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CENTRAL ELECTORAL COMMISSION

REPRESENTATION  
OF THE SPANISH PEOPLE  
ORGANIC ACT



1995

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**International Foundation for Election Systems**

# REPRESENTATION OF THE SPANISH PEOPLE ORGANIC ACT

**REPRESENTATION  
OF THE SPANISH PEOPLE  
ORGANIC ACT**

This publication has been prepared by:

The Central Electoral Commission's Secretariat

RAMON ENTRENA CUESTA & ENRIQUE ARNALDO ALCUBILLA,  
Law Clerks to the Spanish Parliament

Draft Secretariat

MARIA JESUS URIVELARREA ERRAZQUIN

MARIA JOSE RODRIGUEZ PUERTAS

Translated from Spanish by

FRANCISCO E. LÓPEZ-VEGA

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## INTRODUCTION

The Representation of the Spanish People Organic Act No. 5 (19/6/1985) was partially amended by Organic Act No. 1 (2/4/1987) in order to regulate elections to the European Parliament, by Organic Act No. 8 (13/3/1991) with regard to many of its sections, and by Organic Act 6/1992 (of 2/11) with regard to the provisions regulating the postal vote, by Organic Act 13/1994 (of 30/3) and by Organic Act 3/1995 (of 23/3).

The present edition has been prepared so that all Spanish electoral legislation in force is compiled together, and it includes, the original Preamble to the 1985 Act, together with the text in force of the Act's provisions, even those provisions belonging to the original version (1985) which had a transitional character and the purposes of which have been accomplished, plus the sixth of these provisions, added by Organic Act No. 1 (1987) and the seventh added by Organic Act 3/1995.

Schedule I, that follows the above, has the complete text of Act No. 8 (13/3/1991), including the transitional provisions-which are, in fact, provisions of this Act rather than transitional ones added to the Electoral Law and are part and parcel of the Law in force.

Schedule II includes the Preamble to Organic Act No. 1 (1987).

Schedule III includes Organic Act 6/1992, of 2nd November, amending certain sections of the Representation of the Spanish People Organic Act 5/1985, of 19th June, which regulate the exercise of the vote by post.

Schedule IV includes Organic Act 13/1994 (of 30/3), amending the Representation of the Spanish People Act 5/1985 (of 19/6), and intended to reduce election expenses, to tighten election expenses controls, and to adapt Spanish electoral legislation so that it conforms to the provisions of the European Union Treaty of 6th December 1993.

Finally, Schedule V includes Organic Act 3/1995 (of 23/3), amending the Representation of the Spanish People Organic Act 5/1985 (of 19/6). The amendments refer to Electoral Commissions, lists of wards and voting places, registration of Spanish nationals living abroad, postal voting and specific registration certificates, among other matters. The amendments referred to in Schedules III and IV have not been included in the main body of the 1985 Organic Act. Therefore, readers are advised to read these two Schedules in conjunction with the corresponding provisions of the 1985 Organic Act to which specific references are made.



**Preamble to Organic Act No. 5 (19/6/1985), which is part of the provisions in force of the Representation of the Spanish People Organic Act**

**JUAN CARLOS I, KING OF SPAIN**

To all those who see and understand this text,

Let it be known: That the Spanish Parliament (Cortes Generales) have aproved and I give My assent to the following Organic Act:

**PREAMBLE**

1. This present Representation of the Spanish People Organic Act is about the establishment of a stable framework in which political decisions reflecting the right to franchise can be exercised in complete freedom. This is, undoubtedly, the essential aim which must guide any electoral law in a democracy.

Democracy can be truly said to exist when the sovereignty of the people is reflected in the affairs of government. Therefore, an Act such as this must neccessarily be considered as being a fundamental step towards the consolidation of a democratic State.

The Spanish Constitution —unequivocally inscribed among the most advanced democratic constitutions in the western world— lays the foundation for a mechanism that enables the alternacy of power to reflect the political diversity of our society, while fully guaranteeing all other political liberties at the same time.

These principles are embodied in the present Act, which governs the procedures for carrying into effect the will of the majority with regard to the different representative bodies of the Spanish State.

In this respect, section 81 of the Constitution requires that an Organic Act regulating all election procedures be passed by the Cortes Generales.

The aim of this Act is twofold: on the one hand, it has to satisfy the need for the inclusion, in one unifying corpus, of all the varied body of matters that fall under the constitutional concept of 'General Electoral Law', and, on the other hand, it has to regulate each one of the specific electoral processes affecting the different kinds of government status within the State.

To achieve these two aims, the Act is to incorporate a series of provisions to replace the Royal Decree-Act of 1977, which is still in force and which has proved adequate during the first stage of the transition of our country towards democracy. These changes are not at all radical owing to the fact that the very text of the Constitution contains the essential parts of the electoral system instituted by the said Royal Decree-Act.

Secondly, the present Act incorporates election rules —already approved by both Houses— covering elections to the different kinds of government. Thus, as regards local government elections, the Act adopts, essentially, the regulations provided by Act No. 39 (1978), still in force, as amended by Act No. 6 (1983) in the present Parliament. The same could be said with respect to the causes of ineligibility and incompatibility of Members of the Congress and Senators, matters on which both Congress have voted during the present Parliament.

Lastly, the new drafting of the Act deals with this twofold aim, drawing on the experience provided by a democratic process that began in 1977 and still continues, and introduces changes to correct the shortcomings that are inevitable in the early stages of a long and complicated process.

II. The Act has the said twofold objective: it is to meet the urgent requirement of a constitutional mandate and to reflect the overall philosophy of the Constitution.

The Representation of the Spanish People Organic Act has been constructed so as to comply precisely with these two obje-

tives, and it makes a fundamental division between provisions that apply generally to any elections by direct universal suffrage, and those that affect, specifically, the different kinds of political elections regulated by the State.

The Constitution imposes upon the State the development of section 23, which affects one of the fundamental rights in a Commonwealth: the regulation of the right of all citizens to vote and be a candidate. But section 81 of the Constitution, by imposing the approval of a Representation of the Spanish People Organic Act, also widens the State's field of activity beyond that of a mere guarantor of the franchise; in fact, as the title of the Act suggests, and as stated by the Constitutional Court, all that is of primary or essential importance to the electoral system must be included in the same.

Besides, under section 149.1.1 of the Constitution, the State has exclusive competence in the regulation of the basic conditions that guarantee the equality of all Spaniards in the exercise of their constitutional rights; among these rights is that of suffrage as mentioned in the above said section 23 of the Constitution.

This Act shows the greatest respect for the power of autonomous representation and devises a system that not only allows for its development, but also for amendments or changes which, in many instances, are implemented by the Autonomous Communities' own legislation.

The preliminary Title sets the limits of application of this Act and puts into practice the guiding principles referred to in the previous paragraphs.

Title I, under the heading of 'Common provisions for elections by direct universal suffrage', includes a body of chapters that covers directly, in the first place, the development of section 23 of the Constitution—for example, the first and second chapters regulate the right to vote and be a candidate—. In the second place, it regulates matters which are at the very root of the electoral system, such as some aspects of election procedure. Finally, it deals with election offences. The provisions in this Title are, without doubt, the nucleus of this Act, a reference point for the rest of its contents, and a presupposition of the Autonomous Communities' legislative activity.

The Electoral Register, the provisions for election expenses and subsidies, as well as the procedures for their control, and judicial guarantees for ensuring the right to vote and be a candidate, are the most outstanding innovations under this Title.

Title II contains the special provisions for the election of Members of the Congress and Senators. It scrupulously covers the principles enshrined in the Constitution: the provincial electoral constituency and their minimum initial representation, the proportional representation system, and the system to determine the causes of ineligibility and incompatibility of the Members of the Congress and the Senate.

On this constitutional basis, already included in the Decree-Act of 1977, this Act seeks to introduce technical improvements and corrections that will result in the better working of the system as a whole.

Title III contains the special provisions for local government elections. It gathers together the contents of Act No. 39 (1978) and the amendments provided by Act No. 6 (1983). It also introduces some new provisions, such as that regarding the possibility of, and procedure for, the dismissal from office of Mayors and Councillors, a possibility already established in rulings of the Constitutional Court.

Titles IV and V cover the elections to the Island Corporations of the Canary Islands and to the Provincial Corporations. In these cases, the existing system has been maintained.

III. An electoral system in a democratic State must guarantee, as being the very nucleus of the system, the free expression of the people's sovereignty, and this generic freedom is accompanied to-day by a series of other liberties, such as the freedom of speech, freedom of information, freedom of meeting, freedom of association, etc. Therefore, the immediate effect of this Act can be no other than to strengthen the liberties referred to above, and to eliminate those obstacles that may arise in a society and interfere with the election process—the high point in the exercise of political freedom.

The greatest proof of our democratic condition—and an unrenounceable achievement in our history—is here exemplified in this Act, which forms the framework within which we can exercise our franchise in liberty.

## INTRODUCTORY

### Section 1

(1) This Organic Act shall apply to:

(a) Parliamentary elections, without prejudice to the provisions of the Statutes of Autonomy as regards the appointment of those Senators covered by section 69.5 of the Constitution.

(b) Local government elections.

(c) European Parliament elections.

(2) This Act shall also apply to elections to the Legislative Assemblies of the Autonomous Communities—in the terms stated in the first Additional Provision—and shall have a supplementary effect on autonomic legislation in these matters.

## FIRST PART

### Common Provisions for Elections by Direct Universal Suffrage

#### CHAPTER I

##### *Franchise*

### Section 2

(1) All spaniards of voting age, that is, 18 years (article 12 of the Constitution), are entitled to vote as electors, except as provided under section 3 below.

(2) To exercise this right, a person shall be registered in the electoral register to be used at the elections.

### Section 3

(1) The following persons are legally incapable of voting as electors:

(a) Those convicted by a final judicial sentence where the main or accessory penalty is that of disfranchisement for the duration of the sentence.

(b) Those declared incapable by virtue of a final judicial sentence, provided disfranchisement is expressly declared.

(c) Those detained in a psychiatric institution by virtue of a court's decision, during the time of their detention, provided the Judge has expressly declared their disfranchisement.

(2) For the purposes of this section, Judges or Courts that deal with cases of incapacitation or detention shall expressly pronounce themselves with regard to disfranchisement. In the event of deciding for disfranchisement, they shall communicate their decision to the Public Record Office so that the latter can proceed to effect the corresponding entry.

#### *Section 4*

(1) A person shall exercise the right to vote, in person, in the ward where he is registered, and at the polling stations bureau allotted to him, without prejudice to the provisions covering the vote by post and the vote of polling agents.

(2) A person is not entitled to vote as an elector more than once at the same elections.

#### *Section 5*

No person shall be forced or coerced, under any pretext, in the exercise of the franchise, nor forced or coerced to reveal his vote.

### CHAPTER II

#### *Eligibility*

#### *Section 6*

(1) All Spaniards of voting age, that is, 18 years (article 12 of the Constitution), who are entitled to vote, are equally entitled to be candidates at elections unless they incur in any of the following cases of ineligibility:

(a) The members of the Spanish Royal Family included in the Public Record Office, and their spouses, as regulated by Royal Decree 2917 (27/11/1981).

(b) The Presidents of the following bodies: Constitutional Court; Supreme Court; Council of State; Accounts Court; and the Council referred to under section 131.2 of the Constitution.

(c) The Justices of the Constitutional Court; the Members of the General Council of Judicature; the permanent Councillors of the Council of State, and the Councillors of the Accounts Court.

(d) The Ombudsman and his Assistants.

(e) The Director of Public Prosecutions.

(f) The permanent Secretaries, Secretaries-General and Directors General of the Ministries, as well as those with an equivalent standing and, in particular, the Departmental Heads of the President's Office and the Heads of Ministers and Secretaries of State' Offices.

(g) The Heads of Mission accredited to foreign States and International Organizations on a residential basis.

(h) The Judges, Magistrates and District Attorneys or Public Prosecutors in active service.

(i) The professional members of the Services and members of the Police and other Security Forces or Bodies, in active service.

(j) The Presidents, Members and Secretaries of the Electoral Commissions.

(k) The Government Delegates in the Autonomous Communities, the Civil Governors and their Deputies, as well as other similar officials with different territorial functions.

(l) The director general of the Spanish Broadcasting Corporation and the heads of Services of this Public Corporation.

(m) The chairmen, heads of administration, and other officials of similar standing, of publicly-owned companies with functions at a national level, as well as the Government delegates in these companies.

(n) The Chairmen and Directors-General of the Social Security System with functions at national level.

(ñ) The Head of Administration of the Electoral Register Office.

(o) The Governor of the Bank of Spain and the Deputy-Governor, as well as the Chairmen and Heads of Administration of the Official Credit Institute and other official credit institutions.

(p) The Chairman, Directors and Secretary General of the General Council for Atomic Security.

(2) The following are also ineligible:

(a) A convicted person during the time that he is detained in a penal institution in pursuance of a final sentence.

(b) Even if a sentence is not final, persons convicted of an offence of rebellion, or of forming part of terrorist organizations who have been found guilty of offences against the life, the physical integrity, or the liberty, of persons.

(3) The following persons shall be ineligible in the electoral constituency or constituencies included in the District in which they have jurisdiction, during their tenure of office:

(a) Those holding the highest ranking office of any Ministry at any level other than national.

(b) The chairmen, heads of Administration and other officials of similar status, of Autonomous Bodies with jurisdiction over a limited territorial District, as well as the Government delegates in those bodies.

(c) The territorial delegates of the Spanish Broadcasting Corporation and the heads of Administration of the broadcasting bodies dependent on the Autonomous Communities.

(d) The chairmen and heads of Administration of peripheral organizations belonging to the Managing Bodies of the Social Security System.

(e) The Secretaries-general of the Government Delegations and Civil Governments.

(f) The provincial Delegates of the Electoral Register Office.

## *Section 7*

(1) The qualification as ineligible shall apply to those persons included in the above section 6, on the same day their nomination papers are delivered, or at any later time before the elections are held.

(2) Notwithstanding the provisions of section 6, subsection (1), those persons wishing to be nominated as candidates and who are not registered in the electoral register to be used at the



elections, may be nominated, provided that, at the time of delivery of the nomination papers, they can prove by affidavit that they meet the necessary requirements for registration.

(3) The Judges, Magistrates, District Attorneys or Public Prosecutors, members of the Services and of the Police and other Security Forces or Bodies, in active service, who wish to be nominated as candidates to an election, shall request the corresponding change of administrative status discharging them from active service.

(4) The Judges, Magistrates, District Attorneys or Public Prosecutors, members of the Services and of the Police and other Security Forces or Bodies, in active service, shall be entitled in any case, to the reservation of their position, term or duration, and posting, in the conditions determined by the specific rules that apply in each case. If elected, their corresponding out-of-service administrative status shall be maintained, at their will, once their term of office expires, until the new Parliament or Local Government is convened.

### CHAPTER III

#### *Electoral authorities*

##### DIVISION I

#### Electoral Commissions

##### *Section 8*

(1) The function of the Electoral Commissions is to guarantee, under the terms of this Act, the conduct of elections in a crystal-clear manner, objectively, and to ensure the principle of equality.

(2) The conduct of elections is entrusted to the Central, Provincial, District, and, as required, Autonomous Community Electoral Commissions, as well as to the polling stations bureau.

(3) The Central Electoral Commission shall have its seat in Madrid, the Provincial Electoral Commissions in the corresponding provincial capitals and the District Electoral Commissions in

the localities where there is a District Court as referred to in subsection 6 below.

(4) The Ceuta and Melilla District Electoral Commissions exercise as well—in their respective districts—the functions of Provincial Electoral Commissions.

(5) The Commissions shall hold their meetings at their own premises or, failing these, at the premises where the Commission's Secretaries discharge the duties of their office.

(6) For the purposes of this Act, the Court Districts are the same as those of the 1979 Local Government Elections.

## Section 9

(1) The Central Electoral Commission is a permanent institution made up of the following Members:

(a) Eight Members appointed by the General Council of Judicature, by lot, from among the Supreme Court Judges.

(b) Five Members from among the Professors of Law, Political Science, and Sociology, in active service, appointed through a joint proposal of the political parties, federations, coalitions or groups of electors with representation at the Congress.

(2) The appointments referred to in subsection (1) above shall be effected within the ninety days following the meeting of the new Congress. Where the joint proposal referred to in subsection (1), paragraph (b) does not take place in the time mentioned, the Bureau of the Congress shall proceed to the appointments, once the political groups represented in the Congress have been heard, and having taken into account the political composition of the Congress.

(3) The appointed Members shall be nominated by Royal Decree and shall hold their offices until a new Central Electoral Commission is nominated after a meeting of a new Congress.

(4) The President and Vice-President of the Commission shall be elected from among those belonging to the Judicature, at the opening meeting of the Commission, which shall be convened by the Secretary.

(5) The President of the Central Electoral Commission shall devote his work exclusively to matters of the Commission from the

time an election is called until the winning candidates are duly declared elected and, as the case may be, until the determinations of election petitions have been carried out, including the determination of appeals to the Constitutional Court arising from the electoral process, under subsection (2) section 114 of this Act. To this effect, the General Council of Judicature shall provide the relevant measures.

(6) The Central Electoral Commission's Secretary is the Secretary General of the Congress.

## *Section 10*

(1) The Provincial Electoral Commissions are made up of the following:

(a) Three Members appointed by the General Council of Judicature, by lot from among the Judges of the corresponding Court. If, in a given Provincial Court, there were not enough Judges, other Heads of single jurisdictional Courts from the province's capital shall be appointed.

(b) Two Members from among the Professors-Head of Department of Law, Political Science and Sociology or members of the legal profession of recognized prestige, residing in the province, shall be appointed by the Central Electoral Commission. The appointment of these Members shall be effected when the nominations have been delivered. To this end, the election agents for the candidates nominated in the district shall jointly propose the persons that should hold these offices. If such a proposal is not made before the beginning of the election campaign, the Central Electoral Commission shall proceed with their appointment.

(2) The Members mentioned in subsection (1), paragraph (a) of this section shall elect from among themselves the President of the Commission.

(3) The Presidents of the Provincial Electoral Commissions shall devote their work exclusively to matters of their respective Electoral Commissions, from the time an election is called until the winning candidates are duly declared elected, and, as the case may be, until the determination of election petitions have been carried out, including appeals to the Constitutional Court under sub-

section (2) section 114 of this Act, which may have arisen from the electoral process in their corresponding constituencies. The time referred to in subsection (2) section 15 of this Act shall be construed as having been extended where circumstances require it. To this effect, the General Council of Judicature shall provide the relevant measures.

(4) The Clerk of the corresponding Provincial Court is the Secretary of the Provincial Commission, and, should there be more than one, the most senior among them shall be appointed.

## *Section 11*

(1) The District Electoral Commissions are made up of the following:

(a) Three Members appointed by the respective Higher Court of Justice's Governing Division, by lot from among the Magistrates of First Instance and Proceedings. If there were not sufficient Magistrates in a Court District, Justices of the Peace from the same District shall be appointed, also by lot.

(b) Two Members from among Law, Political Science and Sociology Graduates residing in the Court District. The appointment of these Members shall be effected by the Provincial Commission when the nominations have been delivered. To this end, the election agents for the tickets nominated in the corresponding election district shall jointly propose the persons that should hold these offices. If such a proposal is not made before the beginning of the election campaign, the Provincial Electoral Commission shall proceed with their appointment.

(2) The Members mentioned in subsection (1), paragraph (a), of this section, shall elect, from among themselves, the President of the District Electoral Commission.

(3) The Clerk of the corresponding Court of First Instance shall be the Secretary of the District Electoral Commission, and, should there be more than one, the Clerk of the Senior Court.

(4) The Town Clerks are Delegates of the District Electoral Commission and shall act under strict dependency on the Commissions.

## Section 12

(1) The Head of Administration of the Electoral Register Office and his provincial Delegates shall form part of the Central and Provincial Commissions, respectively, and shall be able to intervene in the meetings but without vote.

(2) The Secretaries of the Electoral Commissions shall be able to intervene in the meetings but without vote. All documents of any kind appertaining to the Commissions shall be under their custody in the offices where they discharge their duties.

## Section 13

(1) The Cortes Generales shall put at the disposal of the Central Electoral Commission all the necessary personnel and materials for the discharge of its duties.

(2) The Central and Local Governments are under the same obligation with regard to the Provincial and District Electoral Commissions, obligation which also affects, subsidiarily, the Provincial Courts and other courts of minor rank and jurisdiction. The Governments of the Autonomous Communities are under the same obligation with regard to elections to the Legislative Assemblies of the respective Autonomous Communities.

## Section 14

(1) The members from the Judicature shall constitute initially the Provincial and District Electoral Commissions on the third day following the convocation of elections.

(2) Should any of the above Members appointed to these Commissions wish to be nominated as a candidate to the elections, he shall inform the Secretary during the constituting period of the said Commission, within the maximum time limit of four days.

(3) Once the substitute Member of Members have been appointed, they shall all proceed with the election of a President. The Presidents of the Provincial and District Commissions shall have a list of the Commission's Members published in the following day's edition of the corresponding provincial Official Gazette.

(4) The convening of the Commission's constitutive meetings shall be effected by the Secretaries. To this effect, the General Council of Judicature or the President of the Provincial Court, as the case may be, shall notify to the Secretaries, the list of Members of their respective Commissions.

### *Section 15*

(1) In the event of several elections being simultaneously convoked, the Provincial and District Electoral Commissions shall be competent in the conduct of them all.

(2) The life of the Provincial and District Commissions ends one hundred days after the elections are held.

(3) If, during the life of the above Commissions, other elections were convoked, it shall be construed that the life of the same shall be extended to one hundred days after the last elections are held.

### *Section 16*

(1) The Members of the Electoral Commissions are irremovable.

(2) They may only be suspended from their offices as the result of previous proceedings by the Superior Commission, with the majority agreement of its members, and by reason of their having been found guilty of major or minor electoral offences, without prejudice to the corresponding legal proceedings.

(3) The Central Electoral Commission is also competent for agreeing on the suspension of its own members, on the same grounds as those mentioned in subsection (2) of this section.

### *Section 17*

In the event of cases such as those mentioned in sections 14 and 16, as well as in the case of resignations for a reasonable cause, previously accepted by the corresponding President, the following rules shall apply when proceeding to appoint new Members:

(a) Members and Presidents shall be replaced by the same proceedings as those used for their appointment.

(b) The Secretary General of the Congress shall be replaced by the Major Law Clerk of the Senate, or failing this, by the most senior Law Clerk of the Cortes Generales.

(c) The Secretaries of the Provincial and District Commissions shall be replaced according to the criterion of seniority.

## *Section 18*

(1) The meetings of the Electoral Commissions shall be officially convoked by their respective Presidents or at the request of the Members. The Secretary shall take the chair when the President cannot attend for a reasonable cause and shall exercise the same functions as the President.

(2) Three Members shall be a quorum for any meeting of the Provincial and District Commissions. In the case of the Central Commission, seven Members shall be a quorum.

(3) A meeting shall be summoned by any means that ensures, in a proven way, the reception, the date, the agenda and other circumstances regarding the meeting object of the summons. Attendance at the meetings is compulsory for all Members of the Commission duly summoned, who shall incur in the corresponding responsibility if they have not expressed apologies and given a reasonable cause for their absence.

(4) Notwithstanding the provisions of the above sub-sections of this section, it shall be construed that the Commission has been summoned and is effectively empowered to deal with any business, provided all Members are present and accept unanimously the holding of the meeting.

(5) Agreements are reached by majority vote of the Members present at the meeting and the President's vote shall decide in case of a tie.

(6) The Electoral Commissions shall proceed to publish their resolutions or the contents of consultations duly dealt with, by order of their President, whenever their general nature makes this advisable. This publicity shall appear in the Official State Gazette, in the case of the Central Electoral Commission, and in the corresponding provincial Official Gazette, in all other cases.

## Section 19

(1) The Central Electoral Commission, besides the other matters expressly mentioned in this Act as belonging to its field of competence, shall equally be competent in the following cases:

(a) The direction and supervision of the Electoral Register Office's activities.

(b) The advising on bills and provisions relating to the Electoral Register that may arise in the course of developing or applying the present Act.

(c) The conveyance of compulsory instructions to the Provincial Electoral Commissions, and, as required, to the Commissions of the Autonomous Communities.

(d) The binding resolution of consultations submitted by the Provincial Commissions, and, as required, by the Commissions of the Autonomous Communities.

(e) The official revocation at any time, or at the request of interested parties, within the times mentioned in section 21 of this Act, of decisions taken by the Provincial Electoral Commissions, and, as required, by the Autonomous Communities Electoral Commissions, when the said decisions are contrary to the Central Electoral Commission's interpretation of current legislation.

(f) The consolidation of the interpretative criteria in the application of the law by the Provincial Electoral Commissions, and, as required, by the Commissions of the Autonomous Communities.

(g) The approbation of the polling stations bureau's constitutional minutes forms, as well as of the forms employed for the count records, the minutes of meetings, the general count records and the elected candidate records, submitted to the Central Commission by the State Administration or the Administrations of the Autonomous Communities. These forms shall be such that the instantaneous production of copies by means of self-copying documents or by any other similar means can be carried out.

(h) The resolution of complaints, claims or proceedings submitted to the Commission under this Act, or under any other provision granting the Commission competence in the matter.

(i) The exercise of disciplinary powers over all persons officially engaged in the conduct of elections.



(j) The correction of any breaches that may be produced in the course of the conduct of elections, provided they do not constitute an offence, and the imposition of fines up to the maximum amount set under the terms of this Act.

(k) The issuing of credentials to Members of the Congress, Senators, Councillors, Provincial Councillors and Island Councillors, whenever vacancies by decease, incapacity or resignation have to be filled, and when the life of Provincial and District Electoral Commissions has finished.

(2) The Provincial and District Electoral Commissions, besides the other matters expressly mentioned in this Act as belonging to their field of competence, shall equally be competent, within their territorial boundaries, with regard to those matters under paragraphs (h), (j) and (k) of subsection (1) above. Their competence in the imposition of fines is limited to the maximum amount of one hundred thousand pesetas in the case of Provincial Commissions and fifty thousand pesetas in the case of District Commissions.

(3) Without prejudice to the higher criterion of the Central Electoral Commission, the Provincial Electoral Commissions shall also be competent in the following cases:

(a) The conveyance of compulsory instructions to the District Electoral Commissions on any election matters.

(b) The binding resolution of consultations submitted by the District Electoral Commissions.

(c) The official revocation at any time, or at the request of interested parties, within the times envisaged in section 21 of this Act, of decisions taken by the District Electoral Commissions, where those decisions are contrary to the interpretation of the Provincial Electoral Commission.

(d) The consolidation of the interpretative criteria of the District Electoral Commissions on any election matters.

(4) The District Electoral Commissions shall guarantee the stocks of election aids, referred to in section 81 of this Act, for every polling stations bureau in the District.

(5) In the event of non-payment of the fines imposed under this section, the corresponding Electoral Commission shall con-

vey to the competent department of the Treasury a certificate of default so that the fine imposed may be exacted compulsorily.

## *Section 20*

Electors shall address their consultations to the District Electoral Commission corresponding to their place of residence.

Political parties, associations, coalitions or federations and groups of electors may submit their consultations to the Central Electoral Commission, where the questions are of a general kind and may affect more than one Provincial Electoral Commission. In all other cases, they shall submit their consultations to the corresponding Provincial or District Electoral Commission, provided the consultation made is within the jurisdiction and competence of the Commission in question.

Local governments and public officials may address their consultations directly to the corresponding Commission with jurisdiction and competence in the matter.

Consultations shall be submitted in writing and shall be dealt with by the Commission to which they are addressed, except where the Commission, due to the importance or the general nature of the issue in question, decides to submit the consultation to the superior Commission.

Where, due to the urgency of the consultation, there is not sufficient time to call for a meeting of the Commission, and in all cases where there are previous resolutions by that Commission or by a superior one, setting a precedent, the Presidents may, of their own responsibility, give a provisional answer, without prejudice to its ratification or amendment at the first meeting held by the Commission.

## *Section 21*

(1) Except in those cases where this Act provides specific proceedings of revision by a Court of Law, the agreements or resolutions of the Provincial, District and Autonomous Community Commissions, may be appealed to at a higher ranking Commission which shall adopt a resolution within the five days following the day of submission of the appeal.

(2) The submission of appeals shall take place within the twenty four hours following the notification of the agreement or resolution and before the Commission responsible for the decision. This Commission shall forward the appeal, together with its report, within the following forty eight hours, to the Commission that shall decide on the appeal.

No appeal lies against the resolution of the latter Commission, either administratively or before a Court of Law.

## *Section 22*

(1) The Cortes Generales shall fix the expenses and bonuses payable to the Members of the Central Electoral Commission, as well as those of the personnel at their service.

(2) The expenses and bonuses payable to the Members of all other Electoral Commissions and personnel at their service shall be fixed by the Government. Nevertheless, in the case of elections to the Legislative Assemblies of Autonomous Communities, the above mentioned payments shall be fixed by the Government of the corresponding Community, whether for the Community Electoral Commission or for lower ranking Commissions in that Community.

(3) The receipt of these payments is, in every case, compatible with any salaries or incomes they may have.

(4) The financial control of these payments shall be carried out in accordance with current legislation.

## DIVISION II

### Polling wards and polling stations bureau

## *Section 23*

(1) Every constituency shall be divided into polling wards.

(2) Every polling ward shall have a maximum of two thousand electors and a minimum of five hundred. The area of every council shall have at least one polling ward.

(3) No polling ward shall comprise areas under different councils.

(4) The electors of a polling ward shall be arranged in the elections lists in alphabetical order.

(5) Every polling ward shall have one polling stations bureau.

(6) Nevertheless, where the number of electors in a ward or the dissemination of population in a ward, makes it advisable, the Provincial Delegation of the Electoral Register Office, at the proposal of the relevant council, may provide for the constitution of other polling stations bureau and the distribution among them of the ward's electors. In the first of the two cases mentioned, the ward electors shall be allotted by alphabetical order to the polling stations bureau, which shall be located preferably in separate halls within the same building. In the second case, that of disseminated population, electors shall be allotted their polling stations bureau according to the shortest distance between their place of residence and the corresponding polling stations bureau. Under no circumstance shall the number of electors allotted to a polling stations bureau be below two hundred.

## *Section 24*

(1) The number and boundaries of polling wards, their premises and the number of polling stations bureau in each ward, shall be designated by the Provincial Delegations of the Electoral Register Office, after considering the views of the local councils on these matters.

(2) The list of wards and places shall be published in the Provincial Official Gazette on the sixth day following the calling of elections and shall also be posted for public view by the corresponding local councils.

(3) During the six days following publication, electors may make claims regarding the boundaries established, before the Provincial Electoral Commission, and the Commission shall adopt a final resolution about these claims during the five days following their presentation.

(4) The list of polling wards, polling places and election premises shall be published in the two newspapers with the widest readership in the province, within the ten days prior to polling day, and shall also be posted for public view by the corresponding local councils.

(5) Local councils shall display notices in a convenient manner indicating the premises corresponding to each ward and polling stations bureau.

### *Section 25*

(1) Every polling stations bureau shall be constituted by a presiding officer and two members.

(2) In the event of more than one election being held concurrently, the polling stations bureau shall be common to them all.

### *Section 26*

(1) The councils shall be responsible, under the supervision of the District Electoral Commissions, for the constitution of the polling stations bureau.

(2) The presiding officer and members shall be appointed by public lot from among all the electors registered in the corresponding ward under sixty five years of age and who are literate. The presiding officer shall be a grammar or high-school graduate, or have an intermediate technical or trade qualification or, subsidiarily, be a comprehensive school graduate, or equivalent.

(3) There shall be two substitute members for each of the three members, who shall be equally appointed by lot.

(4) The drawing of lots shall be carried out between the twenty-fifth and the twenty-ninth day following the convocation of elections.

### *Section 27*

(1) The offices of presiding officer and member of polling stations bureau are of obligatory acceptance. These offices cannot be held by candidates to the elections.

(2) The appointments of presiding officers and members of polling stations bureau shall be notified to the appointees during the three days following the day of the draw. The appointees shall, on receiving their notification, also receive for the discharge of their duties, a handbook of instructions which has been supervised by the Central Electoral Commission and approved by the Cabinet or the Governments of Autonomous Communities.

(3) The appointees shall then have seven days to appeal before the District Electoral Commission against their appointment. Their non-acceptance should be for a reasonable cause, duly documented, which prevents the acceptance of their appointment. The Commission shall adopt a resolution, against which there lies no further appeal, in the course of the following five days and, as required, shall notify the appointment to the first substitute. The fact of being ineligible under the provisions of this Act shall be considered reasonable cause for non-acceptance of the appointment.

(4) In the event of any appointee being unable to attend to the discharge of his duties, after the times provided in subsection (3) above, he shall notify the District Commission at least seventy two hours before any event that requires his presence, and shall provide, duly documented, the relevant reasonable cause for his non-attendance. Should the impediment arise after the seventy two hour time mentioned above, the notification to the Commission shall be effected immediately and, in any case, before the constitution of the polling stations bureau. In such cases the Commission shall notify the appointment to the corresponding substitute if there is time to do so, otherwise, it shall proceed to appoint another person, if necessary.

