall be paid into the Consolidated Fund".

Objection to nominations

(1) Any elector of the electoral area in which a candidate is standing for election may, at any time up to ~~five~~ *Six* o'clock in the afternoon of the last day appointed for the receipt of nominations, object to the nomination of that candidate but only on one or more of the grounds set out in subsection (2), and the Returning Officer shall decide on the validity of the objection.

(2) The Returning Officer shall be entitled to hold a nomination paper invalid only on one or more of the following grounds, that is to say —

- (a) that the particulars of the candidate or his nominators are not as required by law;
- (b) that the paper is not subscribed as so required;
- (c) that any one of the nominators is not an elector;

(d) that the candidate is a person who, within the <sup>Six</sup> ~~twelve~~ months immediately preceding the day appointed for the delivery of nomination papers, was employed under the provisions of the Act, or the Franchise and Electoral Registration Act, 1961 (Act No. 44 of 1961) in the performance of duties connected with any election in which he is standing as a candidate, or with the registration of electors in any electoral area.

(3) The Returning Officer shall give his decision on any objection to a nomination paper as soon as practicable after it is made, but in any event before six o'clock in the afternoon of the last day appointed for the receipt of nominations.

(4) Where the Returning Officer decides that a nomination paper is invalid he shall endorse and sign on the paper the fact and the reasons for his decision.

(5) Any candidate <sup>aggrieved</sup> ~~aggrieved~~ by the decision of the Returning Officer as to the validity or otherwise of a nomination paper may appeal to the Electoral Commission who may uphold the decision of the Returning Officer or reverse that decision.

(6) Any candidate desirous of appealing against the decision of the Returning Officer under this section shall do so within one day after the decision is given.

(7) An appeal under this section shall be by notice in writing stating the grounds of appeal and shall be delivered to the Electoral Commission and a copy of it shall be delivered to the Returning Officer.

(8) The Electoral Commission shall give its decision on any appeal to it under this section within three days after six o'clock in the afternoon of the last day appointed for the receipt of nominations.

9 || (9) It shall not be lawful for any person who stands as a candidate and to whom paragraph (b) of section 17 of this Act applies to withdraw his nomination within the period prescribed by subsection (8) of this section.

(10) The decision of a Returning Officer or, where there has been an appeal, the decision of the Electoral Commission, that a nomination paper is valid shall be final and shall not be questioned in any proceeding whatsoever.

(11) Nothing in this section shall prevent the validity of a nomination being questioned on an election petition".

#### "Contested election and unopposed candidates

If by six o'clock in the afternoon of the last day appointed for the receipt of nominations---

- (a) the number of persons remaining nominated exceeds the number of vacancies, a poll shall be taken in accordance with the provisions of this Act;
- (b) the number of persons remaining nominated is the same as the number of vacancies, the Returning Officer shall forthwith declare such person or persons to be duly elected and there shall be no election;
- (c) no person is or remains nominated, or if the number of persons remaining nominated is less than the number of vacancies, the Returning Officer shall forthwith, declare the persons remaining nominated to be duly elected and shall forthwith, notify the Electoral Commission who shall by notice in the Gazette appoint some other convenient day for the election to fill any vacancy which remains unfilled and all proceedings with reference to the election to fill such vacancy shall commence afresh;

Provided that where an appeal against a decision of the Returning Officer is pending before the Electoral Commission under section 16 of this Act the Returning Officer shall not declare a person elected under paragraph (b) or (c) of this section, where the appeal relates to the filling of the vacancy to which his nomination relates, until the appeal is determined."