PARLIAMENTARY ELECTIONS ACT

Arrangement of Sections

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SCHEDULES

1 of 1981,
15 of 1988,
29 of 1988,
35 of 1988,
54 of 1988,
14 of 2004,
58 of 2009,
28 of 2011.

AN ACT to make provision for the procedure for the election of Members of Parliament, the creation of offences relating to such elections, the grounds for avoiding such elections, and where an election has been held void the manner of holding fresh elections, the manner of determination of disputed elections, and for matters connected therewith or incidental thereto.

[Date of Commencement: *22nd January, 1981*]

1. Short title.

This Act may be cited as the Parliamentary Elections Act.

PART I

PRELIMINARY

2. Number of Members to be returned for each electoral district.

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

3. Polling divisions and polling districts.

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

4. Polling divisions and polling districts.

(*a*) The secretary of any political party, other than a party which is already entitled to be treated as a recognised political party for the purpose of elections, may, subject to the provisions of paragraph (*c*) and paragraph (*d*), at any time make on behalf of that party a written application to the Commissioner, that such party be treated as a recognised political party for the purpose of elections. This application shall also specify which one of the approved symbols such party desires to be allotted to such party if so treated.

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

(*c*) Nothing in paragraph (*a*) shall be read or construed as enabling the secretary of a political party to make an application under that paragraph at any time during any of the following periods, that is to say, the period—

(i) commencing on the date of a Proclamation dissolving Parliament or of an Order requiring the holding of an election under the Parliamentary Elections Act, No. 1 of 1981 and ending on this date of poll specified in such Proclamation or Order; or

(ii) commencing on the date of an Order made under section 2 of the Presidential Elections Act, No. 15 of 1981 and ending on the date of poll fixed by that Order; or

(iii) commencing on the date of a notice under section 10 of the Provincial Councils Elections Act, No. 2 of 1988, relating to an election under that Act, and ending on the date of poll specified for that election in an Order made under section 22 of that Act; or

(iv) commencing on the date of a notice under section 10 of the Development Councils Elections Act, No. 20 of 1981, relating to an election under that Act and ending on the date of poll specified for that election in a notice made under section 22 of that Act; or

(v) commencing on the date of a notice under section 26 of the Local Authorities Elections Ordinance, relating to an election under that Ordinance, and ending on the date of poll specified for that election in a notice under section 38 of that Ordinance; or

(vi) commencing on the date of a Proclamation issued under section 2 of the Referendum Act, No. 7 of 1981 and ending on the date of poll appointed by that Proclamation.

(*d*) Where an application made under paragraph (*a*) in respect of a political party is disallowed by the Commissioner, no application shall be made under that paragraph in respect of that political party until after the expiration of a period of six months from the date of the order disallowing the first application.

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

A register of electors referred to in section 4 shall be conclusive evidence for the purpose of determining whether a person is or is not entitled to vote at an election under this Act and the right of voting of any person whose name is for the time being contained in such register shall not be prejudiced by any appeal pending under any written law for the time being in force in respect of the entry of such person's name in the register, and any vote given by any such person during the pendency of such appeal shall be as good as though no such appeal were pending and shall not be affected by the subsequent decision of the appeal:

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

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

6. Returning officers.

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

(2) If any returning officer is by reason of illness or other cause prevented or disabled from performing any of his duties under this Act and there is not time for another person to be appointed by the Commissioner, the returning officer may appoint by name or by office, a deputy to act for him. Every such appointment shall as soon as possible be reported to the Commissioner and may be revoked by him, but without prejudice to the validity of anything already done by such deputy.

7. Recognised political parties for the purpose of elections.

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

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

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

(4) —

(*a*) The Commission shall, before the thirty-first day of January of each year publish a Notice calling upon the Secretary of a political party, other than a party which is already entitled to be treated as a recognised political party for the purpose of elections, to make a written application to the Commission, on behalf of that party within such period as may be specified in such notice, subject to the provisions of paragraphs (*d*) and (*e*), that such party be treated as a recognised political party for the purpose of elections. The application shall also specify the approved symbol which such party wishes to have allocated to it, out of the available approved symbols, in the event such party is to be so treated.

(*b*) The Commission shall at the beginning of every calendar year, cause to be published in the *Gazette* a Notification containing a list of the names of all political parties entitled to be treated as recognised political parties for the purpose of elections.

(*c*) The Secretary of a political party shall, at the time an application is made under paragraph (*a*), furnish to the Commission a copy of the Constitution of such party and a list of office bearers, an audited statement of accounts and the contemporary policy statement of such party.

(*d*) In order to guarantee better representation of women in political parties and in politics, every recognised political party shall ensure the inclusion of one or more women office bearers in the list of office bearers of such party.

(*e*) Nothing in paragraph (*a*) of this subsection shall be read or construed as enabling the Commission to call for applications from political parties for recognition for the Secretary of a political party to make an application under that paragraph at any time during any of the following periods, that is to say, the period—

(i) commencing on the date of a Proclamation dissolving Parliament or of an Order requiring the holding of an election under this Act and ending on the date of poll specified in such Proclamation or Order; or

(ii) commencing on the date of an Order made under section 2 of the Presidential Elections Act, No. 15 of 1981 and ending on the date of poll fixed by that Order; or

(iii) commencing on the date of a Notice under section 10 of the Provincial Councils Elections Act, No. 2 of 1988, relating to an election under that Act and ending on the date of poll specified for that election in an Order made under section 22 of that Act; or

(iv) commencing on the date of a Notice under section 26 of the Local Authorities Elections Ordinance relating to an election under that Ordinance and ending on the date of poll specified in a Notice under section 38 of that Ordinance; or

(v) commencing on the date of a Proclamation issued under section 2 of the Referendum Act, No. 7 of 1981 and ending on the date of poll appointed by that Proclamation.