(5) For the purpose of the provisions under subsection 2, section 101, of this Act, the District Electoral Commissions shall provide the corresponding Judges or Magistrates with the data relative to the identification of those persons, who, as officers or substitutes, constitute the polling stations bureau.

## *Section 28*

(1) Employees and civil servants appointed as presiding officers or members of polling stations bureau shall be entitled to a paid leave of a whole day on polling day, should it be a working day. In every case, they shall also be entitled to a reduction of five hours of the working day immediately following polling day.

(2) The expenses payable to presiding officers and members of polling stations bureau shall be regulated by ministerial order.

DIVISION III

The Electoral Register Office

*Section 29*

(1) The Electoral Register Office, within the National Statistical Institute, is entrusted with the production of the electoral register, and discharges its duties under the direction and supervision of the Central Electoral Commission.

(2) The Electoral Register Office has Provincial Delegations.

(3) Local councils and consulates co-operate with the Electoral Register Office in registration tasks.

*Section 30*

The Electoral Register Office is competent for the following:

(a) The co-ordination of the process of production of the Electoral Register and, to this end, it may convey instructions to councils and consulates, as well as to the Public Record Office and the Record Office for Persons Detained in Penal Institutions and Persons at Large (who would otherwise be so detained).

(b) The supervision of the process of preparation of the Electoral Register and, to this end, it may carry out inspections in councils and consulates.

(c) The official control and revision of new registrations and de-registrations dealt with by the competent authorities, and the production of a national file of electors.

(d) The correction of multiple registrations of the same elector not detected by the councils and consulates, in the terms of section 33.

(e) The production of provisional and final election lists.

(f) The resolution of claims against the authorities who intervene in the process of preparation of the register and, in particular, those claims relating to the undue inclusion or exclusion of a person in or from electoral lists. These resolutions, as far as administrative appeals go, shall be final.

## CHAPTER IV

### *The Electoral Register*

#### DIVISION I

#### *Conditions and manner of registration*

##### *Section 31*

(1) The Electoral Register shall contain the registration of those persons who meet the requirements for electors and who are not subject to temporary or definitive disfranchisement.

(2) The Electoral Register is made up of the register of electors resident in Spain and of the register of electors absent-resident who live abroad.

(3) The Electoral register shall be one and unique for all kind of elections, without prejudice to its possible extension to local government and European Parliament elections, in accordance with the provisions of sections 176 and 210 of this Organic Act.

##### *Section 32*

(1) Registration in the Electoral Register is obligatory. Besides the name and surnames, the one single requirement for the identification of an elector in the act of voting, and without prejudice to the provisions of section 85, is the number of his National Identity Document which shall be included among the other registration data.

(2) Councils shall officially deal with the registration of those persons residing within their boundaries.

(3) Career consulates and consular authorities at Diplomatic Missions are to proceed with the registration of Spanish nationals residing in their respective areas of jurisdiction in the manner provided by regulation.

##### *Section 33*

(1) The Electoral Register shall be arranged in territorial wards.



(2) Every elector shall be registered in one ward. A person cannot be registered in several wards or more than once in the same ward.

(3) If an elector is registered more than once, the last registration shall prevail and all the others shall be cancelled. If the registrations bear the same date, the elector shall be notified of the circumstance so that he can opt for one of them within ten days. Failing this, the competent authority shall officially determine which one of the registrations shall prevail.

(4) With the exception of the provisions of subsection (3) above, the registration shall be maintained unaltered unless there is evidence that the personal circumstances of the elector have changed.

(5) Any changes introduced under the provisions of the above subsections shall be immediately notified to the interested parties.

## DIVISION II

### Production of the Electoral Register

#### Section 34

(1) The Electoral Register is permanent and it shall be updated on a monthly basis.

(2) The electoral Register in force at the time an election is called shall be employed for that election.

#### Section 35

(1) For the purposes of updating the Register, local councils shall forward to the corresponding Provincial Delegations of the Electoral Register Office, on a monthly basis, and within the times established by the Electoral Register Office, a list, documented in accordance with the instructions of the said Office, with the following data:

(a) Any changes during the preceding month in the street directory.

(b) New registrations and de-registrations of residents of voting age (that is, 18 years or over) up to the last day of the previous month.

(c) Changes of address and of any other registration data, corresponding to persons registered in the Electoral Register, that have taken place during the previous month.

(2) In the updating of the data corresponding to the first month of each year, the registrations of those residents newly registered as under-age and who will attain voting age (that is, 18 years) between 1st. January and 31st. December of the following year, shall also be forwarded by the local councils to the corresponding Provincial Delegation of the Electoral Register Office and in accordance with the provisions of subsection (1) above.

### *Section 36*

For the purposes of updating the Register of absent-resident electors living abroad, consulates shall deal with new registrations and de-registrations of Spanish nationals living in the area of their respective jurisdiction, as well as with their changes of address, in accordance with the same provisions and procedure that apply to local councils.

### *Section 37*

For the purpose of the provisions of sections 35 and 36 above, the persons in charge of the Public Record Office and of the Record Office for Persons Detained in Penal Institutions and Persons at Large (who would otherwise be so detained) shall notify to the Provincial Delegations of the Electoral Register Office, on a monthly basis, and within the times established by the Electoral Register Office, any circumstance of civil or penal character that may affect registration in the Electoral Register, which has taken place during the previous month.

### *Section 38*

(1) The Electoral Register Office shall carry out the monthly updating of the Electoral Register on the basis of the data received before the first day of each month.

(2) With the data referred to in the previous sections, the Provincial Delegations of the Electoral Register Office shall have at the disposal of interested parties the updated Electoral Register at all time. Access to the said Register may be gained through local councils, consulates or directly in the Provincial Delegations.

(3) Claims with regard to the registration data shall be addressed to the corresponding Provincial Delegation of the Electoral Register Office. The Provincial Delegations shall give a resolution on these claims within five days as from the date of reception of the claim. Local councils and consulates shall, forthwith, forward claims submitted to them, to the corresponding Provincial Delegation of the Electoral Register Office.

(4) The Electoral Register Office shall adopt all the relevant measures to facilitate the resolution of consultations and claims by the local councils and consulates.

(5) Appeals against resolutions adopted on these matters by the Provincial Delegations of the Electoral Register Office shall be dealt with by the preferential and summary proceedings provided under subsection (2), section 53 of the Constitution.

### DIVISION III

#### Correction of the Register during an election period

##### *Section 39*

(1) The Electoral Register in force for each election shall be that closed on the first day of the month preceding the date on which notice is given for the election. Where data corresponding to some local council or consulate areas had not been included in the Register, the data used for those areas shall be the latest available data. The Director of the Electoral Register Office shall notify these cases to the Central Electoral Commission so that the latter may adopt the appropriate measures.

(2) Local councils and consulates shall exhibit the electoral lists in force of their respective areas of jurisdiction during a period of eight days, as from the sixth day following the date on which notice has been given for that election.

(3) Within the period of eight days specified in subsection (1) above, any person may make a claim addressed to the corresponding Provincial Delegation of the Electoral Register Office with regard to his/her registration data. These claims may be made either to the corresponding Provincial Delegation of the Electoral Register Office or through the local councils or consulates which shall forward the said claims forthwith to the respective Delegations.

(4) The provincial Delegations of the Electoral Register Office shall within three days resolve the claims submitted to them and shall order the appropriate corrections. These corrections shall be exhibited to the public on the seventeenth day following the calling of the elections. The Provincial Delegations shall equally notify their resolution of claims to every claimant to the corresponding local councils and consulates.

(5) The Electoral Register Office shall forward to every elector a Registration Card containing the updated data of their registration in the Register, as well as the polling ward and polling place allotted to the elector. The Electoral Register Office shall also notify any changes in wards, polling premises and polling places, to which section 24 of the present Organic Act refers, to every elector affected by the changes.

#### *Section 40*

(1) Against the resolutions of the Electoral Register Office an appeal lies to the Court of First Instance within the five days following the receipt of the notification.

(2) The Judgment, to be pronounced within the space of five days, shall be notified to the interested party, the local council or consulate, and the Provincial Delegation of the Electoral Register Office. This Judgment shall be final and conclusive.

## DIVISION IV

### Access to the information in the Register

#### *Section 41*

(1) The personal data necessary for the registration of the electors in the Electoral Register shall be regulated by Royal Decree.

(2) Any disclosure of information contained in the Electoral Register is hereby forbidden, except where the request for information is made through a Court of Law.

(3) Notwithstanding the above, the Electoral Register Office may disclose statistical data that do not reveal personal information about the electors.

(4) Autonomous Communities may obtain a copy of the Electoral Register, as well as of the corrections introduced in the same, after every notice of elections. The said copy and corrections shall be fashioned in such a way as to be apt for computerized treatment.

(5) Election agents may obtain, on the day following the nomination of candidates, a copy of the Register of the corresponding electoral district, arranged in polling places, and made up in such a way as to be apt for computerized treatment. These copies may only be used for the purposes established by the present Act. Alternatively, election agents-general may obtain in the same way a copy of the Register in force that covers the districts where their party, federation or coalition have nominated tickets \*.

The District Electoral Commissions shall have a copy of the Electoral Register to be employed at the elections that covers their respective areas of jurisdiction.

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\* For elections in Spain, a list of candidates put up by a political organization in a constituency-constituencies vary according to the kind of election-where more than one candidate is usually elected.

## CHAPTER V

### *General requirements for the convocation of elections*

#### *Section 42*

(1) In the cases of general elections to the Cortes Generales, or to the Legislative Assemblies of Autonomous Communities, where the Spanish Prime Minister, or the respective Presidents of the Autonomic Governments, make use of their prerogative of anticipating dissolution, expressly recognized by law, the convocation Decrees shall be published, on the day following their issuance, in the Official State Gazette or, as required, in the Official Gazette of the corresponding Autonomous Community. These Decrees shall come into force on the very day of their publication. The convocation Decrees shall specify the date of the elections, which shall be held between the fifty-fourth and the sixtieth day after the convocation.

(2) In the cases of general elections to the Cortes Generales, or to the Legislative Assemblies of Autonomous Communities, where the Prime Minister, or the respective Presidents of the Autonomic Governments, do not make use of their prerogative of anticipating dissolution, expressly recognized by law, the convocation Decrees shall be issued on the twenty-fifth day prior to the corresponding Parliament or Assembly coming to an end, and are to be published the following day in the Official State Gazette or, as required, in the Official Gazette of the corresponding Autonomous Community. These Decrees shall come into force on the very day of publication and they shall specify the date of the election, which shall be held between the fifty-fourth and the sixtieth day after convocation.

(3) In the cases of local government elections, or elections to the Legislative Assemblies of the Autonomous Communities where the Presidents of the Autonomic Governments do not have the prerogative of anticipating dissolution, expressly recognized by law, convocation Decrees shall be issued on a day between the fifty-fourth and the sixtieth day before the fourth Sunday in May of the corresponding year and are to be published the following day in the Official State Gazette or, as required, in the corresponding Autonomous Community Official Gazette. These De-

crees shall come into force on the very day of publication, and the elections shall be held on the fourth Sunday in May of the corresponding year. The life or term shall be for a period of four years and shall end, in every case, on the day before the following elections are held.

## CHAPTER VI

### *Election procedure*

#### DIVISION I

#### Election agents before the Electoral authorities

##### *Section 43*

(1) Parties, federations, coalitions and groups that intend taking part in an election shall appoint—in the time and form established by the special provisions of this Act—those persons who are to represent them before the Electoral authorities.

(2) The election agents-general shall act on behalf of the parties, federations and coalitions taking part in an election.

(3) The election agents of the tickets shall act on behalf of the candidates included in the same. All notices, documents and summonses addressed by the Electoral authorities to the candidates shall be sent to the agents' address, and the agents, by the mere acceptance of the ticket by a candidate, receive a general proxy to act on behalf of the candidate in court proceedings relating to electoral matters.

#### DIVISION II

#### Delivery of nomination papers and statement of persons nominated

##### *Section 44*

(1) The following may propose candidates or lists of candidates:

(a) Parties and federations registered in the corresponding register.

(b) Coalitions constituted as provided in subsection (2) below.

(c) Groups of electors which meet the requirements prescribed by the special provisions of this Act.

(2) Parties and federations that enter into a coalition pact to participate jointly in an election, shall notify the fact to the competent Commission during the ten days that follow the convocation. The denomination of the coalition, the rules by which it is governed, and the persons responsible for leading and co-ordinating it, shall all be included in the above mentioned notification.

(3) No party, federation, coalition or group of electors may deliver more than one list of candidates in any one constituency for the same election. Federated or coalised parties cannot deliver their own list of candidates in a constituency if, at the same time and for the same election, nominations have been delivered by the federations or coalitions to which they belong.

## *Section 45*

The list of proposed nominations, subscribed by the agents-general of the parties, federations and coalitions and by the promoters of the groups of electors, shall be delivered to the competent Electoral Commission between the fifteenth and twentieth day following the convocation.

## *Section 46*

(1) Nomination papers for every ticket shall clearly state the denomination, abbreviation and symbol of the party, federation, coalition or group promoting the candidates, as well as the names and surnames of the candidates included in the said ticket.

(2) Nomination papers shall be accompanied by a declaration of the ticket candidates consenting to their nomination, as well as by documents proving their eligibility.

(3) Where the ticket is to be nominated by means of a list, each list shall include as many candidates as there are offices to



be elected, plus besides, three substitute candidates, and the placing order of all of them shall be clearly stated.

(4) Nomination papers shall be made under denominations, abbreviations or symbols that should not lead to confusion with those belonging to, or traditionally employed by, other parties legally constituted.

(5) No nomination papers which include symbols that reproduce the Spanish flag or coat of arms, or with denominations or symbols that have a reference to the Crown, may be delivered.

(6) No candidate may have nomination papers delivered in more than one constituency nor be included on more than one ticket.

(7) The condition of being independent, or as the case may be, the denomination of the party to which each candidate belongs, in the case of coalitions or federations, may be stated together with the names of the candidates.

(8) Nomination papers for tickets promoted by groups of electors, shall be accompanied by documents to show that the number of signatories subscribing the nomination is sufficient for taking part in the elections and meet all the legal requirements. No elector may be a signatory to several tickets.

(9) The competent Electoral Commissions shall take delivery of the tickets and shall issue a receipt for them stating the date and hour of delivery. The Secretary shall give a number to each ticket which shall follow the order of delivery, and this order shall be followed in all the publications effected thereafter.

## *Section 47*

(1) The nomination tickets delivered shall be published on the twenty-second day after the convocation and in the manner prescribed by the special provisions of this Act.

(2) Two days after, the competent Electoral Commission shall notify the election agents of the tickets of anything irregular that may have been detected officially by the Commission or that may have been objected to by other election agents. The time for the corresponding rectification is forty eight hours.

(3) The competent Electoral Commissions shall make the statement of candidates on the twenty-seventh day following the convocation of elections.

(4) The tickets that do not comply with the requirements referred to in the sections above or with those prescribed by the special provisions of this Act shall not be included in the statement.

(5) The statement of nomination tickets shall be published on the twenty-eighth day following the convocation and in the manner prescribed by the special provisions of this Act.

### *Section 48*

(1) Once delivered, tickets cannot be subject to modification, except during the period provided for the correction of irregularities under section 47 above, and only on account of the decease or withdrawal of a candidate nominated or as a consequence of the process of correction of an irregularity.

(2) Where the candidates are nominated by means of a list, the withdrawals that may take place after the statement has been produced shall be construed as having been replaced by the successive candidates and, as required, by the substitute candidates.

## **DIVISION III**

Proceedings against the nomination of tickets and candidates  
included in the statement

### *Section 49*

(1) Candidates excluded from the statement of persons nominated, the election agents of the tickets included in the statement, and election agents of tickets whose inclusion has been rejected, have two days following the production of the statement in which to proceed with an appeal against the nomination decisions of the Electoral Commissions, before a Court dealing with appeals against administrative decisions. In the same act of lodging the appeal, the allegations that are considered pertinent and the relevant evidence shall have to be produced.

(2) Without prejudice to the prescribed notification to the election agent or agents of the person or persons excluded from the statement, the time limit for lodging an appeal under subsection (1) above shall begin with the publication of nominated candidates.

(3) The Court's decision, which shall be pronounced during the two days following the lodging of the appeal, is final and conclusive. No further appeal lies, without prejudice to the proceedings of appeal to the Constitutional Court, in which case the appeal regulated in this section shall be construed as having complied with the requirement established by section 44, subsection (1), paragraph (a) of the Constitutional Court Organic Act.

(4) The appeal to the Constitutional Court shall be lodged within the space of two days, and the Constitutional Court shall adopt a resolution during the following three days.

#### DIVISION IV

#### General provisions for the election campaign

#### *Section 50*

(1) The authorities that have convoked elections by virtue of the power legally vested in them, may carry out, during the election period, an advertising campaign of an institutional character, designed to inform about and to promote participation in the elections.

This campaigning shall not influence the electors voting intentions.

(2) For the purposes of this Act, 'election campaign' shall be deemed to be the whole range of legal activities carried out by the candidates, parties, federations, coalitions or groups in order to obtain votes.

(3) Except as provided in subsection (1) above, no artificial person (body corporate or corporation) other than those mentioned in subsection (2) above, shall be entitled to carry out an election campaign as from the date of convocation of elections, without prejudice to the provisions of section 20 of the Constitution.

## *Section 51*

(1) The election campaign begins on the thirty-eighth day following the convocation.

(2) Its duration shall be a minimum of fifteen and a maximum of twenty one days.

(3) It ends, in any case, at zero hours on the day immediately preceding polling day.

## *Section 52*

Members of the Services, or of the Bodies or Forces of State Security, of the Autonomous Communities and local Police, Judges, Magistrates and Public Prosecutors or District Attorneys, in active service, and the Members of the Electoral Commissions, are forbidden to distribute electoral propaganda or to carry out other election campaign activities.

## DIVISION V

### Propaganda and functions during the election campaign

## *Section 53*

No electoral propaganda may be publicized, nor any election campaign function held, once the campaign has legally concluded or during the period between the convocation of elections and the legal beginning of the campaign. The prohibition regarding the latter period does not extend to activities carried out by parties, coalitions and federations in performance of constitutionally recognized functions, and, in particular, those under section 20 of the Constitution.

## *Section 54*

(1) The holding of election meetings is governed by the provisions regulating the right to meet. It shall be construed that the Provincial Electoral Commissions assume the responsibilities that in this matter normally belong to the Civil Governments.

(2) The meetings convened by the parties, etc., which have been notified to the Commissions, are to be notified by these to the Civil Governments, which shall continue to be responsible for the keeping of public order.

### *Section 55*

Councils shall keep special places clear for the free posting of public notices, and provide official premises and public places free-of-charge for the holding of election campaign functions.

Apart from the special free places mentioned above, parties, associations, coalitions or federations, and the tickets, may only display electoral propaganda posters or notices in authorized commercial spaces.

### *Section 56*

(1) For the purposes of the provisions of section 55 above, councils shall notify to the corresponding Electoral Commissions the locations available for the free posting of notices, within the seven days following the convocation of elections.

(2) Electoral Commissions shall distribute equitably the locations or spaces referred to above, in such a manner that all tickets have at their disposal the same spaces and analogous utility in each one of the locations available.

(3) On the second day after the statement of nominated candidates, the Commission shall notify to the election agents of every ticket the places that have been reserved for their posters or notices.

### *Section 57*

(1) For the purpose of the provisions of section 54, councils shall notify to the corresponding District Electoral Commission, and the latter shall make it known to the corresponding Provincial Electoral Commission, the free-of-charge official premises and public places that have been reserved for the holding of election campaign functions, within the ten days following the convocation of elections.

(2) The above mentioned list shall specify the days and hours in which each place or premises is available, and the list shall be published in the Provincial Official Gazette within the fifteen days following the convocation of elections. Following publication, the election agents of the tickets may request from the District Commissions the use of the above mentioned premises and places.

(3) The District Commissions shall allocate the places and premises available in accordance with the requests received, and where more than one request is received for the same premises or places at the same times, the allocation shall be made by applying the criterion of equal opportunity, and subsidiarily, preference shall be given to the parties, federations or coalitions that received the greater number of votes in the last equivalent elections in that constituency. The District Electoral Commissions shall notify to the election agents of every ticket the premises and places they have been allocated on the fourth day after the nomination of candidates.

### *Section 58*

(1) Tickets have the right to place advertisements in the press, and, with regard to insertion, rates and placing of spaces of election advertising, no discrimination shall be made among them.

(2) Tickets shall equally have the right to broadcast advertising on private radio stations and in any other private media and in this respect no ticket shall be discriminated against.

(3) Election advertising rates shall not be higher than those charged at the time for commercial advertising.

(4) Every election advertisement shall expressly state its nature.

## **DIVISION VI**

### **Use of publicly-owned media in the election campaign**

### *Section 59*

Election propaganda sent by mail shall enjoy special rates fixed by Ministerial Order.

## *Section 60*

(1) No election advertising shall be bought in publicly-owned media.

(2) During the election campaign, parties, federations, coalitions and groups, taking part in the elections, shall be entitled to free-of-charge advertising times in publicly-owned television and radio broadcasting stations under the terms of the provisions of the sections below.

## *Section 61*

The allocation of free-of-charge electoral advertising times shall be made on the basis of the total votes obtained by each party, federation or coalition in the previous equivalent election.

## *Section 62*

Should the coverage of the media be limited to an area smaller than the election area, the allocation of advertising times shall be made on the basis of the total votes obtained by each party, federation or coalition in the constituencies covered by the broadcasting range of the media, or, as the case may be, by their programmes.

In the case of elections to the European Parliament, the allocation of advertising times shall be made on the basis of the total number of votes obtained by each party, federation or coalition in the district covered by the broadcasting range of the media or by their programmes.

## *Section 63*

(1) For the allocation of free-of-charge advertising times in elections to either House (Congress or Senate) only the results obtained in the previous elections to the Congress shall be taken into account.

(2) Should elections to the Congress be held simultaneously with elections to a Legislative Assembly of an Autonomous Community, or with local government elections, only the results of the previous elections to the Congress shall be taken into ac-

count for the allocation of advertising times in the general programmes of the national media.

(3) Should elections to a Legislative Assembly of an Autonomous Community be held simultaneously with local government elections, only the results of the previous elections to the Assembly shall be taken into account for the allocation of advertising times in the broadcasting media of that Autonomous Community, or in the regional programmes of the national media.

(4) In the cases referred to in subsection (3) above, and provided the rule under subsection (2) above in this section does not apply, the allocation of advertising times in the general programmes of the national media shall be made on the basis of the results of the previous local government elections.

(5) Should elections to the European Parliament be held simultaneously with elections to either House of the Cortes Generales or with local government elections, only the results of the previous elections to the Congress or of the local government elections, shall be taken into account for the allocation of advertising times in the national media.

(6) Should elections to the European Parliament be held simultaneously with elections to the Legislative Assembly of an Autonomous Community, only the results of the last elections of the latter Assembly shall be taken into account for the allocation of advertising times in the media covering that Autonomous Community or in the corresponding regional programmes of the national media.

(7) Should a case arise which is not expressly regulated by this section, the competent Electoral Commission shall establish the criteria for the allocation of advertising times in publicly-owned media in the event of simultaneously held elections.

## *Section 64*

(1) The allocation of the free-of-charge times devoted to electoral advertising in each publicly-owned medium and in the different programmes they may have, shall be made in accordance with the following rules:



(a) Ten minutes for the parties, federations and coalitions which did not enter or did not obtain any seats in the previous equivalent elections.

(b) Fifteen minutes for the parties, federations and coalitions which, having obtained seats in the previous equivalent elections, did not reach 5% of the total valid votes polled at a national level or, as the case may be, in the constituencies referred to in section 62.

(c) Thirty minutes for the parties, federations and coalitions which, having obtained seats in the previous equivalent elections, obtained between 5% and 20% of the total votes as referred to in paragraph (b) above.

(d) Forty five minutes for the parties, federations and coalitions which, having obtained seats in the previous equivalent elections, obtained at least 20% of the total votes as referred to in paragraph (b) above.

(2) The free-of-charge broadcasting spaces mentioned in subsection (1) above are only applicable to those parties, federations or coalitions that have tickets nominated in over 75% of all the constituencies covered by the range of broadcasting of the corresponding media, or, as the case may be, by their programmes. The special provisions of this Act shall apply in the case of local government elections.

(3) Parties, associations, federations or coalitions that do not meet the quotas of tickets prescribed in subsection (2) above, are entitled, nevertheless, to fifteen minutes broadcasting in the general programmes of the national media, provided they have obtained, in the previous equivalent elections, 20% of the votes polled in the territory of an Autonomous Community. In this respect, the criteria to be followed shall be the same as those used for the broadcasting of the parties, federations and coalitions referred to in paragraph (d), subsection (1) of this section. In this case, the broadcasting shall be limited to the territory of the Community in question. This right is not to be added to that provided in subsection (2) above.

(4) Groups of electors, federated for the purpose of advertising in publicly-owned media, shall be entitled to ten minutes broadcasting, provided they comply with the candidate nomination requirements under subsection (2) above, of this section.

## Section 65

(1) The Central Electoral Commission shall be the competent authority for the allocation of free-of-charge electoral advertising times broadcast by publicly-owned media, irrespective of whoever the titular owner of the media may be, at the proposal of the Commission referred to in the following subsections of this section.

(2) A Radio and Television Commission, under the direction of the Central Electoral Commission, shall be competent to make the proposal for the allocation of free-of-charge electoral advertising times.

(3) The Commission shall be appointed by the Central Electoral Commission and shall be made up of one representative from each party, federation or coalition running in the election that also have representation in the Congress. The votes of these representatives shall be weighed in accordance with the respective representation of their parties, federations or coalitions in the Congress.

(4) The Commission's Chairman shall equally be appointed by the Central Electoral Commission from among the representatives appointed in accordance with subsection (3) above.

(5) The Central Electoral Commission may delegate to the Provincial Electoral Commissions the allocation of free-of-charge electoral advertising times in the regional and local programmes of state-owned media as well as in other media with similar audiences which are also publicly owned. In this event, a Commission is set up with the same functions as those mentioned in subsection (2) above, and on the basis of the respective representations of the different parties, etc., from that territorial area, in the Congress. These Commissions shall act under the direction of the corresponding Provincial Electoral Commission.

(6) In the case of elections held exclusively for a Legislative Assembly of an Autonomous Community, the functions referred to in this section with regard to State-owned media shall be construed as referring to the district of the audience included in the territory of that Community, and shall be exercised, in the terms provided by this Act, by the Autonomous Community Electoral Commission, or, should this Commission not exist, by the Electro-

ral Commission of the province whose capital is the capital of that Community.

Equally, where the Autonomous Communities regulating elections to their own Legislative Assemblies have provisions on these matters, their respective Electoral Commissions shall be, as regards the media dependent on the corresponding Autonomous Community or on the Councils in its territory, at least as competent as the Central Electoral Commission, including the direction of a Radio and Television Commission.

### *Section 66*

The respect due to the social and political diversity, as well as the neutrality, of publicly-owned media during an election campaign shall be guaranteed by those responsible for the administration of the media and by the controls provided by the Law. The decisions adopted by those responsible for the administration of the said media, are subject to appeal before the competent Electoral Commission, in accordance with the provisions under section 65 above, and according to the procedure that the Central Electoral Commission thinks fit to provide.

### *Section 67*

Taking into account the number of votes obtained in the previous equivalent elections, as well as the preferences of the parties, federations or coalitions, the competent Electoral Commission shall determine the moment and order of electoral advertising broadcasting to which all parties, federations or coalitions taking part in the elections are entitled, in accordance with the provisions of this Act.

## DIVISION VII

### The right to rectification

### *Section 68*

Where facts referring to candidates or to leaders of parties, federations, coalitions or groups taking part in an election, are di-

vulged through any media, and those candidates or leaders consider those facts inaccurate and their divulgement a cause of prejudice to them, the injured parties may exercise their right to rectification, in accordance with the provisions of Organic Act No. 2 (23/3/1984), in the following special ways:

(a) Should the information for which rectification is intended, have been divulged by a publication, the periodicity of which did not allow the divulgement of the rectification, the editor of the medium in question shall cause the publication of the rectification at his expense and within the three days following its receipt, in another medium of the same district and with similar circulation.

(b) Verbal proceedings, as regulated by sub-section 2, section 5, of the above mentioned Organic Act, shall be held within the four days following the petition.

## DIVISION VIII

### Election surveys

#### *Section 69*

Between the day of convocation and polling day of any kind of election the following rules for the publication of election opinion surveys shall apply:

(1) Those that carry out any kind of opinion poll or survey shall, under their own responsibility, accompany it with the following specifications which shall also be included whenever the results are published:

(a) Name and address of the organization or corporation, public or private, or of the natural person that has carried out the survey or poll, as well as the name and address of those causing it to be carried out.

(b) Technical characteristics of the survey or poll, which shall necessarily include the following: sampling method, sample size, margin of error, level of representative sample, surveying method and date of field work.

(c) Complete text of the questions asked and number of persons who have not answered one of the questions.

(2) The Central Electoral Commission is to ensure that the data and information of published surveys do not contain deliberate falsehoods, concealments or modifications, and that the surveys comply with the specifications referred to in subsection (1) above, and that the prohibition laid down in subsection (7) below, is heeded.

(3) The Central Electoral Commission may require of those responsible for the production of a published survey or poll, the supplementary technical information that the Commission thinks fit, with a view to carrying out the necessary controls.

This information cannot involve disclosures about the data contents which, in accordance with current legislation, are for the company's or the client's own use.

(4) The media that have published or divulged a survey or poll contravening the provisions of this Act, shall be obliged to publish and divulge the rectifications required by the Central Electoral Commission, publicize its provenance and the reason for the rectification, broadcast or publish the said rectification in the same times or pages as those times or pages which applied to the information rectified, within three days of the receipt of the Commission's requirement.

(5) Should the survey or poll subject to rectification have been divulged by a publication, the periodicity of which does not allow the divulgement of the rectification in the three days specified in subsection (4) above, the editor of the medium shall cause the rectification to be published at his expense —indicating this fact— during the three day period mentioned above, in another medium in the same district and with similar circulation.

(6) The Central Electoral Commission's resolutions regarding surveys and polls are notified to the interested parties and published. These resolutions may be appealed before the Administration Decisions Appeals Jurisdiction, in the manner established by its Regulating Act, the prior lodging of an amending resolution appeal not being required.

(7) The publication, broadcasting or divulgement of electoral surveys or polls by any kind of medium is prohibited during the five days preceding polling day.

(8) In the event of any department of the Administration carrying out voting intention surveys during the electoral period,

those political organizations putting up tickets in the area covered by the survey may request the results, and the request shall be granted within forty eight hours of the request being made.

## DIVISION IX

### Ballot papers and election envelopes

#### *Section 70*

(1) The competent Electoral Commission shall approve the official forms of the ballot papers to be used in their constituency, in accordance with the criteria laid down by the special provisions of this Act or by other rules of regulation rank.

(2) The State's Administration shall ensure the availability of ballot papers and voting envelopes in accordance with the provisions of section 71 below, without prejudice to the production of ballot papers and voting envelopes by the political organizations taking part in the elections.

(3) The corresponding Electoral Commission shall ensure that the ballot papers and voting envelopes produced by the political organizations taking part in the elections are fashioned in accordance with the official forms.

#### *Section 71*

(1) The production of ballot papers shall start immediately after the statement of nominated candidates.

(2) Should there be appeals against the statement of candidates, under the provisions of section 49 of this Act, the production of ballot papers for the constituency where the appeals have been lodged shall be postponed until the appeals have been given a resolution.

(3) The first ballot papers produced shall be handed over immediately to the Provincial Delegates of the Electoral Register Office for their forwarding to the absent-resident electors living abroad.

(4) The Civil Governments shall ensure the delivery of a sufficient number of ballot papers and voting envelopes to every po-

ling stations bureau, at least one hour in advance of the beginning of the poll.

## DIVISION X

### The vote by post

#### Section 72

Electors expecting to be absent from their place of residence where they are entitled to exercise their franchise, or who cannot vote in person on the day of the poll, may vote by post, provided they have submitted an application to do so to the Provincial Delegation of the Electoral Register Office with the following requirements:

(a) The elector shall ask the corresponding Delegation for a certificate of registration in the register. This request may be made in any Post Office from the day of convocation of the elections to the tenth day before polling day.

(b) The request shall be made in person. The post Office official entrusted with the receipt shall require the elector to show his national identity document and shall check that the signatures coincide. In no case shall a photostatic copy of the national identity document be admissible.

(c) In the case of illness or physical incapacity preventing the request of the application from being made personally, the application may be made on behalf of the elector by another person appointed by means of a notarial or consular document which shall be individually issued for each elector and which cannot include several electors. One person cannot represent in this matter more than one elector. The Electoral Commission shall make sure that each case meets the requirements established in this paragraph. Finally, the alleged illness or physical incapacity mentioned above shall be documented by means of a free-of-charge and official medical certificate.

(d) The Post Office shall send the documentation handed over to them to the corresponding Electoral Register Office within the following three days.

## Section 73

(1) On reception of the application referred to in section 72 above, the Provincial Delegation shall check the registration and enter the corresponding note on the register, so that, on polling day no vote is cast in person, and then shall issue the certificate requested.

(2) The Electoral Register Office shall forward the ballot papers and election envelopes, together with the certificate referred to in subsection (1), above, and an envelope addressed to the polling stations bureau allotted to the elector for voting. These documents shall be sent by registered mail and to the address given by the elector, or, failing this, to the address appearing in the register.

An explanatory note shall be enclosed with the foregoing documents.

The forwarding of the above documents shall be carried out as from the thirty-fourth day following the convocation and before the sixth day previous to polling day.

A document acknowledging the reception of the said documents shall be signed personally by the interested party after producing proof of his identity. In the event of the elector not being at his place of residence at the time of delivery of the documents, he shall be notified to go in person or send the representative referred to in paragraph (c) of section 72 above, to the corresponding Post Office, where, after producing proof of his identity, he may receive the documents for postal voting. The contents of the delivery shall be expressly mentioned in the Post Office notice sent to the elector.

(3) Once the elector has chosen or, as required, filled in the ballot paper he shall introduce it into the voting envelope which he shall then close. Should there be more than one election he shall proceed in the same way for each election. Then, the voting envelope or envelopes and the certificate shall be introduced into the envelope addressed to the polling stations bureau and the elector shall proceed to send it by registered post, at the latest before the third day preceding polling day. This envelope shall be sent post free.



(4) The Post Office shall keep until polling day all the correspondence addressed to the polling stations bureau and shall deliver to the said polling stations bureau all their mail at nine a.m. on polling day. The Post Office shall continue the deliveries to the polling stations bureau of mail received during the day but no later than eight p.m. The Post Office shall keep a record of all documents received, which shall be at the disposal of the Electoral Commissions. Envelopes received after eight p.m. on polling day shall be forwarded to the District Electoral Commission.

#### *Section 74*

The Government shall adopt the necessary measures to guarantee the exercise of the franchise by those citizens who are doing their term of duty in the Services.

The Government shall also regulate the manner of voting by post, in accordance with sections 72 and 73, by the personnel aboard Spanish Navy ships, Merchant Marine ships or fishing boats.

#### *Section 75*

(1) The Provincial Delegates of the Electoral Register Office shall officially forward to those registered in the register as absent-residents living abroad, an identical certificate to that referred to in section 72, as well as the ballot papers and the voting envelopes and an envelope addressed to the Provincial Electoral Commission. An explanatory note shall be enclosed with the foregoing documents.

(2) The documents shall be sent by registered post and no later than the thirty-fourth day after the convocation, in those provinces where the statement of nominated candidates has not been subject to appeals, and in all the other provinces, no later than the forty-second day after the convocation of the elections.

(3) These electors shall exercise their franchise in accordance with the procedure referred to in section 73 above, and shall forward the envelopes, addressed to the competent Electoral Commission for the count, by registered post, and no later than the day preceding polling day.

Spanish national who are living in a European Union country other than Spain may opt to exercise their franchise either in the European Union country in which they live, or in Spain. In the latter case, these electors shall exercise their franchise no later than the seventh day before the poll by delivering personally their voting envelopes to the career consulate or to the consular authorities of the Diplomatic Mission where they are registered. Consulates shall forward by electoral dispatch these voting envelopes to the office that for this purpose is to be set up in the Ministry for Foreign Affairs. The latter office shall then forward the voting envelopes to the corresponding Electoral Commissions.

In all the cases regulated by the present subsection, for the votes to be valid it shall be indispensable that the envelope or envelopes mentioned above be stamped or marked in some other official way by the Post Office of the State in question, or, as the case may be, duly certified by the corresponding career consulate or consular authorities of the Diplomatic Mission, so that there is no doubt as to the compliance by the elector with the time limits required.

(4) On the day of the general counting of votes, and before proceeding with the count, the competent Electoral Commission shall constitute itself as a polling stations bureau with the polling agents designated to this effect by the tickets taking part in the elections. The time of constitution of these polling stations bureau shall be eight a.m.

(5) When the polling stations bureau have been constituted, the presiding officer shall proceed to introduce into the ballot box or boxes the absent-resident electors' votes received up to that day, and the polling stations bureau's Secretary shall make a note of the voters' names in the corresponding list. Following this, the Commission shall count all the votes, adding the results to those of the general count.

(6) After a report from the Central Electoral Commission, the Government may regulate the criteria for this section and limit the cases to which this section applies; it may also establish other procedures for the voting of absent-resident electors living abroad whenever the provisions of this section are not practicable.

(7) The provisions of this section do not apply to the vote of absent-resident electors living abroad in local government elections, which is governed by the special provisions of this Act.

## DIVISION XI

### Election agent proxies and polling agents

#### *Section 76*

(1) The election agent of every ticket may appoint as a proxy any citizen of voting age in full use of his civil and political rights, with the object of his representing the ticket at the election proceedings.

(2) The proxy is formally appointed before a notary or before the Secretary of the Provincial or District Electoral Commission, who shall issue the corresponding credentials according to the officially prescribed form.

(3) Election agent proxies shall produce their credentials and their National Identity Documents to the members of the polling stations bureau and other competent authorities.

(4) Employees and civil servants who prove their condition of election agent proxies are entitled to paid leave on polling day.

#### *Section 77*

Election agent proxies are entitled to free access to the polling stations bureau, to examine the development of voting and counting, to make claims and protests, as well as to receive the certificates referred to in this Act, and which have not been issued to another proxy or polling agent of the same ticket.

#### *Section 78*

(1) The election agent of every ticket may, up to three days before polling day, appoint two polling agents for each polling stations bureau; the appointment entails the issuing of credentials on a counterfoil book, with the date and the agent's signature below the appointment.

(2) The counterfoil book sheets shall be divided into four parts: one, the counterfoil proper, which remains in the election agent's book; two, the credential, which shall be given to the polling agent; and a third and fourth parts which shall be forwarded to the District Commission, and which the Commission, in turn, shall forward, one to the polling stations bureau to which the polling agent is accredited, and the second to the polling agent's own polling stations bureau so that he be excluded from the voters lists there. The forwarding of the appointments to the District Commissions shall take place up to three days before polling day, and the Commissions shall ensure delivery of the appointments in such a manner that they are at the polling stations bureau when the same are constituted on polling day.

(3) For a person to be appointed polling agent it is necessary that he/she be registered as an elector in the corresponding constituency.

(4) Employees and civil servants who can prove of their appointment as polling agents are entitled to leave on polling day and on the following day in accordance with the provisions of section 28 of this Act.

## *Section 79*

(1) The polling agents shall exercise their franchise at the polling stations bureau where they are accredited.

(2) One polling agent for each ticket may be present at the polling stations bureau, take part in deliberations, voice his opinions—but without the right to vote—and exercise before the polling stations bureau all the other rights vested in them by the provisions of this Act.

(3) For the purposes of the provisions of subsection (2) above, polling agents of the same ticket accredited to a polling stations bureau, may replace each other at will.

(4) An election agent's proxy may carry out the functions mentioned in subsection (2) above, in the absence of polling agents of the same ticket.

## DIVISION XII

### Constitution of the Polling Stations Bureau

#### Section 80

(1) The presiding officer, the two members of each polling stations bureau and their respective substitutes, should they be present, meet at eight a.m. on polling day at the corresponding premises.

(2) Should the presiding officer not be present, he shall be replaced by his first substitute and, failing this, by his second substitute, and should the latter not be present either, by the first member, or by the second member, in this order. Those members not present or who may have taken on the office of presiding officer, shall be replaced by their respective substitutes.

(3) No polling stations bureau may be constituted without the presence of a presiding officer and two members. In the event of this requirement not being met, the members present at the polling stations bureau, the substitutes present, or failing this, the competent authority, shall issue and subscribe a declaration to this effect and forward it by registered post to the District Commission. The District Commission shall also be informed of the event by telegram or by telephone.

(4) In such cases the Commission may freely designate the persons who shall constitute the polling stations bureau; the Commission is also authorized to order some of the electors present in the premises to be members of the polling stations bureau. In any case, the Commission shall notify the event to the Public Prosecutor's Office for the elucidation of possible penal responsibility on the part of those members and substitute members of the polling stations bureau who fail to attend the proceedings.

(5) If, despite the provisions of subsection (4) above, a polling stations bureau cannot be constituted one hour after the time legally due for the beginning of the poll, the persons referred to in subsection (3) of this section shall notify this circumstance to the District Commission, and the Commission shall adjourn the poll to one of the two following days, convoking a new poll. A copy of the convocation shall be immediately displayed on the door of the polling stations bureau and the Commission shall of-

ficially proceed to the appointment of the members of the new polling stations bureau.

### *Section 81*

(1) Every polling stations bureau shall have one ballot box per election held and one voting compartment.

(2) A sufficient number of envelopes and ballot papers for every ticket, which shall be placed in the voting compartment or near it, shall also be available.

(3) The ballot boxes, compartments, ballot papers and voting envelopes shall all conform to the officially established design.

(4) Should there be a shortage or lack of the above equipment or materials at the time appointed for the constitution of the polling stations bureau, or at any later time, the presiding officer shall inform the District Commission immediately, and the Commission shall provide the required supplies.

### *Section 82*

(1) Once the presiding officer and members are gathered, they shall receive, between eight a.m. and eight thirty, the credentials produced by the polling agents, and they shall check them against the parts of the counterfoil book sheets in their possession. If they find the credentials correct, they shall allow the polling agents at the polling stations bureau to perform their duties. If the presiding officer has not received the sheets, or if he has doubts as to the authenticity of the credentials, or the identity of the persons, or both, he shall allow them to stay if they do so require, but shall write in the minutes of the session his reservations to this effect, in case further clarification—and even possible liability—is solicited.

(2) Should more than two polling agents for a ticket produce credentials, the presiding officer shall only authorize the first two, to which end he shall number the credentials in chronological order of presentation.

(3) The counterfoil book sheets received by the presiding officer direct from the Commission shall be attached to the day's proceedings, and the credentials shown by the polling agents shall

be returned to them once they have been checked by the presiding officer. Should the presiding officer not have received the sheets reserved for him, he shall attach to the day's proceedings the corresponding credentials at the end of the count.

(4) Should a polling agent arrive at the polling stations bureau after eight thirty a.m., and once the minutes constituting the polling stations bureau have been written, the presiding officer shall not accept him in his capacity as polling agent but shall allow him to vote at the polling stations bureau.

### *Section 83*

(1) At eight thirty a.m. the presiding officer shall write the minutes constituting the polling stations bureau, signed by himself, the members and the polling agents, and shall deliver a copy of that document to the election agents, election agent proxies or polling agents for the tickets who request it.

(2) The names of the persons constituting the polling stations bureau as members of the same, and a nominal list of the polling agents with the tickets for which they act, shall be included in the minutes.

(3) Should the presiding officer refuse or delay the delivery of the copy of the constitutional minutes to those entitled to receive it, the claimant or claimants shall write, in duplicate, the relevant protest and sign it. One copy of the protest shall be attached to the day's proceedings and the other copy shall be forwarded by the claimant or claimants to the competent Electoral Commission that is to carry out the general count, in accordance with the special provisions of this Act.

(4) The presiding officer is only obliged to hand over one copy of the constitutional minutes to each party, federation, coalition or group taking part in the elections.

## DIVISION XIII

### The Poll

#### *Section 84*

(1) Once the constitutional minutes of the polling stations bureau are written, with the corresponding copies, polling shall start—at nine a.m.—and shall proceed, without interruption, until eight p.m. The presiding officer shall announce the commencement of polling with the words 'the poll commences'.

(2) Only by reason of force majeure shall a poll not begin, or be adjourned once begun, and this shall be done under the direct responsibility of the presiding officer, who shall resolve to this effect, in writing, and give his reasons for the resolution. A certified copy of this resolution shall, in every case, be forwarded forthwith by registered post or by hand to the Provincial Commission, so that the Commission may verify the accuracy and sufficiency of the reasons and declare, or demand, the corresponding responsibilities.

(3) In the event of adjournment of the poll, the votes cast in the polling stations bureau shall not be taken into account and shall not be counted. The presiding officer shall immediately order the destruction of the ballot papers in the ballot boxes, and shall state this fact in the resolution referred to in subsection (2) above.

(4) Notwithstanding the provision of subsection (2) of this section, the presiding officer shall interrupt the poll if he is aware that there are no ballot papers of any one ticket and that he cannot remedy the situation with ballot papers supplied by the election agent proxies or polling agents of the corresponding ticket. In this event, he shall report his decision to the District Commission so that the Commission can provide new supplies. The interruption cannot last more than one hour and the poll shall be then extended to cover the time lost by the interruption. In this case, the provisions of subsection (3) of this section shall not apply.

#### *Section 85*

(1) An elector shall prove his identity by means of his national identity document, passport or driving licence, and the accom-



panying photograph, and to exercise the franchise shall be inscribed in the certified copies of the electoral register lists or on a specific registration certificate. The nationals of foreign countries, with franchise in local government elections and in elections to the European Parliament, shall prove their identity by means of a resident's card.

(2) The certified copies of the electoral register lists referred to in subsection (1) above shall only contain the names of citizens of voting age (that is, 18 years or over) on the day of the poll.

(3) Those who prove their right to be registered as electors in that ward, by means of a court's resolution which shall be presented at the polling stations bureau, are equally entitled to the exercise of the franchise.

(4) Where, despite the presentation of any of the documents referred to in subsection (1) above, the presiding officer or the members of the polling stations bureau, have doubts of their own, or a polling agent, election agent proxy or another elector publicly challenges the identity of the person about to vote, there and then, the presiding officer and members, after considering the documents presented and the evidence that may be produced by the electors present, shall decide the issue by a majority vote. In every case of this nature, a report shall be submitted to the competent Court of Law, so that those responsible of personation, or of having denied their own identity, may be liable to prosecution.

(5) The Central Electoral Commission, by means of the corresponding Regulation shall establish the procedure for the issuance, determine the competent authorities for this task, and establish the times and the cases where specific registration certificates may be issued to citizens for their proving their Registration in the Register, in exceptional cases.

## Section 86

(1) The vote is secret.

(2) Electors shall vote in their respective wards and at the polling stations bureau allotted to them, except those included in the provisions of section 79. The electors shall, if they so wish, enter the compartment and when inside, choose the ballot papers,

and place them in the corresponding envelopes. The compartments shall be located in the same room as that used for polling, midway between the entrance and the electoral table where the presiding officer and members sit. The electors, coming out of the compartment, or coming into the polling stations bureau through the door, shall proceed one by one to the electoral table.

(3) Every elector shall give his name to the presiding officer. The members and polling agents shall verify, by means of the electoral register lists or the corresponding certificate, the electors's right to vote, as well as his identity by examination of one of the documents referred to in section 85 above. The elector shall proceed immediately, to deliver, by hand, to the presiding officer, the voting envelope or envelopes, duly closed. The presiding officer, with the envelope or envelopes in public view all the time, shall utter aloud the name of the elector and the word 'Votes' and introduce the corresponding envelope or envelopes in the poll box or boxes.

(4) The members, and the polling agents if they so wish, shall enter, each on their own numbered lists, the name and surnames of the voters in the order in which they cast their votes, stating the number assigned to them in the electoral register list or, as the case may be, the specific registration certificate presented. A numbered list shall exist for each of the Houses of the Cortes Generales and, as required, for the Legislative Assemblies of Autonomous Communities, local councils or European Parliament, that are up for election. Every elector is entitled to examine the entry made of his name and surnames in the voters list that is made up for each ballot box at the electoral table.

### *Section 87*

Electors who cannot read or who are physically disabled, and are unable to choose a ballot paper and place it inside the envelope to be handed over to the presiding officer, may delegate these operations to a person of their own trust.

### *Section 88*

(1) At eight p.m., the presiding officer shall announce aloud that the poll is ending. If any of the electors present or approa-

ching the polling stations bureau, have not yet voted, the presiding officer shall allow them to do so but shall not allow anybody else to vote.

(2) The presiding officer shall then proceed to place the postal ballot papers in the ballot boxes, after verifying that they comply with the provisions of subsection (3) of section 73 and that the elector is inscribed in the register's lists. Immediately afterwards, the members shall enter the names of these electors in the numbered list of voters.

(3) After this, the members of the polling stations bureau and the polling agents shall proceed to vote. The electoral ward of the polling agents whose names do not appear in the polling stations bureau's list, shall be noted in the numbered list of voters.

(4) Finally, the members and the polling agents shall write their signature on the side margin of each sheet of the numbered lists of voters, as well as below the last name appearing in the said lists.

## *Section 89*

At least two of the members of the polling stations bureau shall be present all the time.

## *Section 90*

No authority can detain the presiding officers, members or polling agents of polling stations bureau during the time they are discharging their duties, except in the case of their being caught in the act of committing an offence.

## *Section 91*

(1) The presiding officer shall have exclusive authority, within the premises of the polling stations bureau, to keep order, ensure the freedom of electors and maintain the observance of the Law.

(2) The presiding officer shall ensure that the entrance to the polling stations bureau is always kept clear and accessible to those persons entitled to enter.

(3) Without prejudice to the provisions of section 86., those entitled to enter the premises of the election wards shall be the following: the electors of the same, the election agents of the participating tickets, the candidates, the election agent proxies and the polling agents, the notaries —to attest any action relative to the election that is not contrary to the secrecy of voting— constables, if their presence is required by the presiding officer, the members of Electoral Commissions and the Magistrates of instance and their delegates, and finally, those persons appointed by the Administration to obtain information about the results of the count.

(4) Nobody shall enter the premises of an election ward with weapons or instruments liable to be used as such. The presiding officer shall order the immediate expulsion of those contravening this provision.

(5) Notaries may attest, without need for special authorization, to any action relative to the election, even those actions occurring outside their own district, but always in the same Province. During polling day, notaries shall be available to the parties, coalitions, federations and groups, at their own places of residence or in the offices where they usually discharge their duties.

## *Section 92*

Police officers posted for the protection of ward premises shall assist the presiding officer when required, either within or outside the premises.

## *Section 93*

No election publicity or propaganda of any kind shall be carried out in the premises of the wards or near them.

No groups shall be tolerated susceptible of obstructing, in any way whatsoever, the access to the premises, nor shall the presence in the neighbourhood be allowed of those who may difficult or coerce the free exercise of the franchise. The presiding officer shall take the steps he may think fit in this respect.

## Section 94

Any incident affecting order in the premises of the wards, as well as the name and surnames of those responsible, shall be noted in the Minutes of the Session.

### DIVISION XIV

The count at the polling stations bureau

## Section 95

(1) As soon as the poll is over, the count shall begin.

(2) The count is public and shall not be postponed, except by reason of force majeure, even though several elections may be held at the same time. The presiding officer shall order the immediate expulsion of any person who, in any way or manner, obstructs or perturbs the count.

(3) In the event of several elections being held concurrently, the count shall proceed in the following order: (1) the European Parliament; (2) the Congress; (3) The Senate; (4) the local councils; (5) the Legislative Assemblies of the Autonomous Communities and finally the Island Corporations.

(4) The count is carried out by the presiding officer who extracts, one by one, the envelopes from the corresponding ballot box and reads aloud the name of the ticket or, as the case may be, of the candidates voted. The presiding officer shall read each ballot paper himself and then to the other members, polling agents and election agent proxies.

(5) If a notary, in the discharge of his duties, an election agent or a member of a ticket (a candidate) has doubts as to the contents of a ballot paper read out by the presiding officer, he may request its immediate examination and he shall be granted the request.

## Section 96

(1) Votes cast in an envelope or ballot paper other than the officially approved form, as well as ballot papers not placed in an envelope, or in envelopes containing more than one ballot paper

of different tickets, shall be declared void and are not counted. In the case of an envelope containing more than one ballot paper for the same ticket, the vote shall be valid and counted as one.

(2) In the cases of elections to the Congress, to the European Parliament, to the councils and to island corporations, where ballot papers have been tampered with by modification of, addition of, marking out of, crossing out of, the names of the candidates appearing on them, or where the placing order of the candidates has been altered, or the ballot papers have been altered in any other way, the vote shall be declared void and is not counted.

(3) In the case of elections to the Senate, the votes cast in ballot papers in which more than three candidates have been ticked, shall be declared void and are not counted.

(4) Votes cast in envelopes that have been tampered with in any of the ways mentioned in the subsections above, shall be equally declared void and are not counted.

(5) An envelope that does not contain a ballot paper shall be considered a valid blank vote and counted as such, and in the case of elections to the Senate, the same shall apply to unmarked ballot papers.

## *Section 97*

(1) Once the count is completed, the total number of envelopes shall be checked against the total number of voters entered under subsection (4) of section 86 above.

(2) The presiding officer shall then ask whether there is any protest to be made against the count, and, should there be none, or, having attended those made, he shall announce the results aloud, specifying the number of registered electors, the number or registration certificates received, the number of voters, the number of rejected ballot papers, the number of blank votes, and the number of votes obtained by each ticket.

(3) The ballot papers extracted from the ballot boxes shall be destroyed in the full view of those present, with the exception of rejected and challenged ballot papers which shall be included with the minutes and joined together, after being signed by the members of the polling stations bureau.

## Section 98

(1) The polling stations bureau shall at once make public the result by means of a count record which shall include the data referred to in subsection (2) of section 97 above, and shall affix it without delay on the outside of, or at the entrance to, the premises. A copy of this record shall be handed over to the respective election agents of the tickets who, being physically present, requested one, or, as the case may be, the polling agents, election agent proxies or candidates. No more than one copy of the count record shall be issued for each ticket.

(2) A copy of the count record shall also be issued to the person appointed by the Administration, with the sole object of assisting the Government in their task of giving provisional information about the results of the elections.

## Section 99

(1) Once all the proceedings mentioned in the above sections have been completed, the presiding officer, the members and the polling agents shall sign the minutes of the session, which shall include in detail, the number of electors allotted to the polling stations bureau as confirmed by the electoral register lists, —and the registration certificates— the number of electors who have cast their votes, the number of polling agents who, not being included in the polling stations bureau's lists, had cast their votes there, the number of rejected ballot papers, the number of blank ballot papers, and the votes obtained by each ticket.

The challenges, claims and protests made by the election agents, members of the tickets (candidates), election agent proxies and polling agents as well as by electors, with regard to the poll and the count, shall be also summarily included, as well as the resolutions adopted by the polling stations bureau in this respect, along with the votes for and against them. Equally, any incident of the kind mentioned in section 94 shall be included in the minutes of the session.

(2) All the election agents of the tickets, members of the same (candidates) as well as the election agent proxies and the polling agents, are entitled to an on-the-spot free copy of the mi-

notes of the session, and the presiding officer and members of the polling stations bureau shall comply with this obligation inexcusably.

### *Section 100*

(1) Following the above proceedings, the presiding officer and members shall proceed to the preparation of the election documentation which shall be distributed in three envelopes.

(2) The first envelope shall contain the election proceedings, made up of the following documents:

(a) The original of the constitutional minutes of the polling stations bureau.

(b) The original of the minutes of the session.

(c) The documents referred to in the above minutes and, in particular, the numbered list of voters and the rejected and challenged ballot papers.

(d) The electoral register list employed in the election.

(e) The registration certificates presented.

(3) The second and third envelopes shall each contain a copy of the constitutional minutes and of the minutes of the session.

(4) Once the envelopes have been closed, the presiding officer, members and polling agents shall sign their respective signatures on them, in such a way that they cross that part of the envelope necessarily torn when the said envelope is opened.

### *Section 101*

(1) Once they have the corresponding documentation ready, the presiding officer and the members, and the polling agents that may so wish, shall immediately go to the Court of first instance or Magistrate's Court corresponding to the polling stations bureau, and deliver the first and second envelopes. Police officers shall accompany them and, if need be, shall provide transportation facilities for these persons.

(2) The presiding officer and, as required, the members and polling agents, after providing proof of identity, shall deliver, and the Magistrate shall receive, the documentation, issuing the cor-



responding receipt, where mention shall be made of the day and time of delivery.

(3) Within the ten hours following the reception of the documentation referred to above, the Magistrate shall go, personally, to the premises of the Electoral Commission that is to carry out the count, where he shall deliver the first envelopes under cover of an itemized receipt.

(4) The second envelopes shall be filed in the corresponding Court of first instance or Magistrate's Court. These envelopes may be required by the Electoral Commissions for the proceedings of the general count and by the competent Courts in cases of election petition proceedings.

(5) The Provincial Electoral Commission shall provide the necessary transportation facilities for the Magistrates mentioned in subsection (3) of this section.

## *Section 102*

(1) The third envelopes shall be delivered to the Post Office official who shall go personally to collect them from the polling stations bureau. At least one member of the polling stations bureau shall remain there to effect the delivery.

(2) The day following the elections, the Post Office shall forward all these envelopes to the Electoral Commission that is to carry out the count.

### **DIVISION XV**

#### **The general count**

## *Section 103*

(1) The general count shall be carried out on the third day following the poll, by the corresponding Electoral Commission, in accordance with the special provisions of this Act.

(2) The general count is a unique proceeding and is open to the public.

## Section 104

(1) Every Commission meets—with the election agents and election agent proxies of the tickets that wish to attend—at the seat of the premises where the Secretary discharges his duties. The President shall write the minutes of the constitution of the Commission, and sign them, together with the Members and the Secretary. The election agents and election agent proxies of the tickets, who are duly accredited, shall also sign the said minutes.

(2) The session shall commence at ten a.m. on the day appointed for the count. Should less than half plus one of the Members of the Commission be present at that time, the session shall be postponed until twelve noon. If, by any reason, the meeting cannot be held at the latter time, the President shall convene a new meeting for the following day, announcing the decision to those Members present and to the public, and informing the Central Commission. At the time appointed for the new meeting the session shall begin whatever the number of Members present.

## Section 105

(1) The general count shall begin with the Secretary reading the legal provisions regarding the proceedings.

(2) Then, the Commission's personnel shall begin, under the supervision of the Commission, opening, one by one, the envelopes referred to in subsection (2) of section 100 above.

(3) Should the corresponding envelope from any polling stations bureau be missing, or its contents incomplete, the third envelope referred to in section 102 above shall be used instead. Failing this, and without prejudice to the provisions of subsection (4) of section 101 above, a copy of the minutes of the session duly presented by an election agent or a proxy of his, shall be used. Should contradictory copies be presented, none of them shall be taken into account.

(4) Where there are double or different minutes or records from a polling stations bureau, or where the number of votes appearing in the record exceeds that of the electors of a polling stations bureau according to the electoral register lists and the registration certificates presented—with the exception of the votes

cast by the polling agents— the Commission shall not include those votes in the general count, save that a material, factual or arithmetical error be detected, in which case the error shall be rectified and the votes included in the general count.

(5) A summary of the poll at every polling stations bureau shall be given by the Secretary, and the Commission's personnel shall make the corresponding entries, if need be by mechanical or electronic means that produce a written record of the entries.

(6) The Electoral Commission may be divided into two sections in order to carry out the proceedings referred to in the subsections above, when the number of polling stations bureaux to be included in the general count so requires. In this case, a Member of the Commission shall perform the duties of Secretary in one of the sections.

### *Section 106*

(1) The Commission cannot avoid any minutes, record or any vote in the course of the general count. The Commission's authority shall be limited to verifying without discussion the polling stations bureau counts, re-counts and sums of valid votes, according to their respective count records or copies of their minutes, except in the cases referred to in subsection (4) of section 105 above, where the Commission may exclusively rectify the mere material, factual or arithmetical errors detected in those documents.

(2) Election agents or election agent proxies for the tickets cannot make any claims or protests during the examination of the minutes and records, and can only make precise observations with regard to the accuracy of the data being read.

### *Section 107*

(1) The general count proceedings cannot be interrupted. However, after a twelve hour session, the Commissions may adjourn until the following day, but cannot leave unconcluded the count of the votes corresponding to any one ward.

(2) The general count shall be completed not later than the sixth day after the elections.

## Section 108

(1) Once the general count is completed, the Electoral Commission shall issue, in triplicate, a general count record for the corresponding constituency. This record shall detail the number of electors in the polling stations bureau —as reflected in the electoral register lists and the registration certificates presented— the number of voters, the votes obtained by each ticket, the blank votes and the rejected ballot papers. When the session has finished, the minutes of the session, containing a detailed account of the general count proceedings, shall be written. The minutes of the session and the general count record shall be signed by the President, the Members, the Commission's Secretary and by the election agents-general and election agents-general proxies of the tickets, duly accredited.

(2) The election agents and election agent proxies of the tickets shall have one day at their disposal to make claims and protests, which shall refer exclusively to facts or developments included in the polling stations bureau minutes of the session or in the minutes of the Electoral Commission's general count session.

(3) The Electoral Commission shall settle these claims and protests by written resolutions in the course of one day, immediately notifying the resolutions adopted to the election agents and election agent proxies of the tickets. These resolutions may be appealed by the agents-general and election agents-general proxies of the tickets before the same Electoral Commission, during the following twenty four hours. The day following the lodging of the appeal, the Electoral Commission shall convey the proceedings of the appeal, with their own report, to the Central Electoral Commission. The resolution ordering the conveyance of the proceedings to the Central Electoral Commission shall be notified, one day after the actual conveyance, to the election agents of the tickets that took part in the elections in that constituency, who shall be summoned to appear before the Central Electoral Commission in the course of the following day. The Central Electoral Commission, after a hearing of both parties not exceeding two days, shall resolve the appeal in the course of the following day, conveying the resolution to the competent Electoral Commission so that they may issue the writ of declaration of elected candidates.

(4) After the period of time referred to in subsection (3) above, and not having received claims or protests, or the same having been settled by the Central Electoral Commission, the competent Electoral Commission shall proceed, in the course of the following day, to issue the writ of declaration of elected candidates, and to this effect, the votes cast for each ticket, plus the blank votes, shall be counted as valid votes.

(5) The writ of declaration shall be issued in triplicate and shall be subscribed to by the President and the Secretary of the corresponding Commission, and shall contain, expressly, the following information: the number of electors in the wards; the number of voters; the number of votes obtained by each ticket; the number of blank votes; the number of valid votes; the number of rejected ballot papers, and the number of seats obtained by each ticket. A list with the names of the elected candidates shall also be included. Mention shall be made as well of the claims and protests made to the Electoral Commission and their corresponding resolution, and also of the appeals to the Central Electoral Commission, if any, and their corresponding resolutions.

(6) The Commission shall file one of the copies of the writ. The second copy shall be conveyed to the House or council where the elected candidates are to sit, and the third to the Central Electoral Commission. The Central Electoral Commission shall proceed, in a period of forty days, to publish the general results and the results by constituencies, in the Official Gazette, without prejudice to proceedings of appeals questioning declarations of elected candidates.

(7) Certified copies of the general count record shall be handed over to the election agents of tickets who request them. Also, credentials of declaration shall be issued to the elected candidates. The Commission may decide that the said certified copies and credentials be conveyed to the interested parties through the election agent of the ticket.

(8) On taking possession—and as a necessary requisite for full investiture—the elected candidates shall swear or promise allegiance to the Constitution and compliance with the other legal or regulatory requirements corresponding to their office.

## DIVISION XVI

### Legal proceedings in elections

#### *Section 109*

Legal election proceedings may be instituted against the resolutions of the Electoral Commissions, with regard to declarations of elected candidates, as well as with regard to the election and declaration of elected chairmen of local governments.

#### *Section 110*

The following are legally entitled to present an election petition, or oppose one:

- (a) Candidates declared elected or not declared elected.
- (b) The election agents of the tickets that took part in the elections in that constituency.
- (c) The political parties, associations, federations and coalitions that nominated tickets in that constituency.

#### *Section 111*

The public representation and the defence of legality in legal election proceedings shall be entrusted to the corresponding public prosecutor.

#### *Section 112*

(1) The election petition shall be presented to the corresponding Electoral Commission within the three days following the declaration of elected candidates, and shall be served in the same writ in which the facts, legal basis and nature of the petition are stated.

(2) The Administration Appeals Division of the Supreme Court shall be the competent Court for the resolution of election proceedings arising from general elections and from elections to the European Parliament. The Administration Appeals Division of the Higher Court of Judicature of the corresponding Autonomous Community shall be the competent Court for the resolution of pro-

ceedings arising from autonomic or local government elections in that Community.

(3) The election petition, the election proceedings, and a report from the competent Commission with facts considered relevant to the resolution given by the Commission shall be conveyed—on the day following their presentation—by the President of the Commission to the competent Court's Division. The resolution ordering the conveyance shall be notified immediately to the election agents of the tickets that took part in the elections in that constituency, who shall be summoned to appear before the Divisional Court within the following two days.

(4) The Divisional Court, on the day following the end of the period granted for the appearance of the interested parties, shall convey the writ of the petition and accompanying documents to the Public Prosecutor's Office and to the parties to the proceedings. Copies of the election proceedings and of the Electoral Commission's report, shall be left at the disposal of the parties on the Secretary's table, so that in the common and without prorogation period of four days they may formulate the allegations that they consider relevant to the case. The allegations may be accompanied by documents which, in their judgment, may serve to support or contest the basis of the election petition. The interested parties may also request the opening of the period of the proceedings, during which they have to propose and prove the evidence they consider relevant to the case.

(5) On the day after the period of allegations, the Court may decide, of its own accord, or at the instance of one of the parties, the opening of the period referred to in subsection (4) above, and the giving of that evidence which the Court declares to be relevant. The probative period shall follow the rules established for Administration Appeals but the time shall not exceed five days.

### *Section 113*

(1) Once the probative period is concluded, if there was such a period, the Court without further procedure, shall decide their determination within a time limit of four days.

(2) The determination shall pronounce one of the following judgments:

(a) Rejection, on the grounds of inadmissibility, of the petition.

(b) Validity of the election and of the declaration of elected candidates, stating, as required, the ticket that obtained the most votes.

(c) Avoidance of the declaration as elected of one or several candidates, and declaration as elected of one or more candidates instead.

(d) Avoidance of the elections held in one or more polling stations bureau which may have been affected by avoiding irregularities, and the need to hold new elections in that or those polling stations bureau. These new elections could be limited exclusively to the poll in that or those polling stations bureau or, where the petition refers to the chairman or mayor of a local government, to a new electoral process altogether. The time limit for holding the polls or the elections just mentioned above shall be of three months as from the date of the determination. Notwithstanding the avoidance of the poll in one or several polling stations bureau or wards, no new elections shall be necessary in the same, where the result does not alter the distribution of seats in that constituency.

#### *Section 114*

(1) The determination shall be notified to the interested parties no later than the thirty-seventh day after the elections.

(2) No appeal lies from the decision of the Court on any question of law whether on appeal or otherwise, save for clarification of the determination, without prejudice to an appeal on the grounds of unconstitutionality to the Constitutional Court, which shall be lodged within three days. The Constitutional Court shall resolve the appeal within the fifteen following days.

#### *Section 115*

(1) Determinations shall be notified to the corresponding Electoral Commissions in the prescribed form, and shall be accompanied by the proceedings, for their immediate and strict execution.



(2) The Court, of its own accord, or at the instance of the public prosecutor or the parties to the petition, may directly address the authorities, departments or institutions of any kind involved in the contents of the determination. The Court shall also adopt whatever measures are required to execute the pronouncements contained in the determination.

### *Section 116*

(1) Election petition proceedings shall be given urgent consideration and absolute priority by the competent Administration Appeals Divisional Courts in matters concerning probative periods and determination.

(2) For matters affecting election petitions and not expressly regulated by this Act, the Administration Proceedings Jurisdiction Act shall apply.

### *Section 117*

Court proceedings under this Act shall be free. Nevertheless, costs may be ordered to be defrayed by the party or parties to the petition who have maintained unfounded arguments, unless exceptional circumstances, evaluated in the determination, exonerate litigants from paying costs.

## DIVISION XVII

### General rules of procedure on election matters

### *Section 118*

(1) The following shall be free, exempt from stamp duty and shall be written on ordinary paper:

(a) Applications, certificates and proceedings in connection with the preparation, revision and registration operations, affecting the Electoral Register.

(b) All the operations and resultant documents affecting the electoral process, including notarial documents.

(2) The electoral document copies that have to be issued may be produced by any mechanical or electronic means of reproduction, but the said documents shall only have effect if duly signed and stamped as in the case of the originals.

### *Section 119*

The time limits referred to in this Act cannot be extended and shall be construed as referring always to natural days.

### *Section 120*

In all other matters of procedure not expressly regulated by this Act, the Administrative Procedures Act shall apply.

## CHAPTER VII

### *Election expenses and subsidies*

#### DIVISION I

#### *Administrators and election accounts*

### *Section 121*

(1) Every ticket shall have an election administrator responsible for income and expenses as well as for its general accounts. The tickets nominated by any party, federation or coalition within the same province shall have a common administrator.

(2) The accounts shall comply in every case with the general principles of the current General Accountancy Plan.

### *Section 122*

(1) The parties, federations or coalitions that nominate tickets in more than one province shall also have and administrator-general.

(2) The administrator-general is answerable for all the election income and expenditure of the party, federation or coalition and their tickets, as well as for the corresponding accounts, which

shall include, at least, the detailed data referred to in subsection (2) section 121 above.

(3) The administrators of the tickets shall act under the responsibility of the administrator-general.

### *Section 123*

(1) Any citizen of voting age (that is, 18 years or over) in full use of his civil and political rights may be appointed election administrator-general.

(2) The election agents of the tickets and the election agents general of the parties, federations or coalitions may hold the office of election administrator.

(3) Candidates cannot be appointed election administrators.

### *Section 124*

(1) The administrators-general and the administrators of the tickets, appointed in due time and form according to the special provisions of this Act, shall notify to the Central Electoral Commission and the Provincial Commissions, respectively, the Bank accounts opened for the receipt of moneys.

(2) The opening of accounts may be effected, as from the appointment of election administrators, in any Bank or Savings Bank. The notification referred to in subsection (1) above shall be sent within twenty four hours following the opening of the accounts.

(3) Should the tickets presented not be nominated, or should they withdraw before the elections, the money paid into the accounts by third parties shall be refunded by the parties, federations, coalitions or groups in question.

### *Section 125*

(1) All money intended to defray election expenses, whatever its provenance, shall be paid into the accounts and all the expenses shall be paid from the accounts.

(2) Election administrators and persons authorized by them to dispose of the funds in the accounts, shall be responsible for ensuring that the money paid in and the money paid out is used for its proper purpose.

(3) Once the election campaign has ended, the balances of these accounts shall be used to pay, during the ninety days following the poll, election expenses previously incurred.

(4) All claims on election expenses which have not been notified to the corresponding administrators in the course of the sixty days following the poll, shall be void and not payable. The Provincial Electoral Commissions or, as required, the Central Electoral Commission, may allow exceptions to this rule for any reasonable cause.

### *Section 126*

(1) Those paying money into the accounts referred to in the above sections, shall state their name, address and the number of their National Identity Document or Passport, which shall be shown to the corresponding employee of the Bank or Savings Bank where the account is opened.

(2) Where the money is paid on behalf of some other natural or artificial person, the name of that person shall be stated.

(3) Where the payments into the accounts are made by parties, the provenance of the money paid in shall be stated.

## **DIVISION II**

### **Election financing**

### *Section 127*

(1) The State shall subsidize, in accordance with the rules laid down by the special provisions of this Act, the expenses incurred by parties, federations, coalitions or groups of electors taking part in elections to the Congress, the Senate, the European Parliament and local governments. In no case shall the subsidy granted to any political group exceed the amount spent by the same as reflected in their declared election expenses, which expenses shall be verified by the Accounts Court in the exercise of their auditorial functions.

(2) The State shall grant advances on the above mentioned subsidies to the parties, federations and coalitions that have ob-

tained seats in the last election to the Cortes Generales, the European Parliament or, as the case may be, to the local governments. The amounts advanced shall not exceed 30% of the subsidy received by the same party, federation or coalition in the previous equivalent elections.

(3) The advances may be requested between the twenty-first and twenty-third day following the convocation of elections.

(4) In the cases of parties, federations or coalitions which have put up tickets in more than one province, the request for advances shall be presented by their respective administrators-general to the Central Electoral Commission. In the other cases, the request shall be presented by the ticket administrators to the corresponding Provincial Electoral Commission, who then shall convey these requests to the Central Commission.

(5) As from the twenty-ninth day after the convocation, the State's Administration shall make the corresponding advances available to the election administrators.

(6) If these advances were to exceed the total subsidy finally granted to each party, federation or coalition, the latter are to refund that excess amount after the elections.

## *Section 128*

(1) The contributions of money to the election accounts by any Public Administration or Corporation, quasi autonomous non governmental organizations, public sector companies owned by the State, the Autonomous Communities, the Provinces, or the local governments or by companies of mixed ownership (public-private), as well as by companies with current contracts for the provision of services, goods or works for any Public Administration, are hereby prohibited.

(2) The contributions to these accounts of foreign Bodies or persons, are hereby equally prohibited, except those granted in the E. E. C.'s Budget for the financing of elections to the European Parliament, and, in the case of local government elections, the contributions relating to persons to whom subsection (2) of section 13 of the Constitution apply.

## Section 129

No natural or artificial (bodies corporate or corporations) person shall contribute more than one million pesetas to the accounts opened by any one party, federation, coalition or group for the purpose of raising funds for the elections that have been convoked.

### DIVISION III

## Election expenses

## Section 130

Expenditure incurred by parties, federations, coalitions or groups taking part in the elections, from the day of convocation to that of the declaration of elected candidates, shall be considered election expenses, provided they fall into one of the following headings:

- (a) The production of election envelopes and ballot papers.
- (b) Propaganda and advertising, directly or indirectly, intending to promote the vote for their tickets, whatever the manner or media employed.
- (c) The hiring of premises for the holding of election campaign functions.
- (d) Remunerations or bonuses to temporarily employed personnel rendering their services to the tickets.
- (e) Means of transportation and travelling expenses duly incurred by the candidates, the leaders of the parties, associations, federations or coalitions, and the personnel at the service of the ticket.
- (f) Correspondence and posting.
- (g) Interests on loans obtained for the election campaign, charged until the receipt of the corresponding subsidy.
- (h) Whatever election expenses are necessary for the organization and running of offices and services required for the elections.

## Section 131

(1) No party, federation, coalition or group may incur election expenses exceeding the limits established by the special pro-

visions of this Act and which shall be construed always as referring to constant pesetas.

(2) In the event of two or more elections by direct universal suffrage coinciding, parties, federations, coalitions and groups of electors taking part in the same, may not incur supplementary election expenses exceeding by 25% the maximum limits allowed for elections to the Cortes Generales.

#### DIVISION IV

#### Election accounts control and payment of subsidies

##### *Section 132*

(1) As from the day of convocation of elections and until the hundredth day after the poll, the Central Electoral Commission and the Provincial Commissions shall ensure compliance with the rules established under the above sections of this chapter.

(2) To that effect, they may ask, at any moment, the financial institutions to provide statements of election accounts, the number and identity of those who have paid in money and any other information that the Commissions consider necessary for the carrying out of their auditorial functions.

(3) They shall also be able to require the election administrators to provide the accountancy information that they deem necessary and shall resolve in writing the consultations made to the Commission by the administrators.

(4) Should their investigations bring to light election offences, the Commissions shall inform the public prosecutor's office for the institution of the corresponding proceedings. The Commissions themselves shall penalize breaches of these matters under section 153 of this Act.

(5) The Commissions shall equally notify to the Accounts Court the results of their auditorial activities.

##### *Section 133*

(1) Between one hundred and one hundred and twenty five days after the elections, the parties, federations, coalitions or

groups that meet the requirements necessary for receiving State subsidies, or who have requested advances of the said subsidies, shall present before the Accounts Court, detailed and duly documented accounts of their respective election income and expenditure.

(2) The said presentation shall be effected by the administrators-general of those parties, federations or coalitions that nominated tickets in several provinces, and by the administrators of the tickets in all other cases.

(3) The financial institutions of any kind that have granted loans to those parties or associations mentioned in subsection (1) above, shall notify to the Accounts Court in every detail the said loans, within the time limits established in the said subsection (1) above.

(4) Within the thirty days following the presentation to the Accounts Court of the accounts, under subsection (1) above, the State shall pay the election administrators 45% of the total amount of the subsidies which, following the criteria established by this Act, correspond to each party, etc., in accordance with the general results of the elections as published in the Official State Gazette. These payments on account shall be considered as advances on the subsidies, until the Accounts Court completes its auditorial tasks.

(5) Companies that have invoiced over one million pesetas to those parties, etc., mentioned in subsection (1) above, for election expenses, are also obliged to inform the Accounts Court, in the same terms as expressed under the said subsection (1) above.

(6) The State's Administration shall pay the amounts of the corresponding subsidies to the parties, etc., via their election administrators, who shall receive the said subsidies unless the administrators have asked the Central Electoral Commission that the subsidies be paid wholly or partly to the financial institutions stated by the administrators, in payment of advances or loans granted previously. The State's Administration shall effect the payments in accordance with the terms of the administrator's notification, which cannot be revoked without the consent of the financial institutions concerned.



## Section 134

(1) The Accounts Court, within a time limit of thirty days following the period mentioned in subsection (1) of section 133 above, may require all those under the obligation to hand in accounts and reports under section 133, to present the supplementary clarifications and documents that the Court deem necessary.

(2) Within two hundred days after the elections, the Accounts Court shall pronounce, in the exercise of its auditorial functions, the regularity of the election accounts. In the event of the Court having detected irregularities in the said accounts, or breaches of the restrictions established with regard to election income and expenditure, the Court may propose the refusal or reduction of the State's subsidy to the party, federation, coalition or group in question. Should there be, besides, indications of practices constituting an offence, the Court shall notify the public prosecutor's office.

(3) Within the same time limit, the Court shall convey the results of their auditorial activities by means of the substantiated report—which shall comprehend the declaration of the amounts of reasonable and regular expenses of every party, federation, coalition, association or group of electors—to the Government and to the Committee established under the First Transitional Provision of the Accounts Court Organic Act.

(4) Within the month following the conveyance of the Accounts Court's report, the Government shall present to the Cortes Generales an extraordinary credit bill for the total amount of the subsidies granted, which shall be paid within the one hundred days after the passing of the bill by the Cortes Generales.

CHAPTER VIII  
*Election offences and breaches*

DIVISION I  
General provisions

*Section 135*

(1) For the purposes of this chapter, civil servants shall be those who are so considered according to the Penal Code, those who discharge any public office related to elections, and, in particular, the Presidents and Members of the Electoral Commissions, the presiding officers, members and polling agents of the polling stations bureau and the corresponding substitutes.

(2) For the same purposes, the register —and the authorized copies made of it— the minutes, records, lists, certificates, counterfoil book sheets or credentials of appointment of those who have to intervene in the election process, and all those documents issued by persons to whom the present Act entrust with their issuing, shall be considered official documents.

*Section 136*

Offences or breaches committed under the provisions of this Act and under the Penal Code, shall be punished in accordance with the provisions that prescribe the greater penalty.

*Section 137*

The accompanying punishment of special incapacitation for voting or being elected in any elections, as well as the punishment mentioned in the following sections, shall be imposed for all the offences referred to in this chapter.

*Section 138*

The Penal Code shall apply to everything expressly regulated under this chapter.

The provisions of the first chapter, first Title, of the Penal Code shall also apply, in every case, to the offences punishable under this Act.

DIVISION II  
Election offences

*Section 139*

Those civil servants who wilfully commit any of the offences listed below in this section shall be sentenced to imprisonment of between one month and one day and six months and to a fine of between 30,000 and 300,000 pesetas.

(1) Failing to comply with legally prescribed rules for the preparation conservation and exhibition to the public, of the electoral register.

(2) Failing to comply with legally prescribed rules for the constitution of Electoral Commissions and polling stations bureau, or failing to follow the prescribed procedures for the voting, agreements and counts that those bodies have to carry out.

(3) Failing to issue minutes, records, certificates, notifications and other election documents in the manner and times prescribed by the law.

(4) Arousing, on other than reasonable grounds, doubts as to the identity of a person or the entitlement of that person to his rights.

(5) Adjourning, without reasonable cause, any election proceedings.

(6) Rejecting, hindering or delaying unduly, the admission, proceedings or resolution of protests or claims made by persons legally entitled to make them, or omit leaving documental evidence of the same.

(7) Causing, in the exercise of their duties, a clear prejudice to a candidate.

(8) Failing to comply with the prescribed proceedings for the vote by post.

*Section 140*

(1) Those civil servants who, abusing their position or office, wilfully commit any of the following falsehoods, shall be punished with imprisonment of between six years and one day and twelve years, and a fine of between 30,000 and 300,000 pesetas.

(a) Changing, without authority, dates, times or places of any election function that is to be held, even if it is of a preparatory kind, or announcing the holding of the function in such a way that it is misleading to the electors.

(b) Omitting, or stating in a way conducive to error about their authenticity, the names of the voters in any election procedure.

(c) Changing, hiding or altering, in any way, the election envelope or ballot papers that the elector hands over to exercise his franchise.

(d) Carrying out and altering the count of electors in proceedings relating to the preparation or correction of the Register, or in the proceedings of the poll or the count.

(e) Making an undue declaration of persons (as candidates or as elected candidates).

(f) Telling untruths in verbal declarations that have to be made in election proceedings under the provisions of this Act.

(g) Being able to prevent it, or failing to make the corresponding protest, allowing a person to vote two or more times or allowing a person to vote, being legally incapable to do so.

(h) Printing, producing or employing election envelopes and ballot papers in breach of the prescribed rules.

(i) Committing any other falsehood relating to the elections, similar to the ones previously described, by any of the means referred to in section 302 of the Penal Code.

(2) Should the alterations of the truth to which this section refers be caused by recklessness, the punishment shall be that of imprisonment between six months and one day and six years.

(3) Courts of Law shall follow the provisions of section 318 of the Penal Code when dealing with these cases.

## **Section 141**

(1) The private individual who wilfully contravenes the prescribed procedure for the vote by post shall be punished with imprisonment of between one month and one day and six months, and a fine of between 30,000 and 300,000 pesetas.

(2) The private individual who wilfully participates in any of the falsehoods referred to in section 140 above, shall be punish-

ed with imprisonment of between six months and one day and six years, and with a fine of between 30,000 and 300,000 pesetas. Courts of Law shall also follow the provisions of section 318 of the Penal Code when dealing with these cases.

### *Section 142*

Those who vote two or more times in the same election or who wilfully vote without capacity to do so, shall be punished with imprisonment of six months and one day, special incapacitation and a fine of between 30,000 and 300,000 pesetas.

### *Section 143*

The presiding officers and members of polling stations bureau, as well as their respective substitutes, who fail to attend and discharge their duties, or abandon their duties without reasonable cause, or do not, with no reasonable cause, comply with the obligation, imposed on them by this Act, to apologize for, or give notice of their absence, shall incur the punishment of imprisonment of between one month and one day and six months, and a fine of between 30,000 and 300,000 pesetas.

### *Section 144*

(1) Those persons who incur the offences specified below in this section, shall be punished with imprisonment of between one month and one day and six months, or a fine of between 30,000 and 300,000 pesetas.

(a) Carry out propaganda activities once the election campaign has finished.

(b) Breach the legal rules relating to election bills and the places or spaces reserved for the same, or the rules relating to meetings and other public functions of electioneering.

(2) Those members of the Services, of the State's Security Forces, of the Autonomous Communities and local government Police Forces and the Judges, Magistrates, Public Prosecutors and members of the Electoral Commissions who, in active servi-

ce, divulge election propaganda or carry out any other activities relating to the election campaign, shall be punished with imprisonment of six months and one day, and a fine of between 100,000 and 500,000 pesetas.

### *Section 145*

Those who wilfully breach the current regulations on election opinion polls and surveys shall be punished with imprisonment of between one month and one day and six months, a fine of between 500,001 and 5,000,000 pesetas and the added punishment of special incapacitation for the exercise of their profession.

### *Section 146*

#### *(1)*

(a) Those who by means of rewards, gifts, remunerations or promises of the same, procure directly or indirectly the vote of any voter or induce any voter to refrain from voting;

(b) Those who make use or threaten to make use of any force or violence against any elector, to induce or compel him to refrain from voting, to vote against his/her will or to disclose the secrecy of voting;

(c) Those who prevent or hinder, without reasonable cause, the entrance, exit or staying of electors, candidates, election agent proxies, polling agents and notaries in places where election activities or proceedings are taking place;

Shall be punished with imprisonment of between one month and one day and six months and with a fine of between 30,000 and 300,000 pesetas.

(2) Those civil servants who use their authority to the ends mentioned in subsection (1) above, shall incur the same punishments as those described in the said subsection (1) above and, besides, the special incapacitation for holding any public office.

### *Section 147*

Those who seriously disturb the order in any election proceeding or enter the premises where the proceeding takes place, carry-

ing weapons or other instruments susceptible of being used as weapons, shall be punished with imprisonment of between one month and one day and six months and a fine of between 30,000 and 300,000 pesetas.

### *Section 148*

When the offences of libel and slander are committed in the course of the election campaign, and the cause or occasion of those offences is the election campaign, the punishment with imprisonment prescribed for these offences in the Penal Code shall be imposed at the maximum level.

### *Section 149*

(1) The ticket administrators and the administrators-general of the parties, federations, coalitions or groups of electors who falsify the accounts —unduly entering or omitting in the same contributions or expenses— or who manipulate the said accounts to produce an increase or decrease in the headings of the accounts, shall be punished with imprisonment of between six months and one day and six years, and a fine of between 30,000 and 300,000 pesetas.

(2) The Courts, taking into account the seriousness of the actions and concurring circumstances, may impose a lesser punishment than that prescribed in subsection (1) above.

### *Section 150*

(1) The ticket administrators and administrators-general, as well as those persons authorized to dispose of the election accounts, who misappropriate or divert funds for ends different to those mentioned in this Act, shall be punished with imprisonment of between six months and one day and six years and a fine of between 30,000 and 300,000 pesetas.

(2) Should the offences mentioned in subsection (1) above be for their own personal gain, the punishment shall be imprisonment for a period of between six years and one day and twelve years, and a fine of between 30,000 and 300,000 pesetas.

(3) The Courts, taking into account the seriousness of the case and concurring circumstances, and the condition of the guilty party and his motivations, may impose a lesser punishment than that prescribed above.

### DIVISION III

#### Prosecutions

#### *Section 151*

(1) Prosecutions for the punishment of these offences shall be conducted in accordance with the Criminal Prosecutions Act. The prosecutions arising in application of these rules shall have a preferential treatment and shall be dealt with the greatest possible urgency.

(2) The penal prosecutions that spring from these offences shall be public and may be exercised without the need for a deposit or bail of any kind.

#### *Section 152*

The Court of Judge competent to execute the final and conclusive judgments, on cases of offences referred to in this Title, shall order the publication of the sentences in the Official Gazette of the corresponding province, and shall forward copies of the same to the Central Electoral Commission.

### DIVISION IV

#### Election breaches

#### *Section 153*

(1) Every breach of the obligatory rules prescribed by the present Act that do not constitute an offence shall be punished by the competent Electoral Commission. Fines shall be between 20,000 and 200,000 pesetas, if the breaches are committed by authorities or civil servants, and between 5,000 and 100,000 pesetas if committed by private individuals.



(2) Breaches of the provisions in this Act relating to election polls or surveys shall be punished with a fine of between 50,000 and 500,000 pesetas.

## **PART II**

### **Special Provisions for the Election of Members of the Congress and Senators**

#### **FIRST CHAPTER**

##### *The right of eligibility*

#### **Section 154**

(1) Those who exercise functions or hold offices conferred and remunerated by a foreign country, —as those incurring in any of the causes mentioned in section 6 of this Act—shall not be eligible to the offices of Member of the Congress or Senator.

(2) The Presidents and members of the Cabinets of the Autonomous Communities, as well as the officers freely appointed by those Cabinets and the members of Autonomic Institutions who have to be elected by the corresponding Legislative Assembly in compliance with statutory or legal regulation, are also ineligible.

(3) No person shall be simultaneously nominated as a candidate for the Congress and as a candidate for the Senate.

#### **CHAPTER II**

##### *Incompatibilities*

#### **Section 155**

(1) The causes of ineligibility are also causes of incompatibility.

(2) The following persons shall also be incompatible:

(a) The President of the Restrictive Practices Court.

(b) The Directors of the Spanish Broadcasting Corporation Commission.

(c) The members of the Offices of the President of the Government, of the Ministers and of the Secretaries of State.

(d) The Government Delegates in the Autonomous Port Authorities, in the Hydrological Confederations or in the Concessionaires of Toll Motorways and in the institutions or corporations listed in the following paragraph.

(e) The Chairmen of the Boards of Directors, the Directors, Administrators, Directors-General, managers and officials of equivalent standing in public institutions or state monopolies or in companies with a controlling public stake, direct or indirect, or in the publicly founded Savings Banks.

(3) No person shall be a member of both Houses at the same time nor hold the office of member of the Assembly of an Autonomous Community and that of Member of the Congress.

(4) Those Senators designated by the Autonomous Communities, whether they be or not, simultaneously, members of the Legislative Assemblies of these Communities:

(a) may only engage, as Senators, in those activities that are expressly authorized in the Constitution and in this Act, no matter the nature of the regulation that might correspond to them by virtue of their designation by the Autonomic Community.

(b) Shall only receive the remuneration accruing to them as Senators, save that they expressly opt for the remuneration, should it be the case, deriving from their office as members of the Autonomous Community Legislative Assembly.

## Section 156

(1) The Members of the Congress and Senators may only belong to the boards of directors, or equivalent governing bodies, of public institutions, or companies with a majority public stake, direct or indirect, where the election to those offices correspond to the respective Congress, to the Cortes Generales or to the Legislative Assemblies of the Autonomous Communities, but they may receive only payments of expense allowances and compensations which they are entitled to under the Public Administration general scheme.

(2) The payments which they are entitled to and which do not meet the requirements referred to in subsection (1) above, shall not be received by them but be directly paid by payer to the Treasury.

(3) Under no circumstance may these officers belong to more than two boards or governing bodies among those referred to in subsection (1) above of this section.

## Section 157

(1) The offices of Member of the Congress and Senator shall be exercised as a full-time occupation in the terms prescribed by the Constitution and by the present Act.

(2) By virtue of the provisions referred to in subsection (1) immediately above, the offices of Member of the Congress and Senator shall be incompatible with the performance, either by themselves or through substitutes, of any other position, profession, or activity, whether public or private, on their own account or on behalf of others, which is paid by means of a salary, tariff duty, fees, or in any other way. In the event of their obtaining leave from a previous position to which they are entitled to go back, they shall be guaranteed the reservation of the position and posting previously enjoyed in accordance with the specific regulations that apply in each case. The system of full-time occupation and incompatibilities prescribed in this Act shall apply in all cases, and under no circumstance shall it be possible to opt for payments or remunerations corresponding to other incompatible positions or offices.

(3) In particular, the offices of Member of the Congress and Senator shall be incompatible with the discharging of duties as civil servants. This incompatibility shall also apply to the performance of any other office in the service of, or included in the budgets of, constitutional organizations, public administrations, their public organizations or bodies, or in companies with a majority public stake, direct or indirect, or to the carrying out of any activity, directly or indirectly on behalf of the foregoing bodies.

(4) Notwithstanding the provisions of subsection (3) immediately above, those parliamentarians who were engaged in Univ-

ersity teaching may collaborate, in their own University, in extraordinary activities related to teaching or research which do not involve the management or control of services, and they may receive the monetary compensations prescribed only for those activities.

### *Section 158*

(1) Under no circumstance, may Members of the Congress and Senators receive more than one remuneration chargeable to the budgets of constitutional organizations or to the budgets of the public Administrations, their autonomous organizations, or public institutions and companies with a public majority stake, direct or indirect, nor can they opt for the remunerations corresponding to incompatible positions, without prejudice to the expense allowances and compensations that they may receive for their compatible activities.

(2) In particular, Members of the Congress and Senators may not receive civil service or Services pensions, nor any pension under any public social security scheme of an obligatory kind. The entitlement to those pensions shall be automatically restored on their ceasing to be a Member of the Congress or a Senator.

### *Section 159*

(1) In accordance with the provisions of section 157, the offices of Members of the Congress and Senators are incompatible with the performance of private activities.

(2) In particular, the carrying out of the following activities are always incompatible:

(a) Management, defence, direction or consultation before any organizations or companies from the State, autonomy or local government public sectors, with regard to business that the said public sector bodies have to resolve, and which affect directly the carrying out of any public service or are directed to obtaining public securities or subsidies.

Private activities which are carried out by the interested parties in the exercise of a recognized right, as well as the obtention

of subsidies or securities granted automatically by virtue of the provisions of an Act or Regulation of general application, are excepted.

(b) The activities of contractor or guarantor of works, services or supplies and, in general, activity in those contracts where payments are made with funds of organizations or companies from the State, autonomy or local government public sectors, or the performance of positions or offices that entail functions of management, representation or rendering of services in companies or bodies engaged in those activities.

(c) The discharge of positions or offices that entail management, representation, consultation or rendering of services in companies or bodies which are the concessionaires or administrators of monopolies.

(d) The rendering of services of consultation or of any other kind, under their own name or under a shared title, to organizations or companies from the State, autonomy or local government public sectors.

(e) Holdings or participations above 10% in companies or corporations contracting for works, services, supplies or, in general, for any other kind, which are paid with funds from organizations or bodies from the State, autonomy or local government public sectors, if the said holdings or participations were acquired wholly or partly after the day of their election as Member of the Congress or Senator, exception being made for holdings or participations acquired by inheritance.

(f) The offices of Chairman, Director, Administrator, Director general, Manager, or equivalent offices, as well as the rendering of services, in financial institutions, assurance and insurance companies or in any other kind of companies which have a financial aim and which appeal, publicly, for savings and credit.

(g) And any other activities which, by their nature or kind, are incompatible with the full-time occupation and the parliamentary duties specified in their respective Regulations.

(3) The activities, public and private, prohibited by subsection (2) of section 157 above, and by the present section, shall have the following exceptions:

(a) The mere administration of their own or their family's property. Nevertheless, where the interested party, his spouse or person linked to him in an analogous relationship, and their under-age descendents, jointly or separately, have a holding of more than 10% in any kind of business or professional activity of any kind that has agreements, contracts or concessions with or from organizations or bodies belonging to the State, autonomy or local government public sectors, then, these activities shall never be considered private activities and shall be incompatible.

(b) Literary, scientific, artistic or technical works or creations, as well as the publications deriving from the same, provided they do not fall into any of the cases referred to in subsection (2) of section 157 or in subsections (1) and (2) of the present section.

(c) Private activities, other than those referred to in subsection (2) of this section, which shall be authorized by the respective Committees of each House, after an express application has been submitted by the interested parties. The application, and the authorization granted, shall be registered in the Register of Interests to which section 160 of the present Act refers.

### *Section 160*

(1) Members of the Congress and Senators, in accordance with the respective Regulations of their Houses, are obliged to make a written declaration of all the activities that may constitute a cause of incompatibility in accordance with the provisions of this Act. They are also obliged to make a written declaration of any other activities which are, or may be, gainful, as well as a written declaration of their own property, and they shall make the declarations when they become, or cease to be, parliamentarians, as well as when there is a change in their circumstances.

(2) These declarations of activities and property shall be made separately and in accordance with the forms that shall be approved by the Governing Committees of both Houses at a joint meeting, and shall be registered in a Register of Interests, constituted in each one of the Houses under the direct dependence of their respective Presidents, for the purpose of the present section and for the purpose of Congress regulations. The declaration of activities shall include::

(a) Whatever activities that could constitute a cause of incompatibility under subsection (2) of section 159.

(b) Those activities that, in accordance with the Act, may be exercised compatibly.

(c) In general, any activities whatsoever which are, or may be, gainful.

The contents of the Register of Interests shall be available for public view, except where the contents refer to the respective private property of the parliamentarians. The Presidents of the Congress and of the Senate, except as provided in subsection (3) of section 159, and in the other subsections of this section, shall be competent for the institution and resolution of all the proceedings arising from the Register of Interests and from the activities of Members and Senators, respectively.

(3) The cases of incompatibility shall be resolved at a full sitting of the Congress at the proposal of the corresponding Committee. The cause of the motion, or the basis of the same in the case of private activities, shall be the cases mentioned in subsection (2) of section 159. Should the Congress declare incompatibility, the parliamentarian can opt between his seat or the incompatible position, activity, gain or holding. In the event of the parliamentarian not exercising the option it shall be interpreted that the seat has been resigned.

(4) If, at a full sitting, the corresponding Congress declare the reiteration or continuity by a parliamentarian of the activities referred to in paragraph (a) subsection (2) of section 159 above, or of the rendering of services referred to in paragraph (d) of the said subsection (2) of section 159 above, the further carrying out of the said activities or services on the part of that parliamentarian, shall result in the resignation of the seat. The resignation shall become effective in the manner determined by the Regulations of the corresponding Congress.

## CHAPTER III

### *The proportional representation system of elections*

#### *Section 161*

(1) For the purposes of the election of Members of the Congress and Senators each province shall be an electoral constituency. The cities of Ceuta and Melilla shall each be considered as an electoral constituency.

(2) The island provinces are excepted from the provisions of subsection (1) above, in so far as the election of Senators is concerned. To this effect, each one of the following islands or groups of islands: Majorca, Minorca, Iviza-Formentera, Gran Canaria, Fuerteventura, Lanzarote, Tenerife, Hierro, Gomera and La Palma, shall be considered a constituency.

#### *Section 162*

(1) The Congress shall be made up of three hundred and fifty Members.

(2) Every province shall have a minimum of two Members. The cities of Ceuta and Melilla shall have one member each.

(3) The other two hundred and forty eight Members shall be distributed among the provinces proportionally to their respective population, according to the following method:

(a) The total population of the peninsular and island provinces shall be divided into two hundred and forty eight aliquot parts. As a result a share quota is obtained.

(b) Each province shall have the number of members, in round figures, that result from dividing its population into the share quota.

(c) The remaining number of Members shall be distributed assigning one more Member to each of the provinces where the quotient, according to the previous paragraph, has a greater decimal fraction.

(4) The Decree of convocation of elections shall specify the number of Members to be elected in each constituency, in accordance with the provisions of this section.



## Section 163

(1) The assignment of seats on the basis of the result of the count shall be carried out in accordance with the following rules:

(a) Those tickets which have obtained less than 3% of the valid votes cast in the constituency shall be disregarded.

(b) The rest of the tickets shall be arranged in a column according to the number of votes obtained, starting with the ticket that obtained the most and ending with that which obtained the least.

(c) The number of votes obtained by each ticket shall be divided into 1, 2, 3, etcetera, up to a number equal to the number of seats corresponding to the constituency, and a table similar to that which appears, as an example, below, is made. The seats are assigned to the tickets that obtain the greater quotients in the table.

Practical example: 480,000 valid votes cast in a constituency that elects eight Members. The vote is shared by six tickets:

<i>Division Into</i>	1	2	3	4	5	6	7	8
A	168,000	84,000	56,000	42,000	33,600	28,000	24,000	21,000
B	104,000	52,000	34,666	26,000	20,800	17,333	14,857	13,000
C	72,000	36,000	24,000	18,000	14,400	12,000	10,285	9,000
D	64,000	32,000	21,333	16,000	12,800	10,666	9,142	8,000
E	40,000	20,000	13,333	10,000	8,000	6,666	5,714	5,000
F	32,000	16,000	10,666	8,000	6,400	5,333	4,571	4,000

Consequently, ticket A obtains four seats; ticket B, 2 seats and tickets C and D, one seat each.

(d) Where, in the list of quotients, two different tickets coincide, the seat shall be assigned to the ticket that obtained the greater number of votes. Should there be two tickets with an equal number of votes, the first tie shall be resolved by drawing lots, and successive ties shall be resolved alternatively.

(e) The seats corresponding to each ticket shall be allocated to the candidates included in the same according to the placing order in which they appear in the ticket list.

(2) In the constituencies of Ceuta and Melilla the candidate who obtains the most votes shall be declared elected.

### *Section 164*

(1) In the event of decease, incapacity or resignation of a Member, the seat shall be assigned to the candidate, or failing this, to the substitute, on the same ticket list, in accordance with their placing order in the list.

(2) The vacancies of the elected Members for Ceuta and Melilla shall be filled by their respective substitutes, designated under the terms of section 170 of this Act.

### *Section 165*

(1) Each provincial constituency shall elect four senators.

(2) For the island constituencies, the following number of senators shall be elected: three for Gran Canaria, Majorca and Tenerife; one for Iviza-Formentera, Minorca, Fuerteventura, Gomera, Hierro, Lanzarote and La Palma.

(3) The cities of Ceuta and Melilla shall each elect two Senators.

(4) The Autonomous Communities shall designate one Senator each, plus one more Senator per million inhabitants in their respective territories. The Legislative Assemblies of the Autonomous Communities shall be responsible for these designations, in accordance with their own statutes, which shall ensure, in any case, an adequate proportional representation. For the purpose of these designations, the precise number of Senators for each Autonomic Community shall be determined on the basis of the number of inhabitants at the time of the last elections to the Senate.

### *Section 166*

(1) The direct election of Senators in the provincial, island and Ceuta and Melilla constituencies, shall be governed by the following paragraphs:

(a) Electors may vote for a maximum of three candidates in the provincial constituencies, for two in Gran Canaria, Majorca, Te-

nerife, Ceuta and Melilla, and for one in the rest of the island constituencies.

(b) Those candidates who obtain the greater number of votes, once completed the number of Senators allotted to that constituency, shall be declared elected.

(2) In the event of decease, incapacity or resignation of a Senator who has been directly elected, the vacancy shall be filled by his substitute designated in accordance with section 171 of this Act.

## CHAPTER IV

### *The convocation of elections*

#### *Section 167*

(1) The convocation of elections to the Congress, the Senate, or to both Houses jointly, shall be effected by means of a Royal Decree.

(2) Except in the case referred to in section 99.5 of the Constitution, the convocation Decree shall be issued with the subscription of the President of the Government, at his proposal, and under his exclusive responsibility, after deliberation by the Cabinet.

(3) In the event of the anticipated dissolution of the Congress, of the Senate or of both Houses, the dissolution Decree shall include the convocation of new elections to the House or Houses dissolved.

(4) The President of the Congress shall subscribe the Dissolution Decree of the Cortes Generales and the convocation of new elections in the case referred to in section 99.5 of the Constitution.

CHAPTER V  
*Election procedure*

DIVISION I

Election agents-general, and election agents of the tickets,  
before the election authorities

*Section 168*

(1) For the purposes of the provisions of section 43, each one of the parties, federations and coalitions that intend taking part in the elections, shall designate before the Central Electoral Commission an election agent-general. This designation shall be made in writing and before the ninth day after the convocation of elections. This document shall express the acceptance of the office by the person designated.

(2) Every election agent-general shall designate before the Central Electoral Commission the election agents that the tickets of his party, federation or coalition nominate in each one of the election constituencies. These designations shall be effected before the eleventh day after the convocation of elections.

(3) Within the space of two days, the Central Electoral Commission shall notify to the Provincial Electoral Commissions the names of the election agents for the tickets corresponding to their constituency.

(4) In every case, before delivering the nomination papers of the corresponding ticket, the election agents shall go in person to their respective Provincial Electoral Commission to accept their designation.

(5) The promoters of groups of electors shall designate the election agents of their tickets at the same time as the nomination papers of the tickets are delivered to the Provincial Commission. These designations shall be accepted forthwith.

## DIVISION II

### Delivery of nomination papers and nomination of candidates

#### *Section 169*

(1) The competent Electoral Commission for all the proceedings referred to in the first Title, chapter VI, part II of this Act, for elections to the Congress and the Senate, and for delivery of nomination papers and the nomination of candidates, shall be the corresponding Provincial Electoral Commission.

(2) The nomination papers for each ticket shall be delivered in the form of a list.

(3) Groups of electors shall need at least 1% of the signatures of electors registered in the Register of electors of the constituency to be able to present tickets for nomination.

(4) The lists of tickets, the nomination papers of which have been delivered, and the lists of tickets nominated in all the districts, shall be published in the Official State Gazette.

#### *Section 170*

In the constituencies of Ceuta and Melilla the nomination papers of the tickets shall include one substitute candidate.

#### *Section 171*

(1) The tickets for the Senate are individual for the purposes of the poll and the count, though they may be grouped together in lists for the purposes of nomination papers and the election campaign.

(2) Every ticket for Senator shall include one substitute candidate.

## DIVISION III

### Ballot papers and election envelopes

#### *Section 172*

(1) The competent Electoral Commissions, for the purpose of the provisions of subsection (1) section 70, with regard to elec-

tions to the Congress or to the Senate, shall be the Provincial Commissions.

(2) The ballot papers intended for the election of Members of the Congress shall express the following: the name or denomination, the abbreviation and the symbol of the party, federation, coalition or group of electors nominating the ticket; the names and surnames of the candidates and their substitutes, according to their placing order, and where necessary, the circumstances referred to in section 46.7.

(3) The ballot papers intended for the election of Senators shall be printed on one side only, with the indications referred to in subsection (2) above, and shall have the following composition:

(a) Name or denomination or abbreviation or symbol of the body nominating the candidate or candidates, be it a party, a federation, coalition or group of electors. Underneath this denomination or abbreviation, there shall appear the name or names of the respective candidate or candidates, listed in alphabetical order, and the said list shall start with the first letter of the first surname.

(b) Underneath the name of each candidate, and in different characters to those employed for the name of the candidate, there shall appear the name of the substitute.

(c) The block formed by the denomination of the nominating party, etc., and their respective candidates, shall be listed. The placing order in this list shall be determined by the drawing of lots and any alphabetical order is disregarded.

(d) The name of each candidate shall be preceded by a square. The voter shall cross out the squares corresponding to the candidate or candidates for whom he votes.

#### DIVISION IV

#### The general count

#### *Section 173*

The Electoral Commission with competence for the carrying out of all the proceedings of the general count shall be the Provincial Electoral Commissions.

## CHAPTER VI

### *Election expenses and subsidies*

#### *Section 174*

(1) The election agents-general of the political parties, federations and coalitions shall designate, in writing, their respective administrators-general before the Central Electoral Commission before the eleventh day after the convocation of elections. This document shall express the acceptance of the office by the person designated.

(2) The election agents of the tickets shall designate, in writing, the administrators of their respective tickets before the corresponding Provincial Electoral Commission. This document shall express the acceptance of the office by the person designated, and shall be delivered together with the nomination papers of the ticket. The Provincial Electoral Commissions shall notify to the Central Electoral Commission the administrators designated in their constituencies.

#### *Section 175*

(1) The State shall subsidize the expenses incurred in election activities, in accordance with the following rules:

(a) Two million pesetas for each seat obtained in the Congress or in the Senate.

(b) Seventy five pesetas per vote obtained by each ticket to the Congress, where one of its members, at least, obtained a seat as a Member of the Congress.

(c) Thirty pesetas per vote obtained by each candidate who obtained a seat in the Senate.

(2) In the case of elections to the Cortes Generales or any of its two Houses, the limit of election expenses shall be the result of multiplying by twenty five pesetas the number of inhabitants in the constituencies where the corresponding party, federation, coalition or group of electors have nominated tickets. The resulting amount may be increased by twenty millions pesetas per constituency where they have nominated tickets.

(3) Besides the subsidies referred to in the previous subsections of this section, the State shall subsidize the parties, federations coalitions or groups, for the election expenses arising from the direct and personalized mailing to the electors of ballot papers and election envelopes or of election propaganda and advertising, in accordance with the following rules:

(a) Twenty pesetas shall be paid per elector for each one of the constituencies where lists of candidates have been nominated for the Congress and the Senate, provided that the tickets referred to have obtained a sufficient number of Members of the Congress or of Senators to be able to form a Parliamentary Group in either House. The obtention of a Parliamentary Group in both Houses shall not entitle tickets to receive this subsidy more than once.

(b) The subsidy granted under the present subsection (3) shall not be included in the limit of expenses referred to in subsection (2) of this section, but only if the activities mentioned in this subsection are proved to have been effectively carried out.

(4) The amounts referred to in the subsections above of this section shall be construed as being in constant pesetas. The actual amounts payable shall be fixed by an order from the Ministry of Economy and Treasury within the five days following the convocation of elections.

### **PART III**

## **Special Provisions for Local Government Elections**

### **FIRST CHAPTER**

#### *Franchise*

#### *Section 176*

(1) Without prejudice to the provisions of the first chapter of the first Title of this Act, foreign persons resident in Spain, whose respective countries allow the vote of Spanish nationals in similar elections, in the terms of a treaty or in the context of European



Communities legislation, shall be entitled to vote as electors in local government elections.

(2) The Government shall notify to the Electoral Register Office the list of foreign States whose nationals, resident in Spain, are to be registered in the Register.

## CHAPTER II

### *Eligibility*

#### *Section 177*

Besides those incurring any of the cases of ineligibility referred to in section 6 of this Act, those persons directly or subsidiarily in debt with the corresponding council, and against whom a compulsory order of payment has been issued by a court of law, shall also be ineligible for the offices of Mayor or Councillor.

## CHAPTER III

### *Causes of incompatibility*

#### *Section 178*

(1) The causes of ineligibility referred to in section 177 above shall also be causes of incompatibility with the office of Councillor.

(2) The following persons shall also be incompatible:

(a) Lawyers who conduct or represent a party in the proceedings of a court or in administrative proceedings against the council, with the exception of those proceedings referred to in section 63.1 (b) of the Local Government Regulating Act.

(b) The heads of services, officers and any other personnel in active service in their respective councils or in bodies or establishments dependent on the same.

(c) The directors-general or equivalent officers of the Provincial and Local Savings Banks operating within the boundaries of the council.

(d) Those who enter into contracts or sub-contracts financed wholly or partly by the local council or by establishments dependent on the same.

(3) Where a question of incompatibility arises, those affected by it can opt either to resign their office of councillor or abandon the position declared incompatible with that of councillor, in accordance with the provisions of subsection (2) above.

(4) Where the question of incompatibility arising falls into the cases referred to in paragraph (b) of subsection (2) above, the officer or employee who opts for the office of councillor shall cease in the active service of the council, taking the special leave provided in the corresponding terms of employment. The terms of employment shall include the reservation of the corresponding position held by the officer or employee at the time of becoming councillor.

## CHAPTER IV

### *The proportional representation system of elections*

#### **Section 179**

(1) Every local government district shall form a constituency in which the number of councillors to be elected is obtained by applying the following table:

Up to 250 residents.....	5
From 251 to 1,000 .....	7
From 1,001 to 2,000 .....	9
From 2,001 to 5,000 .....	11
From 5,001 to 10,000 .....	13
From 10,001 to 20,000 .....	17
From 20,001 to 50,000 .....	21
From 50,001 to 100,000 .....	25

In the case of 100,001 residents or more, one further councillor shall be elected per 100,000 or fraction of 100,000 residents, and a further councillor is added where the result is an even number of councillors.

(2) The table above shall not apply where the local council, in accordance with local government legislation, operates as an open council. In the case of these local councils, the electors shall elect the mayor directly by a majority system.

## Section 180

The assignment of the offices of councillor in every local council shall be carried out according to the procedure referred to in subsection (1) of Section 163 of this Act, the only difference being that those tickets which do not obtain at least 5% of the valid votes cast in the constituency, shall be disregarded.

## Section 181

(1) In the event of no ticket being nominated in a constituency, a new by-election shall be convoked in that constituency within the six following months.

(2) If, in this new convocation, no ticket is nominated either, the procedure to follow shall be that referred to in the third paragraph of section 182 below.

## Section 182

In the event of decease, incapacity or resignation of a councillor, the seat shall be assigned to the candidate or substitute, as the case may be, of the same list to which the councillor belonged and according to his place order in that list.

Only if no more possible candidates or substitutes existed to be appointed, in accordance with the procedure mentioned, the quorum of attendance and voting, under the provisions of current legislation, shall be automatically construed as referring to the actual number of councillors of the subsistent council.

Only in the event of the number of councillors being less than two thirds the legal number, shall a Managing Committee be constituted. This Committee shall be made up of all the councillors that continue in office, and of persons of local relevance and standing who, according to the result of the last local government election held, may be designated by the Provincial Corporation, or, as the case may be, by the competent authority from the corresponding Autonomous Community. The number of persons so designated shall be equal to the number of councillors required to complete the legal number in the council in question.

## Section 183

In the case of dissolution of local councils by a decision of the Council of Ministers (i.e. the Cabinet), according to the provisions of local government legislation, a by-election to constitute a new council within the three following months shall be convoked in the constituency or constituencies affected, save where the life of the new council was to be less than one year, on account of local government general elections being due within the year.

Whilst a new council is constituted or once the life of the dissolved council has expired, the day-to-day business shall be dealt with by a Managing Committee designated by the Provincial Corporation or by the competent authority of the corresponding Autonomous Community. The number of members of that Managing Committee shall not exceed the legal number of councillors of that council. The functions of mayor of the council or chairman of the Committee shall be exercised by that member who is elected by the majority of the members of the Committee.

## Section 184

The councillors of councils with a population of between 100 and 250 inhabitants, shall be elected in accordance with the following procedure:

(a) Every party, coalition, federation or group may deliver a nomination list with a maximum of five names.

(b) Every elector may give his vote to a maximum of four candidates, from among those nominated in the district.

(c) The count of the votes obtained by each candidate in the district shall be carried out. Then the candidates shall be arranged in a column, starting with the candidate who obtained the largest number of votes and ending with the candidate who obtained the lowest number.

(d) Those candidates who obtained the greatest number of votes, up to a number of five, shall be declared as elected councillors.

(e) The cases of ties shall be decided by the drawing of lots.

(f) In the event of decease, incapacity or resignation of a councillor, the vacancy shall be filled by the following candidate with the largest number of votes.

## CHAPTER V

### *Convocation of elections*

#### *Section 185*

The Royal Decree of convocation shall be decided by the Cabinet at the proposal of the Ministries of Interior and Territorial Administration.

## CHAPTER VI

### *The election campaign*

#### DIVISION I

#### *Election agents*

#### *Section 186*

(1) For the purpose of the provisions of section 43, the political parties, federations and coalitions that intend taking part in the elections shall designate, in writing, before the Provincial Electoral Commissions, an election agent-general who shall act on their behalf and in their representation in every province. The aforementioned election agent-general shall be designated before the ninth day after the convocation of elections. Within the same time limit, they shall designate an election agent-general before the Central Electoral Commission. The documents of designation shall express the acceptance of the office by the designated person.

(2) The election agents-general shall designate in writing to the corresponding Provincial Electoral Commission, before the eleventh day after the convocation of elections, the election agents for the tickets that the party, federation or coalition nominate in each local government district.

(3) Within two days, the Provincial Electoral Commissions shall notify to the respective District Electoral Commissions the

names of the election agents for the tickets in their districts.

(4) The election agents of the tickets shall go in person to the corresponding District Electoral Commissions to accept their designation and shall do so, in every case, before y nomination papers of their ticket have been delivered.

(5) The promoters of groups of electors shall, at the same time, designate the election agent for their tickets and deliver the nomination papers of their tickets to the District Electoral Commission. These designations shall be accepted forthwith.

## DIVISION II

### Delivery of nomination papers and nomination of candidates

#### Section 187

(1) The competent Electoral Commission for all the procedures referred to in the first Title, chapter VI, part II of this Act, relative to the delivery of nomination papers and the nomination of candidates for local government elections, shall be the District Electoral Commission.

(2) Every ticket shall deliver the nomination papers in the form of a list of candidates.

(3) Groups of electors, in order to be able to nominate a ticket, shall need the number of signatures of electors registered in the local government district register of electors—which shall be certified by notary or by the corresponding local council town-clerk—determined by the following rules:

(a) In the local councils of less than 5,000 inhabitants, not less than 1% of the electors registered, provided that the number of subscribers is greater than double the number of councillors to be elected.

(b) In those with between 5,001 and 10,000 inhabitants, at least one hundred signatures.

(c) In those with between 10,001 and 50,000 inhabitants, at least five hundred signatures.

(d) In those with between 50,001 and 150,000 inhabitants, at least fifteen hundred signatures.

(e) In those with between 150,001 and 300,000 inhabitants, at least three thousand signatures.

(f) In those with between 300,001 and 1,000,000 inhabitants, at least five thousand signatures.

(g) In all other cases, at least eight thousand signatures.

(4) The nomination papers delivered for the tickets and the nomination of tickets shall be published in the Official Gazette of the corresponding province.

### DIVISION III

#### Use of the public media

##### *Section 188*

The entitlement to free-of-charge broadcasting in publicly-owned media, regulated by section 64, shall be exercised in the case of local government elections by those parties, federations, or coalitions putting up tickets in councils that comprise at least 50% of the population of the constituencies within the media range, or, as the case may be, within the range of the corresponding programmes.

### DIVISION IV

#### Ballot papers and election envelopes

##### *Section 189*

(1) For the purpose of the provisions of subsection (1) section 70, the competent Electoral Commissions in the case of local government elections shall be the District Electoral Commissions.

(2) The ballot papers intended for the election of councillors shall have the contents expressed in subsection (2) of section 172.

### DIVISION V

#### The postal vote by absent-residents living abroad

##### *Section 190*

(1) Absent-residents of Spanish nationality who are living in foreign countries and who wish to exercise their franchise in the

council in which they are registered in the electoral register, shall notify their wish to the Provincial Delegation of the Electoral Register Office not later than the twenty-fifth day after the convocation of elections. The notification shall be made in writing and a photostatic copy of the corresponding National Identity Document or Passport shall be included.

(2) The Provincial Delegation, in answer to the notification, shall send the interested party an identical certificate to that mentioned in section 72, one blank ballot paper, the form of which shall be determined by regulation, a copy or copies of the page or pages of the Official Gazette of the province where the names of the tickets nominated for that council appear, the election envelope, and an envelope addressed to the corresponding polling stations bureau. An explanatory note shall be included with these documents.

(3) The forwarding of these documents shall be effected by registered post and not later than the thirty-second day after the convocation of elections.

(4) The elector shall write on the ballot paper the name of the party, federation, coalition or group whose ticket he/she wishes to vote, and shall send his vote as indicated in subsection (3) of section 73.

The Post Office authorities shall proceed as indicated in the provisions of subsection (4) of the said section 73.

## DIVISION VI

### The general count

#### *Section 191*

(1) The Electoral Commission with competence for all the proceedings of the general count in the case of local government elections shall be the District Electoral Commissions.

(2) The count shall be carried out with the councils being counted in alphabetical order.



## CHAPTER VII

### *Election expenses and subsidies*

#### *Section 192*

(1) The administrators-general of the political parties, federations and coalitions shall be designated to the Central Electoral Commission according to the provisions of section 174.

(2) The administrators-general shall appoint in writing the administrators of the tickets of their respective political parties, federations and coalitions to the corresponding Provincial Electoral Commission, between the fifteenth and the twentieth days after the convocation of elections. The Provincial Electoral Commissions shall notify to the Central Electoral Commission the administrators appointed in their respective constituencies.

(3) The promoters of groups of electors shall appoint the administrators of their tickets to the Provincial Electoral Commission within the two days following the delivery of the nomination papers of the tickets.

#### *Section 193*

(1) The State shall subsidize the expenses incurred in performing election activities in accordance with the following rules:

(a) Twenty five thousand pesetas per councillor elected.

(b) Fifty pesetas for each one of the votes obtained by each ticket where one of the candidates, at least, has been elected as councillor.

(2) The limit of election expenses for local government elections shall be obtained by multiplying by 15 pesetas the number of inhabitants of the constituencies where each party, federation, coalition or group have nominated tickets. Those that take part in the elections of at least 50% of the local governments, may also spend twenty million pesetas more for each of the provinces in which they comply with the condition just mentioned.

(3) Besides the subsidies referred to in the above subsections, the State shall subsidize the parties, federations, coalitions and groups for election expenses arising from the direct and per-

sonalized mailing of election envelopes and ballot papers or of election propaganda and advertising, in accordance with the following rules:

(a) In each one of the constituencies in which they have obtained representation in the corresponding councils, they shall be paid twenty pesetas per elector, provided the ticket in question had nominated lists of candidates in 50% of the councils of the corresponding province, with a population of more than 10,000 inhabitants, and had obtained, at least, representation in 50% of the said councils.

(b) The resultant subsidy shall not be included in the limit prescribed in subsection (2) of this section, provided always that the activities referred to in this subsection have been effectively carried out and duly proved.

(4) The amounts referred to in the previous subsections are to be construed as being expressed in constant pesetas. The actual amounts to be paid shall be fixed by an Order from the Ministry of Economy and Treasury within the five days after the convocation of the elections.

## CHAPTER VIII

### *Life and constitution of Local Governments*

#### *Section 194*

(1) The term of office of councillor of a local government shall be for four years as from the date of their election, as provided in subsection 3, section 42, of this Organic Act.

(2) Where the terms of office of the councillors come to an end, the said councillors shall continue in their positions but only to deal with day-to-day business until their successors take office. Under no circumstances shall the councillors of the extinguished council adopt decisions for which a qualified majority is legally required.

#### *Section 195*

(1) Local councils shall be constituted at a public sitting on the twentieth day after the poll, save that an election petition be

lodged against the declaration of elected councillors, in which case the new council shall be constituted on the fortieth day after the poll.

(2) To this end, the proceedings shall be conducted by a chair made up of the oldest and the youngest elected councillors present at the sitting, and the clerk shall be the town-clerk.

(3) The chair shall check the identity of the credentials or accreditations against the certificates received by the council from the District Electoral Commission.

(4) Once the checks referred to above have been carried out, the chair shall declare the council constituted, if the absolute majority of elected councillors are present at the meeting. Failing this, a new meeting shall be convened for two days later, and then, the council shall be constituted whatever the number of councillors present.

## CHAPTER IX

### *Election of the mayor*

#### *Section 196*

The mayor shall be elected at the same meeting in which the council is constituted, in accordance with the following procedure:

(a) All candidates who headed their respective ticket list may be candidates.

(b) If any one of them obtains the absolute majority of the votes of the councillors, he shall be declared elected.

(c) If no candidate obtains an absolute majority, the councillor heading the ticket list with the most votes from electors in the district of the council, shall be elected. In the event of a tie, the drawing of lots shall decide.

In councils where the number of inhabitants range from 100 to 250 all councillors may be candidates for mayor. If any one of them obtains an absolute majority of the votes from the councillors, he shall be declared elected; if none obtained an absolute majority, the councillor who obtained the most votes from the electors shall be declared elected.

## Section 197

(1) A mayor may be dismissed from office by means of a censure motion which has been approved by an absolute majority of all the councillors.

(2) The motion shall be subscribed, by at least, an absolute majority of the councillors, and shall include the name of the candidate proposed as the new mayor, who shall be declared elected if the motion succeeds. The motion shall be discussed and voted upon within fifteen days following its presentation, at a full meeting of the council convened to that effect. No councillor may, during his term of office, subscribe more than one censure motion.

(3) For the purposes of the provisions of this section, all councillors may be candidates.

## Section 198

Except in the case regulated in the previous section, the vacancy in the office of mayor shall be filled in accordance with the provisions of section 196. And it shall be interpreted that the councillor following the previous mayor in his ticket list is now heading the same, unless he refuses to be a candidate for the office.

## Section 199

(1) The election system in those communities whose rank is inferior to the rank of council, shall be established by the laws of the Autonomous Communities responsible for their creation or recognition. The said election system shall, in every case, observe the provisions of the Local Government Regulating Act, or failing this, the provisions of the following subsections of this section shall apply.

(2) Petty mayors shall be elected directly by the inhabitants of the corresponding community, by a majority system, from among those candidates nominated by the different parties, federations, coalitions or groups of electors.

(3) The neighbourhood boards of these communities shall be made up of the petty mayor, who shall chair them, and two members, in those communities of less than 250 residents, and four

members where the number of residents is higher, provided that the number of members does not exceed one third of the number of councillors in the corresponding local government council, in which case the number of members shall be two.

(4) The designation of these members shall be made in accordance with the results of the local government elections in the ward or wards constituting the community.

(5) The number of members corresponding to each party, federation, coalition or groups shall be determined by the District Electoral Commission in accordance with the procedure regulated in section 163.

(6) The election agent of each ticket, once the previous procedure has been completed, shall designate, from among the electors of the community, those who are to be members.

(7) If no neighbourhood board is to be constituted, in accordance with the provisions of local government legislation, and on account of the open council system having been adopted for that community, the petty mayor shall in any case be elected as provided in subsection (2) above.

## *Section 200*

The Provincial Electoral Commissions shall adopt the necessary resolutions for the compliance with the provisions of subsection (2) of section 179 of this Act, to ensure that the mayors of councils in communities adopting the open council system are elected.

## **PART IV**

### **Special Provisions for Elections to Island Corporations in the Canary Islands**

## *Section 201*

(1) Each island shall elect by direct and secret universal suffrage, and in a different ballot box to that used for the election of local councillors, as many island councillors as may result from the following table:

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	<i>Island councillors</i>
Up to 10,000 residents .....	11
From 10,001 to 20,000 residents .....	13
From 20,001 to 50,000 residents .....	17
From 50,001 to 100,000 residents .....	21
From 100,001 onwards, one further councillor per 100,000 or fraction of 100,000 residents, adding one more where the result is an even number.	

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(2) The term of office of an island councillor is four years, as from polling day, and in accordance with the provisions of subsection (3), section 42, of this Organic Act.

(3) The election of island councillors shall follow the procedure used for the election of local government councillors, but each island shall constitute an electoral constituency.

(4) The island corporations shall be constituted at a public sitting within the thirty days after polling day, and a chair shall be made up of the oldest and youngest elected councillors, in accordance with the provisions of section 195 for local councils.

(5) The candidate heading the ticket list most voted in the island constituency shall be the chairman of the island corporation.

(6) The delivery of nomination papers for the tickets, the voting system, and the assignment of seats by proportional representation, shall all be carried out in accordance with the provisions for the election of local government councillors.

(7) The chairman of an island corporation may be dismissed from office by means of a censure motion, which shall be carried out in accordance with the provisions of section 197. Any island councillor heading the respective ticket list of the parties, federations, coalitions or groups of electors in the corresponding island constituency, may be a candidate for chairman of the corporation.

(8) The same principles of eligibility and of incompatibilities contained in sections 202 and 203 of this Act, shall apply in the elections for island councillors.

(9) The State shall subsidize the election expenses incurred in the elections to the island corporations in accordance with the following rules:

(a) One hundred and fifty thousand pesetas per island councillor elected.

(b) Sixty pesetas for each vote obtained by every ticket, one of whose candidates, at least, has been elected island councillor.

(10) The limit of expenses incurred in island corporation elections shall be the result of multiplying by 15 pesetas the number of inhabitants of each one of the islands where each party, federation, coalition or group has put up ticket lists.

## **PART V**

### **Special Provisions for the Election of Provincial Councillors**

#### **FIRST CHAPTER**

##### *Eligibility*

#### *Section 202*

Besides those persons affected by the cases of ineligibility referred to in section 6 of this Act, those persons directly or subsidiarily in debt with the corresponding provincial corporation, against whom a compulsory order of payment has been issued by a court of law, shall also be ineligible for the office of provincial councillor.

#### **CHAPTER II**

##### *Causes of incompatibility*

#### *Section 203*

(1) The causes of ineligibility referred to in section 202 above shall also be causes of incompatibility with the office of provincial councillor.

The following persons shall also be incompatible:

(a) Lawyers who conduct or represent a party in the proceedings of a court, or in administrative proceedings, against the corporation, with the exception of those proceedings referred to in section 63.1 (b) of the Local Government Regulating Act.

(b) The heads of services, officials and any other personnel in active service in their respective corporations, or in bodies or establishments dependent on the said corporations.

(c) The directors-general or equivalent officers of the Provincial and Local Savings Banks operating in the corresponding province.

(d) Those who enter into contracts or sub-contracts financed wholly or partly by the provincial corporation or by establishments dependent on the same.

(2) Where a question of incompatibility arises, those affected by it can opt either to resign their office of provincial councillor or abandon the position that is the cause of incompatibility, in accordance with the provisions of subsection (1) above.

(3) Where the question of incompatibility is included in those cases referred to in paragraph (b) of subsection (1) above, the official or employee who opts for the office of provincial councillor shall cease in the active service of the provincial corporation and shall take the special leave provided in the corresponding terms of employment which shall include the right to return to the corresponding position.

### CHAPTER III

#### *Procedure for the elections*

##### *Section 204*

(1) The number of provincial councillors to be elected to a provincial corporation shall be determined by the number of residents in that province, according to the following table:

	<i>Provincial councillors</i>
Up to 500,000 residents .....	25
From 500,001 to 1,000,000 .....	27
From 1,000,001 to 3,500,000 .....	31
From 3,500,001 onwards .....	51



(2) The Provincial Electoral Commission shall distribute, in proportion to the number of residents, the offices of provincial councillors corresponding to each court district, on the tenth day following the convocation of elections, according to the following rules:

(a) Every court district shall have, at least, one provincial councillor.

(b) No court district shall have more than three fifths of the total number of provincial councillors.

(c) The fractions equal to or above 0.50 that result from the proportional distribution, shall be rounded up, and the fractions below 0.50, shall be rounded down.

(d) If, as a result of the latter operations, the total number of provincial councillors exceeds the number permitted, the offices attributed in excess shall be deducted from those court district where the number of residents per provincial councillor is the smallest. If, on the contrary, the resulting number of provincial councillors falls short, the offices shall be attributed to those court districts where the number of residents per provincial councillor is the greatest.

(3) For the purposes of the provisions of this chapter, the court districts shall coincide with those of the 1979 local government elections.

## *Section 205*

(1) Once the local government councils in the corresponding province have been constituted, the District Electoral Commission shall proceed forthwith to prepare a list, in descending order of votes, of all the political parties, coalitions, federations, and each one of the groups of electors who have obtained any number of councillors within each court district.

(2) For the purpose of subsection (1) above, the number of votes of a ticket in councils of less than 250 inhabitants, referred to in section 184 of this Act shall be that number resulting from dividing the sum total of the votes obtained by each one of its candidates by the number of candidates making up the correspond-

ing list, up to a maximum of four. The resulting fractions shall be corrected by rounding them down.

(3) Once the above calculation has been carried out, the Commission shall proceed to distribute the offices that correspond to the parties, coalitions, federations, and each one of the groups of electors, in each court district, by applying the procedure referred to in section 163, and according to the number of votes obtained by each political group or each group of electors.

(4) If the application of the previous subsection produces the same quotient for two or more of the different parties, coalitions, federations, and groups, the vacancy shall be attributed to the one which has obtained the largest number of votes, and in case of a tie, to the one with a larger number of local councillors in the court district. Subsidiarily, it shall be resolved by the drawing of lots.

### *Section 206*

(1) Once the assignation of the offices of provincial councillors has been carried out in accordance with the section above, the Electoral Commission shall summon, separately, the local councillors of the political parties, coalitions, federations and groups which have obtained offices of provincial councillors, within the five following days, so that they may elect from their own ticket list those candidates who are to be nominated provincial councillors; the nominees shall have, at least, the backing of one third of the local councillors of their own ticket. Three substitutes shall be elected at the same time —first, second and third— to fill eventual vacancies in that order.

(2) The District Commission shall then nominate the elected provincial councillors and the substitutes, issue the corresponding credentials and convey to the Provincial Commission and to the Provincial Corporation the corresponding certificates of the provincial councillors elected in the court district.

### *Section 207*

(1) The provincial corporation shall meet at a constitutional meeting chaired by the oldest and the youngest of the provincial councillors present, and shall proceed to elect the chairman from

among the provincial councillors. The corporation clerk shall act as clerk of the said meeting.

(2) The candidate for chairman shall be elected by an absolute majority on the first vote, or by relative majority on a second vote.

(3) The chairman may be dismissed from office by means of a censure motion carried out in the manner prescribed in section 197. Any provincial councillor may be a candidate to the office of chairman.

### *Section 208*

(1) In the event of decease, incapacity, resignation —or loss of the office of local government councillor— of a provincial councillor, the vacancy shall be filled by one of the substitutes elected in the corresponding court district, in accordance with the placing order established.

(2) If it is not possible to fill a vacancy in the ordinary way, on account of the three substitutes having been already nominated to fill previous vacancies for their court district, then a new election of provincial councillors corresponding to that court district shall be held, in accordance with the procedure prescribed in section 206 above.

### *Section 209*

The regulations of the present chapter shall be construed as being without prejudice to special autonomic systems and other statutory jurisdictions.

## **PART VI**

### **Special Provisions for Elections to the European Parliament**

#### **FIRST CHAPTER**

##### *Eligibility*

##### *Section 210*

Those persons referred to in subsections (1) and (2) of section 154 of this Act shall also be ineligible to the European Parliament.

#### **CHAPTER II**

##### *Causes of incompatibility*

##### *Section 211*

(1) The causes of ineligibility shall also be causes of incompatibility for Members of the European Parliament.

(2) The following persons shall also be incompatible:

(a) Those who are incompatible according to the European Communities election rules.

(b) Those included in subsection (2), section 155, of the present Act.

(c) Those who are Members of the Cortes Generales.

(d) Those who are members of the Autonomous Communities Legislative Assemblies.

(3) In the cases referred to in paragraphs (c) and (d) above, the question of incompatibility shall be resolved in favour of the parliamentary office obtained in the last instance.

##### *Section 212*

(1) The office of Member of the European Parliament shall be exercised as a full-time occupation, on the same terms as those applying to Members of the Congress and Senators in the present Act.

(2) By virtue of the provisions of subsection (1) above, sections 157 and 158 of this Act shall apply to Members of the European Parliament, who shall not be able to receive any remuneration paid out of the State, autonomy or local government budgets, save that corresponding to them in virtue of their office.

(3) Members of the European Parliament shall not be able to belong to the commissions or management committees of organizations, bodies or companies with a direct or indirect public majority holding.

### Section 213

Members of the European Parliament shall only be able to exercise those private activities referred to in paragraphs (a) and (b), subsection (3), section 159 of the present Act, besides those activities not included in subsection (2) of the said section 159.

## CHAPTER III

### *The proportional representation system of election*

### Section 214

The whole territory of the country shall be the election constituency for the election of Members to the European Parliament.

### Section 215

In accordance with the Treaty of Accession to the European Communities, 60 Members to the European Parliament shall be elected in Spain.

### Section 216

The attribution of seats, according to the results of the poll, shall be carried out under the provisions of section 163 of the present Act, but the provisions of paragraph (a), subsection (1), and of subsection (2), of the said section 163 shall not apply.

### *Section 217*

In case of decease, incapacity or resignation of a Member of the European Parliament, the seat shall be attributed to the candidate or substitute, as the case may be, included in the corresponding list and according to the placing order of the said candidate or substitute.

## CHAPTER IV

### *Convocation of elections*

#### *Section 218*

(1) The convocation of elections for Members of the European Parliament, shall be effected in accordance with Community rules and by means of a Royal Decree.

(2) The convocation Decree shall be issued with the subscription of the President of the Government, at his proposal, under his exclusive responsibility and after deliberation by the Council of Ministers (Cabinet).

(3) Subsection (1), section 42, of this Act, shall not apply to elections to the European Parliament.

## CHAPTER V

### *Election procedure*

#### DIVISION I

Election agents of the tickets before the election authorities

#### *Section 219*

(1) For the purpose of the provisions of section 43 of this Act, each one of the parties, federations and coalitions that intend taking part in the elections, shall designate an election agent-general on the terms referred to under subsection (1) section 168 of the present Act.

(2) The promoters of every group of electors shall designate, on the same terms, their respective election agent-general on delivering the nomination papers of their tickets.

(3) Every election agent-general may designate, before the Central Electoral Commission, the election agents for their respective tickets before the Provincial Electoral Commissions, within the two days following their own designation.

(4) These designations shall be notified by the Central Electoral Commission to the Provincial Commissions within the following two days, and the election agents shall go in person to their respective Commissions to accept the designation.

## DIVISION II

### Delivery of nomination papers of the tickets and nomination of candidates

#### *Section 220*

(1) The competent Electoral Commission for all the procedures referred to in division II, chapter VI, in the first Part of the present Act, in so far as the delivery of nomination papers and the nomination of candidates for the election of Members of the European Parliament is concerned, shall be the Central Electoral Commission.

(2) The nomination papers of the tickets shall take the form of complete lists of candidates, save that the parties, federations, coalitions or groups of electors make use of the possibility referred to in subsection (4), section 221, in which case the list may contain up to a maximum of 60 candidates and substitutes.

(3) In order to nominate tickets, the parties, coalitions, federations and groups of electors, shall need the signatures of 15,000 electors. No elector may subscribe several tickets.

(4) Notwithstanding, the parties, federations and coalitions, instead of complying with the requirement prescribed in subsection (3) above, may nominate tickets subscribed by 50 elected officers, be they Members of the Congress, Senators, Spanish Members of the European Parliament, Members of the Legislative Assemblies of Autonomous Communities or Councillors of Local Councils. No elected officer may subscribe several tickets.

(5) The tickets delivered for nomination and the nominated tickets shall be published in the Office State Gazette.

### DIVISION III

## Ballot papers and election envelopes

### *Section 221*

(1) For the purpose of the provisions of subsection (1), section 70, the competent Electoral Commission in elections of Members to the European Parliament, shall be the Central Electoral Commission.

(2) Ballot papers intended for the election of Members to the European Parliament shall contain the denomination, abbreviation and symbol of the party, federation, coalition or group of electors presenting the ticket.

(3) The said ballot papers shall also contain the complete list of names and surnames of the candidates and substitutes making up the ticket, arranged in placing order. Where applicable, the circumstance referred to in subsection (7) section 46, may be stated.

(4) Where parties, federations, coalitions or groups of electors wish to take part in the elections in a limited territorial district or districts, at a level other than national, they shall state so when they deliver nomination papers of their tickets to the Central Electoral Commission, and shall indicate the territory or territories where they wish their ballot papers distributed, provided that those territories coincide, at least, with existing election wards in an Autonomous Community.

### *Section 222*

Parties, federations, coalitions or groups of electors, on delivering the nomination papers for their tickets to the Central Electoral Commission, may state their wish that, in certain election wards that coincide with the territory of an Autonomous Community, the names of candidates and substitutes—members of their parties or of their territorial organizations whose activities are legally restricted to those territories— be the only ones appearing on their ballot papers, together with the party's denomination, abbreviation and symbol, as required.



DIVISION IV  
The general count

*Section 223*

(1) The competent Electoral Commission for the purposes of the provisions of sections 103, 104, 105, 106 and 107, shall be the Provincial Electoral Commissions.

(2) Once the count has been completed, the election agents and election agent's proxies for the tickets shall have two days in which to make any claims or protests they think appropriate. The said claims or protests shall be resolved by the Provincial Electoral Commission within the following two days.

(3) The Provincial Electoral Commission, having concluded the procedures referred to above, and no later than the fifteenth day after the election, shall convey to the Central Electoral Commission a certificate, subscribed by the President and the Secretary of the corresponding Provincial Electoral Commission, with the election results in the province. The said certificate shall expressly contain the number of electors, the number of valid votes, the number of rejected ballot papers, the number of blank votes and the votes obtained by every ticket.

*Section 224*

(1) The Central Electoral Commission shall proceed, no later than the twentieth day after the elections, to the national count of votes, the assignation of the seats corresponding to each one of the tickets, and to the statement of elected candidates.

(2) The elected candidates shall swear or promise their allegiance to the Constitution before the Central Electoral Commission, within the five days following the statement of elected candidates.

After that time, the Central Electoral Commission shall declare vacant those seats corresponding to Members of the European Parliament who have not undertaken the above mentioned oath or promise, and shall suspend all the prerogatives accruing to them by reason of their office, until such time as they effect the said oath or promise of allegiance.

(3) The Central Electoral Commission shall be the competent authority with regard to the general count proceedings not included in the provisions of section 223 above.

#### DIVISION V

##### Legal proceedings

#### *Section 225*

(1) The Supreme Court shall be the competent Court to deal with election petition proceedings.

(2) The Judgment resolving election petition proceedings shall be announced no later than the forty-fifth day after the elections.

#### DIVISION VI

##### Election expenses and subsidies

#### *Section 226*

(1) The administrators-general of political parties, federations and coalitions shall be designated in accordance with the provisions of subsection (1), section 174, of the present Act.

(2) The administrators of the ticket in every province shall be designated, in accordance with the provisions of subsection (2), section 174, before the twenty-first day after the convocation of elections.

#### *Section 227*

(1) The State shall subsidize the expenses arising from election activities in accordance with the following rules:

(a) Three million pesetas per seat obtained.

(b) One hundred pesetas for each of the votes obtained by the ticket, where one of its members, at least, had obtained a seat as Member.

(2) The limit of election expenses, in the case of elections to the European Parliament, shall be the result of multiplying by 25 pesetas the number of inhabitants of the corresponding election wards where tickets have been put up.

(3) The amounts referred to in the subsections above shall be construed as being in constant pesetas. The actual amounts shall be fixed by Order of the Ministry of Economy and Treasury within the five days following the convocation of elections.

## ADDITIONAL PROVISIONS

### *First*

(1) With due respect to the Constitution and to the present Organic Act, the provisions of this Act shall be construed as being without prejudice to the exercise of recognized powers on the part of the Autonomous Communities, in accordance with their respective Statutes.

(2) The following sections of the first Part of this Organic Act, shall also apply to elections to the Legislative Assemblies convoked by the respective Autonomous Communities, in application of the powers that the Constitution reserves for the State:

1 to 42; 44; 45; subsections (1), (2), (4), (5), (6) and (8) of section 46; subsection (4) of section 47; 49; subsections (2) and (3) of section 51; 52; 53; 54; 58; 59; 60; 61; 62; 63; 65; 66; 68; 69; subsections (1) and (3) of section 70; 72; 73; 74; 75; 85; subsection (1) of section 86; 90; 91; 92; 93; 94; subsection (3) of section 95; 96; subsection (2) of section 103; subsections (2) and (8) of section 108; 109 to 119; 125 to 130; subsection (2) of section 131; 132; and 135 to 152.

(3) The remaining sections of the first Part of this Act shall have a supplemental effect to the legislation approved by the Autonomous Communities for elections to their Assemblies, or shall apply in the said elections in the case of those Communities which have not legislated in this respect.

(4) The contents of Parts II, III, IV and V of this Organic Act cannot be amended nor replaced by legislation by the Autonomous Communities.

(5) In the event of the Autonomous Communities not legislating on the contents of the sections referred to below, these sections are to be construed as applying to elections to the respective Legislative Assemblies, in the following way:

(a) References to State organizations, in subsection (2) section 70, subsection (4), section 71 and subsection (2) section 98, shall be construed as referring to the corresponding Autonomous Communities.

(b) The reference made to the national territory in subsection (1), section 64, shall be construed as referring to the territory of the Autonomous Community.

(c) The reference made in section 134 to the Commission established by the first Transitional Provision of the Accounts Court Organic Act, shall be construed as referring to a Commission of the corresponding Legislative Assembly, and the obligations of the State to subsidize the election expenses referred to in the same section and in the previous one, shall correspond to the Autonomous Community in question.

### *Second*

The Government is hereby empowered to issue whatever provisions may be necessary for the application and execution of the present Act.

### *Third*

The Government shall enact the relevant provisions to give effect to the inclusion in the registration data, of the National Identity Document number, referred to in section 32 of this Act, within five years of the coming into force of this Act.

### *Fourth*

For the purposes of the suspension of work contracts of representative public officers, referred to in paragraph (f), subsection (1), section 45, and section 48 of the Workers Statute, it shall be interpreted that the legal cause for the suspension of those per-

sons not re-elected ceases the moment the new representative Assemblies are constituted.

## TRANSITIONAL PROVISIONS

### *First*

The provisions of this Act that refer to the incompatibility of Members of the Congress and Senators, shall come into force after the next elections to the Cortes Generales.

### *Second*

The first designation of members of the Central Electoral Commission shall be carried out —according to the procedure prescribed by section 9— within the ninety days following the coming into force of this Act.

### *Third*

The provisions of section 197 and subsection (3) of section 207, shall apply once the first local government elections following the coming into force of this Act have been held.

### *Fourth*

The first yearly revision of the electoral register —to which the provisions of section 35 of this Act shall apply— shall be carried out and be based on the national file of electors which the Electoral Register Office shall prepare and which shall be adjusted to the 'Renewal of Registers of Local Council's Inhabitants 1986'.

### *Fifth*

Until such time as the Administration Proceedings Courts and the Higher Courts of Judicature become operative, the existing Administration Proceedings Divisional Courts shall be competent in those matters referred to in this Act as belonging to the field of competence of the former courts.

### *Sixth*

For the purposes of the provisions of subsection (3), section 57, and sections 61, 64, 67 and 127, and provided the circumstances referred to in subsection (5), section 63, do not concur, 'the previous equivalent elections' with regard to the first elections to the European Parliament, shall be construed as being those to the Congress.

### *Seventh*

The Central Electoral Commission, responding to a previously documented proposal by the Electoral Register Office, may order the inclusion in the Electoral Register in force of modifications notified to the said Office by local councils and consulates relating to the current revision of the Electoral Register to be employed for elections held during 1995.

For this purpose, the Central Electoral Commission shall adopt the necessary guarantees and measures to ensure the safeguard of the citizens' fundamental right to the franchise. No de-registration of electors may be carried out except by loss of the conditions of capacity, without prejudice to alterations in the Register arising from changes in the personal circumstances of electors.

## REPEALING PROVISION

The Royal Decree-Act 20/1977 (of 18/3) on election rules; Act 39/1978 (of 17/7) on local government elections; Organic Act 6/1983 (of 2/3) amending certain sections of the previous Act; Act 14/1980 (of 18/4) on the system for election surveys, and all provisions contrary to the provisions of this Act are hereby repealed.

## LAST PROVISION

The present Act shall come into force the day following that of its publication in the Official State Gazette.

## **SCHEDULE I**

### **Organic Act 8/1991 (of 13/3), amending the Representation of the Spanish People Organic Act**

**JUAN CARLOS I, KING OF SPAIN**

To all those who see and understand this text,

Let it be known: that the Cortes Generales have approved and  
I give My assent to the following Organic Act:

## **PREAMBLE**

One of the defining features of a democratic system is the juridical framework —and the actual development— of the citizen's right to participate in the public affairs through periodical elections by universal suffrage.

For this fundamental right to be exercised —a right recognized in section 23 of our Constitution and which is a *sine qua non* characteristic of every democratic commonwealth— a complex legal framework is necessary. This framework, on which the formal integrity of election processes rest, also ensures the very understanding and credibility of the said processes.

The complexity and the sheer size of election processes and the participation in them, at certain stages, of non-professional people, may give rise to certain technical problems which, although not affecting the full democratic legitimacy of the election

process as a whole, require, in any case, cleaning-up and correcting so that the healthy development of the election process may continue.

Therefore, the amendments contained in the present Organic Act are intended to improve, technically, certain isolated pockets of the Spanish election system, which system, otherwise, is fully comparable to those of other representative democracies.

The objectives of this reform of the Representation of the Spanish People Organic Act are various but all have the task of conforming the legal reality to the changing social and political realities of the country. This task has the decided support of all parliamentary groups, as expressed by the approval of the measures at a full sitting of the Congress on 27th November 1990. The observations and suggestions made by the electoral authorities though the Central Electoral Commission, and the interpretation changes brought about by resolutions of the Constitutional Court, have also contributed greatly in this direction.

In conclusion, we can say that this legislative reform has two sets of objectives:

The first objective is to increase the powers of the electoral administration at its highest level —the Central Electoral Commission— by strengthening its organization and its functioning. During the election period —from the convocation of elections to one hundred days after the poll— the Presidents of the superior Commissions shall devote their work exclusively to election activities in order to deal with the increased work load of the election authorities. The reform also extends to the juridical guarantees of election, by introducing a two tier system of proceedings within the electoral administration and by allowing further access to the courts —the Supreme Court or the Higher Courts of Judicature— thus obtaining a unification of criteria on these matters.

The introduction of a singularly summary and abbreviated form of appeal to the Constitutional Court has been disregarded, so that in a more reasonable, yet short time, the resolutions of this Court, in matters so decisive for the democratic system as a whole as these are, may be duly adopted. The other technical reforms of the election system are directed towards improving the awareness of the citizens regarding their rights and duties in this context.



To this end, election procedures and documents are simplified, and a handbook of instructions introduced, to provide members of polling stations bureau with a better knowledge of election legislation. Lastly, in this first set of reforms, election expenses have been decidedly reduced, and the accountancy system for those taking part in elections has been changed so as to provide an easier and more comprehensive accountability of election expenses.

The second set of reforms is directed towards filling the gaps which have become apparent in our representative institutions during the five-year settling-down period in which the amended legislation has been in force. Series of amendments are introduced to make the general requirements for the convocation of elections more precise, to rationalize the election periods, to establish more clearly the true institutional nature of the election campaigns, as well as to establish the use of publicly-owned media in the election campaign. Furthermore, legal solutions are given to motions of censure in local councils, clarifying them, as well as making those motions more adequate to the standards set by sections 23 and 140 of the Constitution, and thus aiding to the greater efficiency of these councils.

Lastly, the incompatibility system for Members of the Congress, Senators and Members of the European Parliament is partly amended, so as to facilitate their full-time dedication to parliamentary functions according to the terms, and within the limits, of the provisions of the Constitution and of this Act.

### *Section one and only*

The sections listed below from the Representation of the Spanish People Organic Act 5/1985 (of 19/6), amended by Organic Act 1/1987 (of 2/4), are hereby written anew in the following terms:

1. Paragraph (b), subsection (1), section 9, shall read as follows:

'(b) Five Members from among the Professors of Law, Political Science, and Sociology, in active service, appointed through

a joint proposal of the political parties, federations, coalitions or groups of electors with representation at the Congress'.

2. Subsection (5), section 9, shall read as follows:

'The President of the Central Electoral Commission shall devote his work exclusively to matters of the Commission from the time an election is called until the winning Candidates are duly declared elected and, as the case may be, until the determinations of election petitions have been carried out, including the determination of appeals to the Constitutional Court arising from the electoral process, under subsection (2) section 114 of this Act. To this effect, the General Council of Judicature shall provide the relevant measures'.

3. The present subsection (5), section 9 becomes a new subsection No. (6) of the same section.

4. Paragraph (b), subsection (1), section 10, shall read as follows:

'(b) Two Members from among the Professors-Head of Department of Law, Political Science and Sociology or members of the legal profession of recognized prestige, residing in the province, shall be appointed by the Central Electoral Commission. The appointment of these Members shall be effected when the nominations have been delivered. To this end, the election agents for the candidates nominated in the district shall jointly propose the persons that should hold these offices. If such a proposal is not made before the beginning of the election campaign, the Central Electoral Commission shall proceed with their appointment'.

5. Subsection (3), section 10, shall read as follows:

'The Presidents of the Provincial Electoral Commissions shall devote their work exclusively to matters of their respective Electoral Commissions, from the time an election is called until the winning candidates are duly declared elected, and, as the case may be, until the determination of election petitions have been carried out, including appeals to the Constitutional Court under subsection (2) section 114 of this Act, which may have arisen from the electoral process in their corresponding constituencies. The time

referred to in subsection (2) section 15 of this Act shall be construed as having been extended where circumstances require it. To this effect, the General Council of Judicature shall provide the relevant measures'.

6. The present subsection (3), section 10, shall become a new subsection numbered as subsection (4) of the same section.

7. Paragraph (b), subsection (1), section 11, shall read as follows:

'(b) Two Members from among Law, Political Science and Sociology Graduates residing in the Court District. The appointment of these Members shall be effected by the Provincial Commission when the nominations have been delivered. To this end, the election agents for the tickets nominated in the corresponding election district shall jointly propose the persons that should hold these offices. If such a proposal is not made before the beginning of the election campaign, the Provincial Electoral Commission shall proceed with their appointment'.

8. Section 19 shall read as follows:

'(1) The Central Electoral Commission, besides the other matters expressly mentioned in this Act as belonging to its field of competence, shall equally be competent in the following cases:

(a) The direction and supervision of the Electoral Register Office's activities.

(b) The conveyance of compulsory instructions to the Provincial Electoral Commissions, and, as required, to the Commissions of the Autonomous Communities.

(c) The binding resolution of consultations submitted by the Provincial Commissions, and, as required, by the Commissions of the Autonomous Communities.

(d) The official revocation at any time, or at the request of interested parties, within the times mentioned in section 21 of this Act, of decisions taken by the Provincial Electoral Commissions, and, as required, by the Autonomous Communities Electoral Commissions, when the said decisions are contrary to the Central Electoral Commission's interpretation of current legislation.

(e) The consolidation of the interpretative criteria in the application of the electoral law by the Provincial Electoral Commissions, and, as required, by the Commissions of the Autonomous Communities.

(f) The approbation of the polling stations bureau constitutional minutes forms, as well as of the forms employed for the count record, the minutes of meetings, the general count records and the elected candidate records, submitted to the Central Commission by the State Administration or the Administrations of the Autonomous Communities. These forms shall be such that the instantaneous production of copies by means of self-copying documents or by any other similar means can be carried out.

(g) The resolution of complaints, claims or proceedings submitted to the Commission under this Act, or under any other provision granting the Commission competence in the matter.

(h) The exercise of disciplinary powers over all persons officially engaged in the conduct of elections.

(i) The correction of any breaches that may be produced in the course of the conduct of elections, provided they do not constitute an offence, and the imposition of fines up to the maximum amount set under the terms of this Act.

(j) The issuing of credentials to Members of the Congress, Senators, Councillors, Provincial Councillors and Island Councillors, whenever vacancies by decease, incapacity or resignation have to be filled, and when the life of Provincial and District Electoral Commission has finished.

(2) The Provincial and District Electoral Commissions, besides the other matters expressly mentioned in this Act as belonging to their field of competence, shall equally be competent, within their territorial boundaries, with regard to those matters under paragraphs (g), (h) and (i) of subsection (1) above. Their competence in the imposition of fines is limited to the maximum amount of one hundred thousand pesetas in the case of Provincial Commissions and fifty thousand pesetas in the case of District Commissions.

(3) Without prejudice to the higher criterion of the Central Electoral Commissions, the Provincial Electoral Commissions shall also be competent in the following cases:

(a) The conveyance of compulsory instructions to the District Electoral Commissions on any election matters.

(b) The binding resolution of consultations submitted by the District Electoral Commissions.

(c) The official revocation at any time, or at the request of interested parties, within the times envisaged in section 21 of this Act, of decisions taken by the District Electoral Commissions, where those decisions are contrary to the interpretation of the Provincial Electoral Commission.

(d) The consolidation of the interpretative criteria of the District Electoral Commissions on any election matters.

(4) The District Electoral Commissions shall guarantee the stocks of election aids, referred to in section 81 of this Act, for every polling stations bureau in the District.

(5) In the event of non payment of the fines imposed under this section, the corresponding Electoral Commission shall convey to the competent department of the Treasury a certificate of default so that the fine imposed may be exacted compulsorily.'

9. Subsections (2) and (3), section 27, shall read as follows:

'(2) The appointments of presiding officers and members of polling stations bureau shall be notified to the appointees during the three days following the day of the draw. The appointees shall, on receiving their notification also receive for the discharge of their duties, a handbook of instructions which has been supervised by the Central Electoral Commission and approved by the Cabinet or the Governments of Autonomous Communities.

(3) The appointees shall then have seven days to appeal before the District Electoral Commission against their appointment. Their non-acceptance should be for a reasonable cause, duly documented, which prevents the acceptance of their appointment. The Commissions shall adopt a resolution, against which there lies no further appeal, in the course of the following five days and, as required, shall notify the appointment to the first substitute. The fact of being ineligible under the provisions of this Act shall be considered reasonable cause for non-acceptance of the appointment.'

10. The present subsections (3) and (4), section 27, shall become, respectively, subsections (4) and (5) of the same section.

11. Subsection (3), section 31, shall read as follows:

'The Electoral Register shall be one and unique for all kind of elections, without prejudice to its possible extension for local government and European Parliament elections, in accordance with the provisions of sections 176 and 210 of this Organic Act.'

12. Subsections (3) and (4), section 38, shall read as follows:

'(3) In the event of the period of yearly revision of the electoral register coinciding with the period of correction of the register during and electoral process, as provided in section 39 below, the times referred to in subsection (2) above, shall be extended as may be provided by regulation, in such a way as to avoid, in any case, the simultaneous exhibition to the public of the provisional lists of the register, and the lists prepared for an electoral process.

(4) The provisions of this section do not prevent corrections or alterations in the register in compliance with judgments pronounced in appeals against decisions of the Electoral Register Office.'

13. The present subsection (4), section 38, shall become a new subsection, numbered as (5), of the same section.

14. Subsection (5), section 41, shall read as follows:

'Election agents may obtain, on the day of nomination of candidates, a copy of the register of the corresponding electoral district, arranged in polling stations bureau, and made up in such a way that it is apt for computerized treatment. Alternatively, election agents-general may obtain in the same way a copy of the current register covering the districts where their party, federation, or coalition, have nominated candidates. The District Electoral Commissions shall have a copy of the electoral register to be employed at the elections, that covers their respective districts.'

15. Section 42 shall read as follows:

'(1) In the cases of general elections to the Cortes Generales, or to the Legislative Assemblies of Autonomus Communities,

where the President of the Spanish Government, or the respective Presidents of the Autonomic Governments, make use of their prerogative of anticipating dissolution, expressly recognized by law, the convocation Decrees shall be published, on the day following their issuance, in the Official State Gazette or, as required, in the Official Gazette of the corresponding Autonomous Community. These Decrees shall come into force on the very day of their publication. The convocation Decrees shall specify the date of the elections, which shall be held between the fifty-fourth and the sixtieth day after the convocation.

(2) In the cases of general elections to the Cortes Generales, or to the Legislative Assemblies of Autonomous Communities, where the President of the Spanish Government, or the respective Presidents of the Autonomic Governments, do not make use of their prerogative of anticipating dissolution, expressly recognized by law, the convocation Decrees shall be issued on the twenty-fifth day prior to the corresponding Parliament or Assembly coming to an end, and are to be published the following day in the Official State Gazette or, as required, in the Official Gazette of the corresponding Autonomous Community. These Decrees shall come into force on the very day of publication and they shall specify the date of the election, which shall be held between the fifty fourth and the sixtieth day after convocation.

(3) In the cases of local government elections, or elections to the Legislative Assemblies of the Autonomous Communities where the Presidents of the Autonomic Governments do not have the prerogative of anticipating dissolution, expressly recognized by law, convocation Decrees shall be issued on a day between the fifty-fourth and the sixtieth day before the fourth Sunday in May of the corresponding year, and are to be published the following day in the Official State Gazette or, as required, in the corresponding Autonomous Community Official Gazette. These Decrees shall come into force on the very day of publication, and the elections shall be held on the fourth Sunday in May of the corresponding year. The life or term shall be for a period of four years and shall end, in every case, on the day before the following elections are held.'

16. In subsection (6), section 46, the following words shall be inserted at the end: 'nor be included on more than one ticket.'

17. In subsection (7), section 46 the words: 'or, in the case of coalitions, the denomination...' shall be changed to: 'in the case of coalitions or federations, may be stated'.

18. Subsection (1), section 50, shall read as follows:

'The authorities that have convoked elections by virtue of the power legally vested in them, may carry out, during the election period, an advertising campaign of an institutional character, designed to inform about and to promote, participation in the elections. This campaign shall not influence the electors voting intentions'

19. A new paragraph following the existing one, both unnumbered, shall be inserted in section 62, reading as follows:

'In the case of elections to the European Parliament, the allocation of advertising times shall be made on the basis of the total number of votes obtained by each party, federation or coalition in the district covered by the broadcasting range of the media or by their programmes.'

20. Subsections (1) and (3), section 64, shall read as follows:

'(1) The allocation of the free-of-charge times devoted to electoral advertising in each publicly owned medium and in the different programmes they may have, shall be made in accordance with the following rules:

(a) Ten minutes for the parties, federations and coalitions which did not enter or did not obtain any seats in the previous equivalent elections.

(b) Fifteen minutes for the parties, federations and coalitions which, having obtained seats in the previous equivalent elections, did not reach 5% of the total valid votes polled at a national level or, as the case may be, in the constituencies referred to in section 62.

(c) Thirty minutes for the parties, federations and coalitions which, having obtained seats in the previous equivalent elections, obtained between 5% and 2\*% of the total votes as referred to in paragraph (b) above.



(d) Forty five minutes for the parties, federations and coalitions which, having obtained seats in the previous equivalent elections, obtained at least 20% of the total votes as referred to in paragraph (b) above.

(3) Parties, associations, federations or coalitions that do not meet the quotas of tickets prescribed in subsection (2) above, are entitled, nevertheless, to fifteen minutes broadcasting in the general programmes of the national media, provided they have obtained, in the previous equivalent elections, 20% of the votes polled in the territory of an Autonomous Community. In this respect, the criteria to be followed shall be the same as those used for the broadcasting of the parties, federations and coalitions referred to in paragraph (d) subsection (1) of this section. In this case, the broadcasting shall be limited to the territory of the Community in question. This right is not to be added to that provided in subsection (2) above.'

21. A new subsection, numbered as (8) shall be inserted in section 69, reading as follows:

'In the event of any department of the Administration carrying out voting intention surveys during the electoral period, those political organizations putting up tickets in the district covered by the survey may request the results, and the request shall be granted within forty eight hours of the request being made.'

22. Subsection (1), section 83, shall read as follows:

'At eight thirty a.m. the presiding officer shall write the minutes constituting the polling stations bureau, signed by himself, the members and the polling agents, and shall deliver a copy of that document to the election agents, election agent proxies or polling agents for the tickets, who request it.'

23. Subsections (3) and (4), section 83, shall read as follows:

'(3) Should the presiding officer refuse or delay the delivery of the copy of the constitutional minutes to those entitled to receive it, the claimant or claimants shall write, in duplicate, the relevant protest and sign it. One copy of the protest shall be attached to the day's proceedings and the other copy shall be forward-

ed by the claimant or claimants to the competent Electoral Commission that is to carry out the general count, in accordance with the special provisions of this Act.

(4) The presiding officer is only obliged to hand over one copy of the constitutional minutes to each party, federation, coalition or group taking part in the elections.'

24. Subsection (1), section 84, shall read as follows:

'Once the constitutional minutes of the polling stations bureau are written, with the corresponding copies, polling shall start at nine a.m. and shall proceed, without interruption, until eight p.m. The presiding officer shall announce the commencement of polling with the words 'the poll commences.'

25. Subsections (1) and (2), section 85, shall read as follows:

'(1) An elector shall prove his identity by means of his national identity document, passport or driving licence, and the accompanying photograph, and to exercise the franchise shall be inscribed in the certified copies of the electoral register lists or on a specific registration certificate. The nationals of foreign countries, with franchise in local government elections and in elections to the European Parliament, shall prove their identity by means of a resident's card.

(2) The certified copies of the electoral register lists referred to in subsection (1) above shall only contain the names of citizens of voting age (that is, 18 years or over) on the day of the poll.'

26. In subsection (3), section 86, where it reads: 'by means of the electoral register lists, the elector's right to vote' shall read: 'by means of the electoral register lists or the corresponding certificate, the elector's right to vote'.

27. Subsection (4), section 86, shall read as follows:

'(4) The members, and the polling agents if they so wish, shall enter, each on their own numbered lists, the name and surnames of the voters in the order in which they cast their votes, stating the number assigned to them in the electoral register list or, as the case may be, the specific registration certificate presented. A numbered list shall exist for each of the Houses of the

Cortes Generales and, as required, for the Legislative Assemblies of Autonomous Communities, local councils or European Parliament, that are up for election. Every elector is entitled to examine the entry made of his name and surnames in the voters list that is made up for each ballot box at the electoral table.'

28. Subsection (5), section 96, shall read as follows:

'An envelope that does not contain a ballot paper shall be considered a valid blank vote and counted as such, and in the case of elections to the Senate, the same shall apply to unmarked ballot papers.'

29. Subsections (1) and (2), section 97, shall read as follows:

'(1) Once the count is completed, the total number of envelopes shall be checked against the total number of voters entered under subsection (4) of section 86 above.

(2) The presiding officer shall then as whether there is any protest to be made against the count, and, should there be none, or, having attended those made, he shall announce the results aloud, specifying the number of registered electors, the number of registration certificates received, the number of voters, the number of rejected ballot papers, the number of blank votes, and the number of votes obtained by each ticket.'

30. Section 98 shall read as follows:

'(1) The polling stations bureau shall at one make public the result by means of a count record which shall include the data referred to in subsection (2) of section 97 above, and shall affix it without delay on the outside of, or at the entrance to, the premises. A copy of this record shall be handed over to the respective election agents of the tickets who, being physically present, requested one, or, as the case may be, the polling agents, election agent proxies or candidates. No more than one copy of the count record shall be issued for each ticket.

(2) A copy of the count record shall also be issued to the person appointed by the Administration, with the sole object of as-

sisting the Government in their task of giving provisional information about the results of the elections.'

31. Section 99 shall read as follows:

'(1) Once all the proceedings mentioned in the above sections have been completed, the presiding officer, the members and the polling agents shall sign the minutes of the session, which shall include in detail, the number of electors allotted to the polling stations bureau as confirmed by the electoral register lists, —and the registration certificates— the number of electors who have cast their votes, the number of polling agents who, not being included in the polling stations bureau's lists, had cast their votes there, the number of rejected ballot papers, the number of blank ballot papers and the votes obtained by each ticket.

The challenges, claims and protests made by the election agents, members of the tickets (candidates), election agent proxies and polling agents as well as by electors, with regard to the poll and the count, shall be also summarily included, as well as the resolutions adopted by the polling stations bureau in this respect, along with the votes for and against them. Equally, any incident of the kind mentioned in section 94 shall be included in the minutes of the session.

(2) All the election agents of the tickets, members of the same (candidates) as well as the election agent proxies and the polling agents, are entitled to an on-the-spot free copy of the minutes of the session, and the presiding officer and members of the polling stations bureau shall comply with this obligation inexcusably.'

32. In subsection (2), section 100, a new paragraph (e), shall be inserted, as follows:

'(e) The registration certificates presented.'

33. Subsection (3), section 100, shall read as follows:

'The second and third envelopes shall each contain a copy of the constitutional minutes and of the minutes of the session.'

34. Subsection (4), section 101, shall read as follows:

'The second envelopes shall be filed in the corresponding Court of first instance or Magistrate's Court. These envelopes

may be required by the Electoral Commissions for the proceedings of the general count and by the competent Courts in cases of election petition proceedings.'

35. In subsection (1), section 103, the sentence that reads: 'The general count shall be carried out on the fifth day...' shall now read: 'The general count shall be carried out on the third day...'

36. In subsection (1), section 104, a new sentence shall be inserted at the end, as follows:

'The President shall write the minutes of the constitution of the Commission, and sign them, together with the Members and the Secretary.

The election agents and election agent proxies of the tickets, who are duly accredited, shall also sign the said minutes.'

37. Subsections (3) and (4), section 105, shall read as follows:

'(3) Should the corresponding envelope from any polling stations bureau be missing, or its contents incomplete, the third envelope referred to in section 102 above shall be used instead. Failing this, and without prejudice to the provisions of subsection (4) of section 101 above, a copy of the minutes of the session duly presented by an election agent or a proxy of his, shall be used. Should contradictory copies be presented, none of them shall be taken into account.

(4) Where there are double or different minutes or records from a polling stations bureau, or where the number of votes appearing in the record exceeds that of the electors of a polling stations bureau according to the electoral register lists and the registration certificates presented—with the exception of the votes cast by the polling agents—the Commission shall not include those votes in the general count, save that a material, factual or arithmetical error be detected, in which case the error shall be rectified and the votes included in the general count.'

38. Subsection (1), section 106, shall read as follows:

•The Commission cannot avoid any minutes, record or any vote in the course of the general count. The Commission's authority shall be limited to verifying without discussion the polling stations bureau counts, re-counts and sums of valid votes, according to their respective count records or copies of their minutes, except in the cases referred to in subsection (4) of section 105 above, where the Commission may exclusively rectify the mere material, factual or arithmetical errors detected in those documents.'

39. Subsection (2), section 107, shall read as follows:

'(2) The general count shall be completed not later than the sixth day after the elections.'

40. Subsections (1), (2), (3), (4) and (5), section 108, shall read as follows:

'(1) Once the general count is completed, the Electoral Commission shall issue, in triplicate, a general count record for the corresponding constituency. This record shall detail the number of electors in the polling stations bureau —as reflected in the electoral register lists and the registration certificates presented— the number of voters, the votes obtained by each ticket, the blank votes and the rejected ballot papers. When the session has finished, the minutes of the session, containing a detailed account of the general count proceedings, shall be written. The minutes of the session and the general count record shall be signed by the President, the Members, the Commission's Secretary and by the election agents-general and election agents-general proxies of the tickets, duly accredited.

(2) The election agents and election agent proxies of the tickets shall have one day at their disposal to make claims and protests, which shall refer exclusively to facts or developments included in the the minutes of the session of the polling stations bureau or in the minutes of the Electoral Commission's general count session.

(3) The Electoral Commission shall settle these claims and protests by written resolutions in the course of one day, immediately notifying the resolutions adopted to the election agents and

election agent proxies of the tickets. These resolutions may be appealed by the agents-general and election agents-general proxies of the tickets before the same Electoral Commission, during the following twenty four hours. The day following the lodging of the appeal, the Electoral Commission shall convey the proceedings of the appeal, with their own report, to the Central Electoral Commission. The resolution ordering the conveyance of the proceedings to the Central Electoral Commission shall be notified, one day after the actual conveyance, to the election agents of the tickets that took part in the elections in that constituency, who shall be summoned to appear before the Central Electoral Commission in the course of the following day. The Central Electoral Commission, after a hearing of both parties not exceeding two days, shall resolve the appeal in the course of the following day, conveying the resolution to the competent Electoral Commissions so that they may issue the writ of declaration of elected candidates.

(4) After the period of time referred to in subsection (3) above, and not having received claims or protests, or the same having been settled by the Central Electoral Commission, the competent Electoral Commissions shall proceed, in the course of the following day, to issue the writ of declaration of elected candidates, and to this effect, the votes for each ticket, plus the blank votes, shall be counted as valid votes.

(5) The writ of declaration shall be issued in triplicate and shall be subscribed to by the President and the Secretary of the corresponding Commission, and shall contain, expressly, the following information:

The numbers of electors in the wards; the number of voters; the number of votes obtained by each ticket; the number of blank votes; the number of rejected seats obtained by each ticket. A list with the names of the elected candidates shall also be included. Mention shall be made as well of the claims and protests made to the Electoral Commission and their corresponding resolution, and also of the appeals to the Central Electoral Commission, if any, and their corresponding resolutions.'

41. The present subsections (4), (5) and (6) of section 108, shall become, respectively, subsections (6), (7) and (8) of the same section.

42. Subsections (2) and (3), section 112, shall read as follows:

'(2) The Administration Appeals Division of the Supreme Court shall be the competent Court for the resolution of election proceedings arising from general elections and elections to the European Parliament. The Administration Appeals Division of the Higher Court of Judicature of the corresponding Autonomous Community shall be the competent Court for the resolution of proceedings arising from autonomic or local government elections in that Community.

(3) The election petition, the election proceedings, and a report from the competent Commission with facts considered relevant to the resolution given by the Commission shall be conveyed —on the day following their presentation— by the President of the Commission to the competent Court's Division. The resolution ordering the conveyance shall be notified immediately to the election agents of the tickets that took part in the elections in that constituency, who shall be summoned to appear before the Divisional Court within the following two days.'

43. The present subsections (3) and (4), section 112, shall become, respectively, subsections (4) and (5) of the same section.

44. Paragraph (d), subsection (2), section 113, shall read as follows:

'(d) Avoidance of elections held in one or more polling stations bureau which may have been affected by avoiding irregularities, and the need to hold new elections in that of those polling stations bureau or, where the petition refers to the chairman or mayor of a local government, to a new electoral process altogether. The time limit for holding the polls or the elections just mentioned above shall be of three month as from the day of the determination. Notwithstanding the avoidance of the poll in one or several polling stations bureau or wards, no new elections shall be necessary in the same, where the result does not alter the distribution of seats in that constituency.'

45. Subsection (3), section 113, shall be deleted.



46. Subsection (2), section 114, shall read as follows:

'No appeal lies from the decision of the Court on any question of law whether on appeal or otherwise, save for clarification of the determination, without prejudice to an appeal, on the grounds of unconstitutionality to the Constitutional Court, which shall be lodged within three days. The Constitutional Court shall resolve the appeal within the fifteen following days.'

47. Section 121, shall read as follows:

'(1) Every ticket shall have an election administrator responsible for income and expenses as well as for its general accounts. The tickets nominated by any party, federation or coalition within the same province shall have a common administrator.

(2) The accounts shall comply in every case with the general principles of the current General Accountancy Plan.'

48. Subsection (2), section 122, shall read as follows:

'The administrator-general is answerable for all the election income and expenditure of the party, federation or coalition and their tickets, as well as for the corresponding accounts, which shall include, at least, the detailed data referred to in subsection (2) section 121 above.'

49. Section 130, shall read as follows:

'Expenditure incurred by parties, federations, coalitions or groups taking part in the elections, from the day of convocation to that of the declaration of elected candidates, shall be considered election expenses, provided they fall into one of the following headings:

(a) The production of election envelopes and ballot papers.

(b) Propaganda and advertising, directly or indirectly, intending to promote the vote for their tickets, whatever the manner or media employed.

(c) The hiring of premises for the holding of election campaign functions.

(d) Remunerations or bonuses to temporarily employed personnel rendering their services to the tickets.

(e) Means of transportation and travelling expenses duly incurred by the candidates, the leaders of the parties, associations, federations or coalitions, and the personnel at the service of the ticket.

(f) Correspondence and posting.

(g) Interests on loans obtained for the election campaign, charged until the receipt of the corresponding subsidy.

(h) Whatever election expenses are necessary for the organization and running of offices and services required for the elections.'

50. Subsection (2), section 131, shall read as follows:

'In the event of two or more elections by direct universal suffrage coinciding, parties, federations, coalitions and groups of electors taking part in the same, may not incur supplementary election expenses exceeding by 25 % the maximum limits allowed for elections to the Cortes Generales.'

51. Subsection (4), section 133, shall read as follows:

'(4) Within the thirty days following the presentation to the Accounts Court of the accounts, under subsection (1) above, the State shall pay the election administrators 45% of the total amount of the subsidies which, following the criteria established by this Act, correspond to each party, etc., in accordance with the general results of the elections as published in the Official State Gazette. These payments on account shall be considered as advances on the subsidies, until the Accounts Court completes its auditorial tasks.'

52. The present subsections (4) and (5), section 133, shall become, respectively, subsections (5) and (6) of the same section.

53. In section 155 a new subsection, numbered (4), shall be inserted reading as follows:

'(4) Those Senators designated by the Autonomous Communities, whether they be or not, simultaneously, members of the Legislative Assemblies of these Communities:

(a) may only engage, as Senators, in those activities that are expressly authorized in the Constitution and in this Act, no matter the nature of the regulation that might correspond to them by virtue of their designation by the Autonomous Community.

(b) shall only receive the remuneration accruing to them as Senators, save that they expressly opt for the remuneration, should it be the case, deriving from their office as members of the Autonomous Community Legislative Assembly.'

54. Subsections (1) and (2), section 157, shall read as follows:

'(1) The offices of Member of the Congress and Senator shall be exercised as a full-time occupation in the terms prescribed by the Constitution and by the present Act.

(2) By virtue of the provisions referred to in subsection (1) immediately above, the offices of Member of the Congress and Senator shall be incompatible with the performance, either by themselves or through substitutes, of any other position, profession, or activity, whether public or private, on their own account or on behalf of others, which is paid by means of a salary, tariff duty, fees, or in any other way. In the event of their obtaining leave from a previous position to which they are entitled to go back, they shall be guaranteed the reservation of the position and posting previously enjoyed in accordance with the specific regulations that apply in each case. The system of full-time occupation and incompatibilities prescribed in this Act shall apply in all cases, and under no circumstance shall it be possible to opt for payments or remunerations corresponding to other incompatible positions or offices.'

55. The present subsections (2) and (3), section 157, shall become, respectively, subsections (3) and (4), of the same section.

56. Section 159, shall read as follows:

'(1) In accordance with the provisions of section 157, the offices of Members of the Congress and Senators are incompatible with the performance of private activities.

(2) In particular, the carrying out of the following activities are always incompatible:

(a) Management, defence, direction or consultation before any organizations or companies from the State, autonomy or local government public sectors, with regard to business that the said public sector bodies have to resolve, and which affect directly the carrying out of any public service or are directed to obtaining public securities or subsidies.

Private activities which are carried out by the interested parties in the exercise of a recognized right, as well as the obtention of subsidies or securities granted automatically by virtue of the provisions of an Act or Regulation of general application, are excepted.

(b) The activities of contractor or guarantor of works, services or supplies and, in general, activity in those contracts where payments are made with funds of organizations or companies from the State, autonomy or local government public sectors, or the performance of positions or offices that entail functions of management, representation or rendering of services in companies or bodies engaged in those activities.

(c) The discharge of positions or offices that entail management, representation, consultation or rendering of services in companies or bodies which are the concessionaires or administrators of monopolies.

(d) The rendering of services of consultation or of any other kind, under their own name or under a shared title, to organizations or companies from the State, autonomy or local government public sectors.

(e) Holdings or participations above 10% in companies or corporations contracting for works, services, supplies or, in general, for any other kind, which are paid with funds from organizations or bodies from the State, autonomy or local government public sectors, if the said holdings or participations were acquired wholly or partly after the day of their election as Member of the Congress or Senator, exception being made for holdings or participations acquired by inheritance.

(f) The offices of Chairman, Director, Administrator, Director general, Manager, or equivalent offices, as well as the rendering of services, in financial institutions, assurance and insurance companies or in any other kind of companies which have a financial aim and which appeal, publicly, for savings and credit.

(g) And any other activities which, by their nature or kind, are incompatible with the full-time occupation and the parliamentary duties specified in their respective Regulations.

(3) The activities, public and private, prohibited by subsection (2) of section 157 above, and by the present section, shall have the following exceptions:

(a) The mere administration of their own or their family's property. Nevertheless, where the interested party, his spouse or person linked to him in an analogous relationship, and their under-age descendents, jointly or separately, have a holding of more than 10% in any kind of business or professional activity of any kind that has agreements, contracts or concessions with or from organizations or bodies belonging to the State, autonomy or local government public sectors, then, these activities shall never be considered private activities and shall be incompatible.

(b) Literary, scientific, artistic or technical works or creations, as well as the publications deriving from the same, provided they do not fall into any of the cases referred to in subsection (2) of section 157 or in subsections (1) and (2) of the present section.

(c) Private activities, other than those referred to in subsection (2) of this section, which shall be authorized by the respective Committees of each House, after an express application has been submitted by the interested parties. The application, and the authorization granted, shall be registered in the Register of Interests to which section 160 of the present Act refers.'

57. Section 160, shall read as follows:

'(1) Members of the Congress and Senators, in accordance with the respective Regulations of their Houses, are obliged to make a written declaration of all the activities that may constitute a cause of incompatibility in accordance with the provisions of this Act. They are also obliged to make a written declaration of any other activities which are, or may be, gainful, as well as a written declaration of their own property, and they shall make the declarations when they become, or cease to be, parliamentarians, as well as when there is a change in their circumstances.

(2) These declarations of activities and property shall be made separately and in accordance with the forms that shall be

approved by the Governing Committees of both Houses at a joint meeting, and shall be registered in a Register of Interests, constituted in each one of the Houses under the direct dependence of their respective Presidents, for the purpose of the present section and for the purpose of Congress regulations. The declaration of activities shall include:

(a) Whatever activities that could constitute a cause of incompatibility under subsection (2) of section 159.

(b) Those activities that, in accordance with the Act, may be exercised compatibly.

(c) In general, any activities whatsoever which are, or may be, gainful.

The contents of the Register of Interests shall be available for public view, except where the contents refer to the respective private property of the parliamentarians. The Presidents of the Congress and of the Senate, except as provided in subsection, paragraph (c), subsection (3) of section 159, and in the other subsections of this section, shall be competent for the institution and resolution of all the proceedings arising from the Register of Interests and from the activities of Members and Senators, respectively.

(3) The cases of incompatibility shall be resolved at a full sitting of the Congress at the proposal of the corresponding Committee. The cause of the motion, or the basis of the same in the case of private activities, shall be the cases mentioned in subsection (2) of section 159. Should the Congress declare incompatibility, the parliamentarian can opt between his seat or the incompatible position, activity, gain or holding. In the event of the parliamentarian not exercising the option it shall be interpreted that the seat has been resigned.

(4) If, at a full sitting, the corresponding Congress declare the reiteration or continuity by a parliamentarian of the activities referred to in paragraph (a) subsection (2) of section 159 above, or of the rendering of services referred to in paragraph (d) of the said subsection (2) of section 159 above, the further carrying out of the said activities or services on the part of that parliamentarian, shall result in the resignation of the seat. The resignation shall

become effective in the manner determined by the Regulations of the corresponding Congress.'

58. Section 175, shall read as follows:

'(1) The State shall subsidize the expenses incurred in election activities, in accordance with the following rules:

(a) Two million pesetas for each seat obtained in the Congress or in the Senate.

(b) Seventy five pesetas per vote obtained by each ticket to the Congress, where one of its members, at least, obtained a seat as a Member of the Congress.

(c) Thirty pesetas per vote obtained by each candidate who obtained a seat in the Senate.

(2) In the case of elections to the Cortes Generales or any of its two Houses, the limit of election expenses shall be the result of multiplying by twenty five pesetas the number of inhabitants in the constituencies where the corresponding party, federation, coalition or group of electors have nominated tickets. The resulting amount may be increased by twenty millions pesetas per constituency where they have nominated tickets.

(3) Besides the subsidies referred to in the previous subsections of this section, the State shall subsidize the parties, federations, coalitions or groups, for the election expenses arising from the direct and personalized mailing to the electors of ballot papers and election envelopes or of election propaganda and advertising, in accordance with the following rules:

(a) Twenty pesetas shall be paid per elector for each one of the constituencies where lists of candidates have been nominated for the Congress and the Senate, provided that the tickets referred to have obtained a sufficient number of Members of the Congress or of Senators to be able to form a Parliamentary Group in either House. The obtention of a Parliamentary Group in both Houses shall not entitle tickets to receive this subsidy more than once.'

(b) The subsidy granted under the present subsection (3) shall not be included in the limit of expenses referred to in subsection (2) of this section, but only if the activities mentioned in

this subsection are proved to have been effectively carried out.

(4) The amounts referred to in the subsections above of this section shall be construed as being in constant pesetas. The actual amounts payable shall be fixed by an Order from the Ministry of Economy and Treasury within the five days following the convocation of elections.'

59. Subsection (1), section 176, shall read as follows:

'Without prejudice to the provisions of the first chapter of the first Part of this Act, foreign persons resident in Spain, whose respective countries allow the vote of Spanish nationals in similar elections, in the terms of a treaty or in the context of European Communities legislation, shall be entitled to vote as electors in local government elections.'

60. In subsection (1), section 181, the words: 'within the three following months', shall be replaced by the words: 'within the six following months'.

61. Section 193, shall read as follows:

'(1) The State shall subsidize the expenses incurred in performing election activities in accordance with the following rules:

(a) Twenty five thousand pesetas per councillor elected.

(b) Fifty pesetas for each one of the votes obtained by each ticket where one of the candidates, at least, has been elected as councillor.

(2) The limit of election expenses for local government elections shall be obtained by multiplying by 15 pesetas the number of inhabitants of the constituencies where each party, federation, coalition or group have nominated tickets. Those that take part in the elections of at least 50% of the local governments, may also spend twenty million pesetas more for each of the provinces in which they comply with the condition just mentioned.

(3) Besides the subsidies referred to in the above subsections, the State shall subsidize the parties, federations, coalitions and groups for election expenses arising from the direct and personalized mailing of election envelopes and ballot papers or of



election propaganda and advertising, in accordance with the following rules:

(a) In each one of the constituencies in which they have obtained representation in the corresponding councils, they shall be paid twenty pesetas per elector, provided the ticket in question had nominated lists of candidates in 50% of the councils of the corresponding province, with a population of more than 10,000 inhabitants, and had obtained, at least, representation in 50% of the said councils.

(b) The resultant subsidy shall not be included in the limit prescribed in subsection (2) of this section, provided always that the activities referred to in this subsection have been effectively carried out and duly proved.

(4) The amounts referred to in the previous subsections are to be construed as being expressed in constant pesetas. The actual amounts to be paid shall be fixed by an Order from the Ministry of Economy and Treasury within the five days after the convocation of the elections.'

62. In subsection (1), section 194, the following words shall be inserted at the end: 'as provided in subsection (3), section 42, of this Organic Act.'

63. Section 197, shall read as follows:

'(1) A mayor may be dismissed from office by means of a censure motion which has been approved by an absolute majority of all the councillors.

(2) The motion shall be subscribed, by at least, an absolute majority of the councillors, and shall include the name of the candidate proposed as the new mayor, who shall be declared elected if the motion succeeds. The motion shall be discussed and voted upon within fifteen days following its presentation, at a full meeting of the council convened to that effect. No councillor may, during his term of office, subscribe more than one censure motion.

(3) For the purpose of the provisions of this section, all councillors may be candidates.'

64. In subsection (2), section 201, the following words shall be inserted at the end: 'and in accordance with the provisions of subsection (3), section 42, of this Organic Act.'

65. Subsection (6), section 201, shall read as follows:

'(6) The delivery of nomination papers for the tickets, the voting system, and the assignment of seats by proportional representation, shall all be carried out in accordance with the provisions for the election of local government councillors.'

66. A new subsection, numbered (7), shall be inserted in section 201, reading as follows:

'(7) The chairman of an island corporation may be dismissed from office by means of a censure motion, which shall be carried out in accordance with the provisions of section 197. Any island councillor heading the respective ticket list of the parties, federations, coalitions or groups of electors in the corresponding island constituency, may be a candidate for chairman of the corporation.'

67. The present subsection (7), section 201, shall become subsection (8) of the same section.

68. Two new subsections, numbered (9) and (10), shall be inserted in section 201, reading as follows:

'(9) The State shall subsidize the election expenses incurred in the elections to the island corporations in accordance with the following rules:

(a) One hundred and fifty thousand pesetas per island councillor elected.

(b) Sixty pesetas for each vote obtained by every ticket, one or whose candidates, at least, has been elected island councillor.

(10) The limit of expenses incurred in island corporation elections shall be the result of multiplying by 15 pesetas the number of inhabitants of each one of the islands where each party, federation, coalition or group has put up ticket lists.'

69. Section 212, shall read as follows:

'(1) The office of Member of the European Parliament shall be exercised as a full-time occupation, on the same terms as those applying to Members of the Congress and Senators in the present Act.

(2) By virtue of the provisions of subsection (1) above, sections 157 and 158 of this Act shall apply to Members of the European Parliament, who shall not be able to receive any remuneration paid out of the State, autonomy or local government budgets, save that corresponding to them in virtue of their office.

(3) Members of the European Parliament shall not be able to belong to the commissions or management committees of organizations, bodies or companies with a direct or indirect public majority holding.'

70. Section 213, shall read as follows:

'Members of the European Parliament shall only be able to exercise those private activities referred to in paragraphs (a) and (b), subsection (3), section 159 of the present Act, besides those activities not included in subsection (2) of the said section 159.'

71. Subsections (1) and (2), section 227, shall read as follows:

'(1) The State shall subsidize the expenses arising from election activities in accordance with the following rules:

(a) Three million pesetas per seat obtained.

(b) One hundred pesetas for each of the votes obtained by the ticket, where one of its members, at least, had obtained a seat as Member.

(2) The limit of election expenses, in the case of elections to the European Parliament, shall be the result of multiplying by 25 pesetas the number of inhabitants of the corresponding election wards where tickets have been put up.'

72. The reference in point 2, first Additional Provision, to subsections (1) and (6), section 108, shall be replaced by a reference to subsections (2) and (8) of the said section 108.

## TRANSITIONAL PROVISIONS

### *First*

1. The elections of members to the Legislative Assemblies of the Autonomous Communities, and of local government councillors, referred to in subsection (3), section 42, of this Organic Act, and which are to be held in 1991, shall be governed by the following rules:

(a) The elections shall be held on Sunday, 26th May 1991.

(b) For all legal purposes, the term of office of the present members of the Legislative Assemblies of the Autonomous Communities, and local government councillors, referred to in this provision, shall end on 10th June 1991.

(c) Otherwise, the corresponding prescriptions of this Organic Act, its consequential provisions, or the respective autonomic laws, as the case may be, shall apply.

(2) Autonomous Communities legislation may not amend nor replace the provisions of this Transitional Provision.

### *Second*

The amendments introduced by the present Organic Act in subsection (4), section 155, and sections 157, 159, 160, 212 and 213 of the Representation of the Spanish People Organic Act, shall apply to the parliamentary terms of office resulting from the first elections held after the coming into force of this Organic Act.

### *Third*

The provisions of subsection (1), section 176 of Organic Act 5/1985, covering foreign nationals residing in Spain, shall only apply as from the first local government elections held after 1992, in accordance with the present Organic Act.

## LAST PROVISION

Any provisions of equal or inferior rank contrary to the provisions of the present Organic Act, are hereby repealed, as from the coming into force of this Act on the day following its publication in the 'Official State Gazette'.

Therefore,

I order all Spanish nationals, private individuals and authorities, to keep and make keep this Organic Act.

Madrid, 13th March, 1991.

JUAN CARLOS R.

The President of the Government,  
FELIPE GONZALEZ MARQUEZ



## **SCHEDULE II**

**Preamble to Organic Act 1/1987 (of 2/4), amending The Representation of the Spanish People Organic Act 5/1985 (of 19/6), regulating elections to the European Parliament**

### **PREAMBLE**

#### **I**

The Accession of our country to the European Communities on 1st. January 1986 represented a break with the international isolation that had been the dominant Spanish policy during centuries, as well as a landmark in the process begun by our Constitution of 1978 to modernize, and bring democracy to, our country.

At the same time, we joined one of the most prominent European Institutions, the European Assembly or Parliament, where all the Member States are represented by parliamentarians elected in every one of these States by direct universal suffrage.

Up to the present time, the Spanish representatives in the European Parliament have been designated by the Cortes Generales, as a temporary measure, their number being directly proportional to the strength of the different political groups in the said Parliament.

This temporary situation, however, has to come to an end in a very short time, under the provisions of Article 28.1 of the Treaty of Accession. Article 28.1 prescribes the need for the election, by direct universal suffrage, of sixty representatives of the Spanish

people to the European Parliament, within two years of accession to the E.E.C.

To this end, therefore, the Cortes Generales, has to approve an Act regulating the election system and procedures so that these conform not only to the Constitution but also to the Community legislation on these matters.

## II

In the first place, it is pertinent to point out here that the provisions regulating elections to the European Parliament have to be enacted as an Organic Act, forming part of the Representation of the Spanish People Organic Act 5/1985 (of 19/6), and constituting a whole set of additions to, and amendments, of, the latter.

In fact, these matters form part of the Representation of the Spanish People legislation, as defined by subsection (1), section 81 of the Spanish Constitution.

The election rules for elections to the European Parliament are, therefore, a formal adaptation of the Representation of the Spanish People Organic Act through the addition of one Part containing the specific provisions regulating this kind of election and the amendment, where strictly necessary, of some of the common provisions of that Act.

In this context, the first legislative policy decision has been precisely to introduce the minimum and indispensable legislation necessary for adapting the Representation of the Spanish People Organic Act to this kind of elections. While respecting the constitutional principles and Community legislation on these matters, the said legislation conforms to the principles and system of the Representation of the Spanish People Act, as far as organization and procedural aspects are concerned, and also, as far as possible, to the great political guidelines of the electoral system.

This amendment is not only a question of respecting and completing the vocation of 'Electoral Code' clearly perceivable in the Representation of the Spanish People Organic Act, but also—and more important—a question of guaranteeing the correct development of constitutional principles. This unified approach to the



franchise and the right to be elected, is a further guarantee as to the better understanding and exercise of these rights on the part of the majority of the citizens.

### III

The Act is structurally divided into two main parts:

— The first part consists of a body of amendments or precise additions to different sections of the Preliminary and of the First Parts of the Representation of the Spanish People Organic Act, regarding a whole field of matters that includes aspects such as the sphere of application and the order of counting after the poll when two or more elections are held simultaneously.

— The second part consists of the addition of a new Part, number VI, containing special provisions for elections to the European Parliament. This Part regulates—following the same sequence as the other Parts of the Act— matters such as eligibility, incompatibility, the electoral system, the convocation of elections, and a series of provisions regarding election procedure.

### IV

The aim of this Act is to complete the development of the institutional framework of the franchise. And do so in conformity with the same constitutional principles and the same legislative policy which inspired the writing of the Representation of the Spanish People Organic Act.

The correct functioning of the measures provided for in this Act has already become apparent in other kind of elections held in our country. And this correct functioning is the best guarantee for Spanish citizens that the expectations aroused in them by the truly historical event of voting in elections to the European Parliament—an Assembly that represents the ideals of a Europe politically and economically united— will be fulfilled.



### **SCHEDULE III**

#### **Organic Act 6/1992 (of 2/11), amending the Representation of the Spanish People Organic Act 5/1985 (of 19/6)**

#### **JUAN CARLOS I, KING OF SPAIN**

To all those who see and understand this text,

Let it be known: that the Cortes Generales have approved and I give My assent to the following Organic Act:

#### **EXPOUNDING OF MOTIVES**

One of the defining features of democracy is the existence of universal, free, equal, direct and secret suffrage. The full recognition of the right to the franchise gives rise to the need for mechanisms by which electors, who cannot vote in person at the voting places allotted to them, may do so by post.

The accumulated experience of the various kinds of elections held in Spain since the establishment of democracy shows the need for amendments to sections 72 and 73 of the Representation of the Spanish People Organic Act 5/1985, of 19th June, in order to reinforce the guarantees of the personality and secrecy of the franchise and the full effectiveness of the right to vote by post.

Furthermore, the inclusion of a new penal offence in subsection (1), section 141, of the 1985 Act is deemed a necessary step

for the full reinforcement of the above mentioned guarantees.

In effect, section 72 shortens the time limit of the period during which an elector may submit an application to vote by post, from the fifth to the tenth day before the poll, and a time limit is imposed on the Post Office for the forwarding of the applications received from electors to the corresponding Electoral Register Office. Section 72 also substantially changes the procedure for voting in those cases in which illness or physical incapacity prevent the elector from making the application in person. The new procedure requires that the alleged illness or physical incapacity be documented by means of an official free-of-charge medical certificate and that—in conformity with the Central Electoral Commission's Instruction of 10th February 1992—the notarial or consular document appointing another person to carry out the application procedure be individually issued.

Finally, the modified text specifically refers to the fact that no person can represent more than one elector.

As for section 73, a time limit is fixed for the forwarding by the corresponding Electoral Register Office to the electors of the voting documents—certificate of registration, ballot papers, etc. Also, an important guarantee as to the personality of the suffrage is introduced. This guarantee requires that the elector sign the acknowledgment of receipt of the voting documents. In the event of the elector not being at home at the time of the arrival of the voting documents, the elector, or the person duly appointed by him/her, shall collect the documents from the corresponding Post Office. Furthermore, section 73 provides that the voting envelopes received by the Post Office after 8 p.m. on polling day be forwarded by the corresponding Post Office directly to the Area Electoral Commission.

Finally, the reference to a new penal offence where private individuals who wilfully contravene the prescribed procedure for the vote by post, completes the measures adopted in this Act to guarantee the proper functioning of the vote by post. Previous electoral legislation referred the said offence only to civil servants.

### *One and only section*

Sections 72, 73 and 141 of the Representation of the Spanish People Organic Act 5/1985, of 19th June, amended by Organic Act 8/1991, of the 13th March, shall read as follows:

#### 1. Section 72

Electors expecting to be absent from their place of residence where they are entitled to exercise their franchise, or who cannot vote in person on the day of the poll, may vote by post, provided they have submitted an application to do so to the Provincial Delegation of the Electoral Register Office with the following requirements:

(a) The elector shall ask the corresponding Delegation for a certificate of registration in the register. This request may be made in any Post Office from the day of convocation of the elections to the tenth day before polling day.

(b) The request shall be made in person. The post Office official entrusted with the receipt shall require the elector to show his national identity document and shall check that the signatures coincide. In no case shall a photostatic copy of the national identity document be admissible.

(c) In the case of illness or physical incapacity preventing the request of the application from being made personally, the application may be made on behalf of the elector by another person appointed by means of a notarial or consular document which shall be individually issued for each elector and which cannot include several electors. One person cannot represent in this matter more than one elector. The Electoral Commission shall make sure that each case meets the requirements established in this paragraph. Finally, the alleged illness or physical incapacity mentioned above shall be documented by means of a free-of-charge and official medical certificate.

(d) The Post Office shall send the documentation handed over to them to the corresponding Electoral Register Office within the following three days.

## 2. Section 73

(1) On reception of the application referred to in section 72 above, the Provincial Delegation shall check the registration and enter the corresponding note on the register, so that, on polling day no vote is cast in person, and then shall issue the certificate requested.

(2) The Electoral Register Office shall forward the ballot papers and election envelopes, together with the certificate referred to in subsection (1), above, and an envelope addressed to the polling stations bureau allotted to the elector for voting. These documents shall be sent by registered mail and to the address given by the elector, or, failing this, to the address appearing in the register.

An explanatory note shall be enclosed with the foregoing documents.

The forwarding of the above documents shall be carried out as from the thirty-fourth day following the convocation and before the sixth day previous to polling day.

A document acknowledging the reception of the said documents shall be signed personally by the interested party after producing proof of his identity. In the event of the elector not being at his place of residence at the time of delivery of the documents, he shall be notified to go in person or send the representative referred to in paragraph (c) of section 72 above, to the corresponding Post Office, where, after producing proof of his identity, he may receive the documents for postal voting. The contents of the delivery shall be expressly mentioned in the Post Office notice sent to the elector.

(3) Once the elector has chosen or, as required, filled in the ballot paper he shall introduce it into the voting envelope which he shall then close. Should there be more than one election he shall proceed in the same way for each election. Then, the voting envelope or envelopes and the certificate shall be introduced into the envelope addressed to the polling stations bureau and the elector shall proceed to send it by registered post, at the latest before the third day preceding polling day. This envelope shall be sent post free.

(4) The Post Office shall keep until polling day all the correspondence addressed to the polling stations bureau and shall deliver to the said polling stations bureau all their mail at nine a.m. on polling day. The Post Office shall continue the deliveries to the polling stations bureau of mail received during the day but no later than eight p.m. The Post Office shall keep a record of all documents received, which shall be at the disposal of the Electoral Commissions. Envelopes received after eight p.m. on polling day shall be forwarded to the District Electoral Commission.

### 3. Section 141

(1) The private individual who wilfully contravenes the prescribed procedure for the vote by post shall be punished with imprisonment of between one month and one day and six months, and a fine of between 30,000 and 300,000 pesetas.

4. The one and only paragraph of section 141 shall become paragraph 2.

## ONE AND ONLY LAST PROVISION

The present Organic Act shall come into force on the day following its publication in the 'Official State Gazette'.

Therefore,

I order all Spanish nationals, private individuals and authorities, to keep and make keep this Organic Act.

Madrid, 2nd November 1992.

JUAN CARLOS R.

The President of the Government,  
FELIPE GONZALEZ MARQUEZ





## **SCHEDULE IV**

**Organic Act 13/1994 (of 30/3), amending the Representation of  
the Spanish People Organic Act 5/1985 (of 19/6)**

**JUAN CARLOS I, KING OF SPAIN**

To all those who see and understand this text,

Let it be known: that the Cortes Generales have approved and  
I give My assent to the following Organic Act:

### **PREAMBLE**

The experience acquired in the successive election processes that have taken place in Spain since the approval of the Representation of the Spanish People Organic Act 5/1985 (of 19/6) has made abundantly clear the advisability of reducing election expenses and of tightening, at the same time, the controls to be exercised over these expenses.

On the other hand, the coming into force of the European Union Treaty on 1st. November 1993, makes the adaptation of the electoral legislation to the provisions of article 8.B.2, of the said Treaty, a necessity.

Thus, the present Act has been approved in response to the need to achieve the two objectives set out above. A series of measures aimed, directly or indirectly, at reducing the cost of election campaigns has been introduced. A reduction of 20% in the upper

limit of the election expenses of parties and other political groups in each election, has been established and the scheme of official subsidies applicable to general elections has been amended.

The shortening of the duration of the election campaign should have some effect in this respect, as should the carrying out of the institutional advertising campaign through free-of-charge spots in publicly-owned media, and the prohibition of displaying advertising boards and flags in places other than those provided free-of-charge by the local authorities to this effect. As well as the above, other measures established by this Act, such as the lower ceiling of expenses on outdoor advertising and on advertising in the press and in privately-owned radio broadcasting stations, should be noted.

The provisions of subsection (2), section 127 and subsection (4) section 133, also contribute to further reduce election expenses, since the costs of financing have, ultimately, an important repercussion on the said election expenses.

The explicit definition of the Central and Provincial Electoral Commissions' spheres of competence during the period running from the convocation to one hundred days after the elections, should allow the said Commissions to carry out their auditorial functions with regard to election financing and expenses in a more efficient way.

The Decision 93/81 EURATOM, ESCS, EEC, adopted by the Council on 1st. February 1993, in accordance with the European Council's conclusions at Edinburgh in December 1992, has amended the Act governing elections to the European Parliament by direct universal suffrage, introducing a new distribution of seats among Member States. By virtue of this Decision, the number of Members to be elected in Spain shall be 64 instead of 60.

Article 8.B.2, incorporated by the European Union Treaty into the Treaty of Rome, prescribes that every Union citizen who resides in a Member State of which he is not a national, shall have the right to be an elector and be eligible in elections to the European Parliament in the Member State in which he resides, in the same conditions as the nationals of that State. This article has been further developed by the Council's Directive 93/109/EC, of 6th December 1993, which prescribes the manner of exercising

the right to be an elector and the right to be eligible in elections to the European Parliament of Union citizens residing in a Member State of which they are not nationals.

The amendments to the Representation of the Spanish People Organic Act 5/1985 (of 19/6) recognizing the right to be an elector and to be eligible in elections to the European Parliament and the amendments affecting the number of Members to be elected in Spain have the sole purpose of bringing the said Act into line with the provisions of the Community mentioned above and reflect the commitments undertaken by Spain in the ratification of the European Union Treaty.

*First section.—Duration of the election campaign*

The election campaign shall last fifteen days. Therefore, the sections referred to below of the Representation of the Spanish People Organic Act 5/1985 (of 19/6) shall read as follows:

1. The last sentence of subsection (1), section 42, shall read as follows:

'1. (...) the convocation Decrees shall specify the date of the elections, which shall be held on the fifty-fourth day after the convocation.'

2. The last sentence of subsection (2), section 42, shall read as follows:

'2. (...) these Decrees and they shall specify the date of the election, which shall be held on the fifty-fourth day after the convocation.'

3. The corresponding sentence of subsection (3), section 42,, shall read as follows:

'3. (...) convocation Decrees shall be issued on the fifty-fifth day before the fourth Sunday in May of the corresponding year.'

4. Subsection (2), section 51, shall read as follows:

'2. Its duration shall be fifteen days.'

### *Second section.—The institutional campaign*

Subsection (1), section 50, of the Representation of the Spanish People Organic Act 5/1985 (of 19/6) shall read as follows:

—1. The authorities that have convoked elections by virtue of the power legally vested in them, may carry out, during the election period, an advertising campaign of an institutional character designed to inform the citizens about the date of the poll, the procedure for voting and the requirements and procedure of the vote by post, without influencing, in any case, the voting intentions of the electors. This institutional advertising, sufficient to meet the end of this campaign, shall be carried out in the free-of-charge publicity spots provided by the publicly-owned media in the territory corresponding to the elections in question.

### *Third section.—Maximum election expenses*

The sections referred to below, of the Representation of the Spanish People Organic Act 5/1985 (of 19/6), shall read as follows:

1. Subsection (2), section 175 shall read:

'In the case of elections to the Cortes Generales or to any of its two Houses, the limit of election expenses shall be the result of multiplying by 40 pesetas the number of inhabitants in the constituencies where the corresponding party, federation, coalition or group of electors have nominated tickets.'

2. Subsection (2), section 193, shall read as follows:

'The limit of election expenses for local government elections shall be obtained by multiplying by 12 pesetas the number of inhabitants in the constituencies where each party, federation, coalition or group have nominated tickets. Those that take part in the elections of at least 50% of the local governments of a province, may also spend 16 million pesetas more for each of the provinces in which they comply with the condition just mentioned.'

3. Subsection (2), section 227, shall read as follows:

'The election expenses limit, in the case of elections to the Eu-

ropean Parliament, shall be the result of multiplying by 20 pesetas the number of inhabitants of the corresponding elections wards where the carrying out of the distribution of ballot papers has been requested.'

#### *Fourth section.—Street advertising*

The sections referred to below of the Representation of the Spanish People Organic Act 5/1985 (of 19/6), shall read as follows:

1. A new subsection No. (3) shall be inserted in section 54, as follows:

'3. Local councils shall provide official premises and public places, free-of-charge, for the holding of election campaign functions.'

2. Section 55 shall read as follows:

'Section 55.

1. Local councils shall be under the obligation to keep special places clear for the free posting of bills or advertising boards and, as the case may be, for the hanging of flags from lamp-posts. Propaganda displays by means of advertising boards and flags shall be exclusively placed in the places provided free-of-charge by the local councils.

2. Apart from the free places mentioned above, parties, coalitions, federations and tickets may only display posters and other kind of election propaganda materials in authorized commercial spaces.

3. The election expenses of the tickets on this type of advertising cannot exceed 25% of the expense limits prescribed in subsection (2), section 175, subsection (2), section 193 and subsection 2, section 227, in accordance with the election process in question.'

3. Paragraphs (1) and (2), section 56, shall read as follows:

'1. For the purposes of the provisions in section 55, above, local councils shall notify to the corresponding District Electoral

Commission, the locations available for the free-of-charge display of posters, and, as the case may be, of advertising boards and flags, within seven days following the convocation.

2. The corresponding District Electoral Commission shall distribute the above mentioned locations and places, as follows: they shall take into account the total number of votes obtained by each party, federation or coalition in the previous equivalent elections in that constituency, and shall assign the said locations and spaces in strict order of choice of the parties, federations or coalitions with the greater number of votes in that constituency in the last equivalent elections.

In the case of elections to the European Parliament, this distribution shall be carried out by taking into account the total number of votes obtained by each party, federation or coalition in the previous equivalent elections in the territory under the corresponding District Electoral Commission, and by assigning the locations and spaces according to the choices of the parties, federations or coalitions with the greater number of votes, in the said district, and in the previous equivalent elections.'

#### *Fifth section.—Media advertising*

Section 58, shall read as follows:

'Section 58.

1. Tickets shall be entitled to place advertisements in the press, and advertising spots in privately-owned radio stations

The expenditure on this kind of advertising cannot exceed 20% of the expense limits applying to the parties, coalitions of federations and tickets under subsection (2), section 175, subsection (2), section 193 and subsection (2), section 227, according to the election process in question.

2. Election advertising rates shall not be higher than those applying to commercial advertising. No discrimination shall be made by the media against the tickets with regards to inclusion, rates and placing of these advertisements. The advertisements shall state their true nature as such.'

#### *Sixth section.—Payment of subsidies*

1. Subsection (2), section 127 is hereby amended, and shall read as follows:

'2. The State shall grant advances on the above mentioned subsidies to the parties, federations and coalitions that have obtained seats in the last election to the Cortes Generales, to the European Parliament or, as the case may be, to the local governments. The amounts advanced shall not exceed 30% of the subsidy received in the previous equivalent elections. Neither shall the amounts advanced exceed 30% of the subsidy resulting from the application of the provisions under subsection (3) section 175 and subsection (3) section 193 of this Act, according to the election process in question.'

2. Subsection (4), section 133 is hereby amended, and shall read as follows:

'4. Within the thirty days following the presentation to the Accounts Court of the accounts, under subsection (1) above, the State shall pay the election administrators 90% of the total amount of the subsidies which, following the criteria established by this Act, correspond to each party, etc., in accordance with the general results of the elections as published in the Official State Gazette. These payments on account shall be considered as advances on the subsidies, until the Accounts Court completes its auditorial tasks. The advances referred to in subsection (2), section 127, of this Act, shall be correspondingly deducted from these payments. In order to receive the payments of the advances referred to in this subsection, the parties, coalitions and federations shall hand over a bank security amounting to 10% of the subsidy received.'

#### *Seventh section.—Election expense control*

Sections 19 and 132 of the Representation of the Spanish People Organic Act 5/1985 (of 19/6) are hereby amended, and shall read as follows:

1. A new paragraph (h) shall be inserted in subsection (1), section 19, reading as follows:

'(h) To ensure the compliance with the provisions relating to accounts and to election expenses, on the part of the tickets, during the period falling between the convocation and the hundredth day after the elections.'

2. The present paragraphs (h), (i) and (j) of subsection (1), section 19, shall become, respectively, (i), (j) and (k).

3. Subsections (1), (2) and (3), section 132, are hereby amended, and shall read as follows:

'1. As from the day of convocation of elections and until the hundredth day after the poll, the Central Electoral Commission and the Provincial Commissions shall procure compliance with the rules established under the above sections of this chapter. To this effect, the Central Electoral Commission may require the co-operation of the Accounts Court.

2. The Central Electoral Commission and the Provincial Electoral Commissions may, at any moment, require from Banks and Savings Banks the balances of election accounts, the number and identity of those who have paid money in, and any other information they deem necessary to carry out their auditorial functions.

3. The above Commissions may also require election administrators to provide the accountancy information that they deem necessary, and shall resolve, in writing, the consultations made to the Commissions by the administrators.'

*Eighth section.—The franchise in elections to the European Parliament*

1. The heading of chapter I, Part VI of the Representation of the Spanish People Organic Act 5/1985 (of 19/6) shall read as follows:

'Franchise.'

2. Section 210 of the above mentioned Organic Act, shall read as follows:

'Section 210.

1. Without prejudice to the provisions of chapter I, Part I of this Act, all those persons residing in Spain who have not become



Spanish nationals shall have the franchise for elections to the European Parliament, provided that:

(a) They are citizens of the European Union, according to paragraph 2, subsection 1, Article 8 of the European Community Constitutive Treaty.

(b) They meet the requirements prescribed in the present Act for Spanish nationals and have the franchise in the Member State of origin.

2. No person may vote more than once in the same elections.

3. To exercise his franchise in Spain, a non-Spanish national, citizen of the European Union, shall have previously requested permission to do so.'

Ninth section.—The right to eligibility in elections to the European Parliament

1. A new chapter, numbered II, in Part VI of the Representation of the Spanish People Organic Act 5/1985 (of 19/6) shall be inserted under the following heading: 'The right to eligibility.' The present chapters II, III, IV, V and VI shall become chapters III, IV, V, VI and VII, respectively, of Part VI of the above mentioned Organic Act.

2. In chapter II, Part VI of the said Organic Act, a new section, numbered 210 (bis) shall be inserted, reading as follows:

'Section 210 (bis).

1. Without prejudice to the provisions of chapter I, Part I of this Act, all those persons residing in Spain who have not become Spanish nationals shall have the right to be elected to the European Parliament, provided that:

(a) They are citizens of the European Union, according to paragraph 2, subsection 1, article 8, of the European Community Constitutive Treaty.

(b) They meet the eligibility requirements prescribed in the present Act for Spanish nationals and have the right to be eligible in the Member State of origin.

(2) Those persons referred to in subsections (1) and (2), section 154, of the present Act, shall be ineligible. Notwithstanding the provisions of subsection (1), section 154, the same shall only apply to European Union citizens entitled to be eligible, where the exercise of the functions or positions to which the said subsection (1) refers, constitute a cause for ineligibility in the Member State of their origin.'

*Tenth section.—Number of Members to be elected in Spain to the European Parliament*

1. Section 215 of the Representation of the Spanish People Organic Act 5/1985 (of 19/6), shall read as follows:

'Section 215.

64 Members to the European Parliament shall be elected in Spain.'

2. In subsection (2), section 220 of the above mentioned Organic Act, the words: 'up to a maximum of 60 candidates and substitutes', shall now read: 'up to a maximum of 64 candidates and substitutes.'

*Eleventh section.—Delivery of nomination papers and nomination of candidates for election to the European Parliament by other citizens of the European Union*

A new section, numbered 220 (bis) shall be inserted in the Representation of the Spanish People Organic Act 5/1985 (of 19/6), reading as follows:

'Section 220 (bis).

1. European Union citizens who are eligible in accordance with section 210 (bis) 1, shall present, when the nomination papers of their tickets are delivered —along with the necessary documents to prove that they meet the requirements prescribed by Spanish legislation— a formal declaration that shall expressly state:

(a) Their nationality and their domicile in Spain.

(b) That they are not, simultaneously, candidates to the European Parliament for any other Member State.

(c) As required, their last registration in the register of electors, of the local government district, or constituency, in the Member State of origin.

(2). Furthermore, they shall present a certificate issued by the competent administrative authorities of the Member State of origin, to the effect that the right to be eligible has not been taken away from them.

The Central Electoral Commission may also require the said citizens to show a valid identity document, and to state the date on which they became nationals of a Member State.

(3) Once the statement of nominated candidates has been issued, the Central Electoral Commission shall convey to the other Member States the information relating to their respective nationals who have been included as candidates in the above mentioned tickets.'

#### *Twelfth section.—Subsides for the mailing of election propaganda*

Subsection (3), section 227 of the Representation of the Spanish People Organic Act 5/1985 (of 19/6), amended by Organic Act 1/1987 (of 2/4), shall read as expressed below. The present subsection (3) shall become subsection (4) of the same section:

'3. Besides the subsidies referred to in the above subsections of this section, the State shall subsidize the election expenses of the parties, federations, coalitions or groups, caused by the direct and personalized mailing to electors, in at least one Autonomous Community, of ballot papers or election propaganda or advertising, in accordance with the following rules:

(a) 16 pesetas shall be paid per elector, provided that the ticket had obtained at least one Member and a minimum of 15% of the valid votes cast.

(b) 12 pesetas shall be paid per elector, provided that the ticket had obtained at least one Member and minimum of 6% of the valid votes cast.

(c) 3 pesetas shall be paid per elector, provided that the ticket had obtained at least one Member and a minimum of 3% of the valid votes cast.

(d) 1 peseta shall be paid per elector, provided that the ticket had obtained at least one Member and a minimum of 1% of the valid votes cast.

The resulting subsidies paid shall not be included in the election expense limits prescribed in subsection (2) of this section, provided this activity has been effectively carried out and proof is provided in this respect.

*Thirteenth section.—The ballot paper count in elections to the Senate*

Subsection (3), section 96 of the Representation of the Spanish People Organic Act 5/1985 (of 19/6), shall read as follows:

'3. In the case of elections to the Senate, the votes cast in ballot papers in which more than three candidates have been ticked, shall be declared void and shall not be counted in the provincial constituencies. The same shall apply when more than two candidates have been ticked in the island constituencies of Gran Canaria, Majorca and Tenerife in the cities of Ceuta and Melilla, or more than one candidate in the other island constituencies.'

## ONE AND ONLY TRANSITIONAL PROVISION

The Central Electoral Commission, following a previously documented proposal of the Electoral Register Office, may incorporate into the Electoral Register in force, the changes notified to the Office by the local councils and consulates relative to the Electoral Register revision on 1st January 1994 —before the coming into force of the Electoral Register on 1st January 1994— for the purposes of elections to be held in the current year.

To this effect, the Central Electoral Commission shall adopt the necessary steps and guarantees in order to safeguard the fundamental right of the citizens to exercise the franchise. No de-re-

gistration shall take place —save in the case of loss of the subject's capacity to vote— without prejudice to amendments corresponding to a change in the personal circumstances of the elector.

## ONE AND ONLY LAST PROVISION

The present Organic Act shall come into force on the same day of its publication in the 'Official State Gazette'.

Therefore,

I order all Spanish nationals, private individuals and authorities, to keep and make keep this Organic Act.

Madrid, 30th March, 1994.

JUAN CARLOS R.

The President of the Government,  
FELIPE GONZALEZ MARQUEZ



## **SCHEDULE V**

### **Organic Act 3/1995 (of 23/3), amending the Representation of the Spanish People Organic Act 5/1985 (of 19/6)**

**JUAN CARLOS I, KING OF SPAIN**

To all those who see and understand this text,

Let it be known: that the Cortes Generales have approved and I give My assent to the following Organic Act:

## **EXPOUNDING OF MOTIVES**

The House of Representatives' Constitutional Committee, at a meeting held on 14th april 1994, expressed their favourable Opinion, without any amendments, to the report prepared by the special Working Party appointed for the study of the conditions in which the Electoral Register is produced at present. This report has been prepared in the context of the updating Plan that the Electoral Register Office is carrying out at present.

The Opinion of the House of Representatives's Constitutional Committee was approved at a seating of the full House held on 16th Juna 1994.

A series of proposals to amend the electoral legislation in force were put forward as a result of the above mentioned Special Working Party's report. Therefore, the present Organic Act is issued in orden to introduce amendments to the Representation of

the Spanish People Organic Act 5/1985 (of 19/6) and thus give force to the Opinion of the House of Representatives's Constitutional Committee.

The adoption of a policy of continuous revision of the Electoral Register will result in its permanent updating, and will avoid the limitations, as well as the inflexibility, resulting from the previous revision policy applied until now.

On the other hand, the exercise of the franchise by all the electors will be made easier thanks to the following measures:

- The public exhibition of the Register's lists, as well as of the rectifications carried out in those lists resulting from claims made by electors.

- The information data included in the elector's registration card.

- The extraordinary means of providing proof of registration by electors through specific certificates of registration.

### *First section*

1. A new paragraph (b) shall be inserted in subsection (1), section 19 of the Representation of the Spanish People Organic Act 5/1985 (of 19/6), reading as follows:

'(b) The advising on bills and provisions relating to the Electoral Register that may arise in the course of developing or applying the present Act.'

The present paragraphs (b) to (k) of the above mentioned subsection (1), section 19, shall become paragraphs (c) to (l).

2. Subsection (2), section 19, of the above mentioned Organic Act, is hereby amended and shall read as follows:

'(2) The Provincial and District Electoral Commissions, besides the other matters expressly mentioned in this Act as belonging to their field to competence, shall equally be competent, within their territorial boundaries, with regard to those matters under paragraphs (h), (j) and (k) of subsection (1) above. Their competence in the imposition of fines shall be limited to the maximum amount of one hundred thousand pesetas in the case of Provin-



cial Commissions and fifty thousand pesetas in the case of District Commissions.'

### *Second section*

Section 24 of the above mentioned Organic Act is hereby amended in the following way:

1. Subsection (2), section 24, shall read as follows:

'(2) The list of wards and places shall be published in the Provincial Official Gazette on the sixth day following the calling of elections and shall also be posted for public view by the corresponding local councils.'

2. Subsection 4, section 24, shall read as follows:

'(4) The list of polling wards, polling places and election premises shall be published in the two newspapers with the widest readership in the province, within the ten days prior to polling day, and shall also be posted for public view by the corresponding local councils.'

### *Third section*

Subsection (3), section 32 of the above mentioned Organic Act shall read as follows:

'(3) Career consulates and consular authorities at Diplomatic Missions are to proceed with the registration of Spanish nationals residing in their respective areas of jurisdiction in the manner provided by regulation.'

### *Fourth section*

Section 33 of the above mentioned Organic Act is hereby amended in the following way:

1. Subsection (4), section 33, shall read as follows:

'(4) With the exception of the provisions of subsection (3) above, the registration shall be maintained unaltered unless there

is evidence that the personal circumstances of the elector have changed.'

2. Subsection (5), section 33, shall read as follows:

'(5) Any changes introduced under the provisions of the above subsections shall be immediately notified to the interested parties.'

#### *Fifth section*

Section 34 of the above mentioned Organic Act shall read as follows:

'Section 34.

(1) The Electoral Register is permanent and it shall be updated on a monthly basis.

(2) The electoral Register in force at the time an election is called shall be employed for that election.'

#### *Sixth section*

Section 35 of the above mentioned Organic Act shall read as follows:

'Section 35.

(1) For the purposes of updating the Register, local councils shall forward to the corresponding Provincial Delegations of the Electoral Register Office, on a monthly basis, and within the times established by the Electoral Register Office, a list, documented in accordance with the instructions of the said Office, with the following data:

(a) Any changes during the preceding month in the street directory.

(b) New registrations and de-registrations of residents of voting age (that is, 18 years or over) up to the last day of the previous month.

(c) Changes of address and of any other registration data, corresponding to persons registered in the Electoral Register, that have taken place during the previous month.

(2) In the updating of the data corresponding to the first month of each year, the registrations of those residents newly registered as under-age and who will attain voting age (that is, 18 years) between 1st. January and 31st. December of the following year, shall also be forwarded by the local councils to the corresponding Provincial Delegation of the Electoral Register Office and in accordance with the provisions of subsection (1) above.

### *Seventh section*

Section 36 of the above mentioned Organic Act shall read as follows:

'Section 36.

For the purposes of updating the Register of absent-resident electors living abroad, consulates shall deal with new registrations and de-registrations of Spanish nationals living in the area of their respective jurisdiction, as well as with their changes of address, in accordance with the same provisions and procedure that apply to local councils.'

### *Eighth section*

Section 37 of the above mentioned Organic Act shall read as follows:

'Section 37.

For the purpose of the provisions of sections 35 and 36 above, the persons in charge of the Public Record Office and of the Record Office for Persons Detained in Penal Institutions and Persons at Large (who would otherwise be so detained) shall notify to the Provincial Delegations of the Electoral Register Office, on a monthly basis, and within the times established by the Electoral Register Office, any circumstance of civil or penal character that may affect registration in the Electoral Register, which has taken place during the previous month.'

### *Ninth section*

Section 38 of the above mentioned Organic Act shall read as follows:

#### *'Section 38.*

(1) The Electoral Register Office shall carry out the monthly updating of the Electoral Register on the basis of the data received before the first day of each month.

(2) With the data referred to in the previous sections, the Provincial Delegations of the Electoral Register Office shall have at the disposal of interested parties the updated Electoral Register at all time. Access to the said Register may be gained through local councils, consulates or directly in the Provincial Delegations.

(3) Claims with regard to the registration data shall be addressed to the corresponding Provincial Delegation of the Electoral Register Office. The Provincial Delegations shall give a resolution on these claims within five days as from the date of reception of the claim. Local councils and consulates shall, forthwith, forward claims submitted to them, to the corresponding Provincial Delegation of the Electoral Register Office.

(4) The Electoral Register Office shall adopt all the relevant measures to facilitate the resolution of consultations and claims by the local councils and consulates.

(5) Appels against resolutions adopted on these matters by the Provincial Delegations of the Electoral Register Office shall be dealt with by the preferential and summary proceedings provided under subsection (2), section 53 of the Constitution.'

### *Tenth section*

Section 39 of the above mentioned Organic act shall read as follows:

#### *'Section 39.*

(1) The Electoral Register in force for each election shall be that closed on the first day of the month preceding the date on which notice is given for the election. Where data corresponding to some local council or consulate areas had not been included in

the Register, the data used for those areas shall be the latest available data. The Director of the Electoral Register Office shall notify these cases to the Central Electoral Commission so that the latter may adopt the appropriate measures.

(2) Local councils and consulates shall exhibit the electoral lists in force of their respective areas of jurisdiction during a period of eight days, as from the sixth day following the date on which notice has been given for that election.

(3) Within the period of eight days specified in subsection (1) above, any person may make a claim addressed to the corresponding Provincial Delegation of the Electoral Register Office with regard to his/her registration data. These claims may be made either to the corresponding Provincial Delegation of the Electoral Register Office or through the local councils or consulates which shall forward the said claims forthwith to the respective Delegations.

(4) The provincial Delegations of the Electoral Register Office shall within three days resolve the claims submitted to them and shall order the appropriate corrections. These corrections shall be exhibited to the public on the seventeenth day following the calling of the elections. The Provincial Delegations shall equally notify their resolution of claims to every claimant to the corresponding local councils and consulates.

(5) The Electoral Register Office shall forward to every elector a Registration Card containing the updated data of their registration in the Register, as well as the polling ward and polling place allotted to the elector. The Electoral Register Office shall also notify any changes in wards, polling premises and polling places, to which section 24 of the present Organic Act refers, to every elector affected by the changes.'

### *Eleventh section*

Subsections (4) and (5), section 41, of the above mentioned Organic Act shall read as follows:

'(4) Autonomous Communities may obtain a copy of the Electoral Register, as well as of the corrections introduced in the same, after every notice of elections. The said copy and correc-

tions shall be fashioned in such a way as to be apt for computerized treatment.

(5) Election agents may obtain, on the day following the nomination of candidates, a copy of the Register of the corresponding electoral district, arranged in polling places, and made up in such a way as to be apt for computerized treatment. These copies may only be used for the purposes established by the present Act. Alternatively, election agents-general may obtain in the same way a copy of the Register in force that covers the districts where their party, federation or coalition have nominated tickets \*.

The District Electoral Commissions shall have a copy of the Electoral Register to be employed at the elections that covers their respective areas of jurisdiction.'

### *Twelfth section*

Subsection (3), section 75 of the above mentioned Organic Act shall read as follows:

'(3) These electors shall exercise their franchise in accordance with the procedure referred to in section 73 above, and shall forward the envelopes, addressed to the competent Electoral Commission for the count, by registered post, and no later than the day preceding polling day.

Spanish national who are living in a European Union country other than Spain may opt to exercise their franchise either in the European Union country in which they live, or in Spain. In the latter case, these electors shall exercise their franchise no later than the seventh day before the poll by delivering personally their voting envelopes to the career consulate or to the consular authorities of the Diplomatic Mission where they are registered. Consulates shall forward by electoral dispatch these voting envelopes to the office that for this purpose is to be set up in the Ministry

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\* For elections in Spain, a list of candidates put up by a political organization in a constituency-constituencies vary according to the kind of election-where more than one candidate is usually elected.

for Foreign Affairs. The latter office shall then forward the voting envelopes to the corresponding Electoral Commissions.

In all the cases regulated by the present subsection, for the votes to be valid it shall be indispensable that the envelope or envelopes mentioned above be stamped or marked in some other official way by the Post Office of the State in question, or, as the case may be, duly certified by the corresponding career consulate or consular authorities of the Diplomatic Mission, so that there is no doubt as to the compliance by the elector with the time limits required.'

### *Thirteenth section*

A new subsection, numbered (5), is hereby added to section 85 of the above mentioned Organic Act and it shall read as follows:

'(5) The Central Electoral Commission, by means of the corresponding Regulation shall establish the procedure for the issuance, determine the competent authorities for this task, and establish the times and the cases where specific registration certificates may be issued to citizens for their proving their Registration in the Register, in exceptional cases.'

## ADDITIONAL PROVISIONS

### *First*

The Ministry of Economy and Treasury shall provide the necessary funds guaranteeing the setting up of the required systems and the use of the appropriate means for the handling of data by the Electoral Register Office.

### *Second*

The Electoral Register Office shall notify to the Central Electoral Commission the existence of serious reasons that may hinder or prevent the monthly updating of the Electoral Register, so that the Commission can adopt the appropriate measures.

## ONE AND ONLY TRANSITIONAL PROVISION

The Central Electoral Commission, responding to a previously documented proposal by the Electoral Register Office, may order the inclusion in the Electoral Register in force of modifications notified to the said Office by local councils and consulates relating to the current revision of the Electoral Register to be employed for elections held during 1995.

For this purpose, the Central Electoral Commission shall adopt the necessary guarantees and measures to ensure the safeguard of the citizens' fundamental right to the franchise. No de-registration of electors may be carried out except by loss of the conditions of capacity, without prejudice to alterations in the Register arising from changes in the personal circumstances of electors.

## ONE AND ONLY LAST PROVISION

The present Organic Act shall come into force on the same day of its publication in the 'Official State Gazette'.

Therefore,

I order all Spanish nationals, private individuals and authorities, to keep and make keep this Organic Act.

Madrid, 23th March, 1995.

JUAN CARLOS R.

The President of the Government,  
FELIPE GONZALEZ MARQUEZ



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