(*f*) If paragraph (*d*) is in operation during the month of January of any year Commission shall publish the Notice as specified in paragraph (*a*) after the expiration of a period of thirty days from the date of poll, calling for applications for the recognition of eligible political parties.

(*g*) Where an application made under paragraph (*a*) in respect of a political party is disallowed by the Commission, no application shall be made under that subsection in respect of that political party until after the expiration of a period of one year from the date of the Order disallowing such application.

[S 7(4) subs by s 2 of Act 58 of 2009.]

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

(*a*) if in the opinion of the Commission such party is a political party and is capable of contesting elections under this Act; and

(*b*) if the Commission is satisfied that—

(i) such party has been engaged in political activities for a continuous period of at least four years prior to the date of the making of such application; or

(ii) —

(*a*) out of at least two candidates nominated by such party at least one was successful at the last Parliamentary general election held immediately preceding the date of the application of such party; or

(*b*) out of at least five candidates nominated by such party for five different Provincial Councils at least three were successful at the last provincial elections held immediately preceding the date of application of such party, the Commission may make Order—

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

(ii) allotting an approved symbol to such party, being the approved symbol which the political party wishes to have allocated to it out of the approved symbols, determined by the Commission in its absolute discretion, but not being the approved symbol of any other political party which is entitled to be so treated.

[S 7(5) subs by s 2 of Act 58 of 2009.]

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

[S 7(6) subs by s 2 of Act 58 of 2009.]

(7) The Order of the Commission made under subsection (5) on any application made under subsection (4) shall be final and shall not be called in question in any court.

[S 7(7) subs by s 2 of Act 58 of 2009.]

(8) For the purposes of subsection (5) of this section, the words "such party"

shall include a constituent party of a party which is formed, based on a political alliance.

[S 7(8) ins by s 2 of Act 58 of 2009.]

8. Recognised political parties to comply with certain requirements.

(1) It shall be the duty of the Secretary of every recognised political party to submit to the Commission a copy of the Constitution of such party together with a list of the office bearers of such party and a copy of the political programme of such party—

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

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

(2) Every recognised political party shall hold a general meeting once a year or as specified in the Constitution of the party. The procedure to be followed at such meeting shall be specified in such Constitution.

(3) Where a recognised political party amends its Constitution or changes its Office bearers, the Secretary of such party shall, before the expiry of a period of thirty days from the date of such amendment or change, inform the Commission in writing of such amendment or change.

(4) A copy of the annual statement of accounts of every recognised political party audited by a registered auditor shall be submitted to the Commission.

(5) Every recognised political party shall be entitled to State assistance as provided for in the relevant written laws applicable to the conduct of elections.

(6) —

(*a*) For the purpose of exercising the powers conferred on the Commission Under this Act, the Commission may by notice in writing require the Secretary of any political party to furnish such information specified in the notice issued, pertaining to such political party or to produce any document as shall be specified therein, within such period as shall be specified in the notice.

(*b*) It shall be the duty of the Secretary of any political party who is required by notice to furnish any information under subsection (1), to comply with those requirements within the time specified in such notice, unless such Secretary is precluded from divulging such information under the provisions of any written law.

(7) Any person shall, on payment of a prescribed fee to the Commission have the right to call for and refer to the Constitution of a political party and on payment of the prescribed fee shall have the right to obtain a certified copy of such Constitution.

(8) Commission may issue from time to time a Code of Conduct to be observed by political parties and candidates during elections.

(9) The Commission may from time to time issue such general or special directions to the political parties, a person or body as may be necessary for the effective and efficient implementation of the provisions of this section and section 7.

[S 8 subs by s 3 of Act 58 of 2009.]

8A. Commission to be notified of any alliance of political parties.

It shall be the duty of the Secretary of any alliance which is formed between two or more recognised political parties, to notify the Commission of the names of the constituent parties of such alliance and the office bearers thereof.

[S 8A ins by s 4 of Act 58 of 2009.]

9. Cessation of recognition of a political party.

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

(2) The Commission may, upon application made in writing in that behalf by the Secretary of a recognised political party, in its discretion, extend the period referred to in section 8 for a further period not exceeding sixty days.

(3) A political party which is entitled to be treated as a recognised political party for the purpose of elections shall cease to be so entitled—

(i) if not one single candidate of such party is nominated for two consecutive Parliamentary general elections;

(ii) if it does not conform to the requirements of subsections (1), (3), (4) and (7) of section 8.

(4) For the purposes of this section, the words "such party" shall include a Constituent party of a party which is formed based on a political alliance.

[S 9 subs by s 5 of Act 58 of 2009.]

PART II

NOMINATION

10. Nominations period and date of poll.

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

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

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

(2) —

(*a*) The nomination period shall commence on the tenth day after the date of publication in the *Gazette* of the Proclamation or Order referred to in subsection (1) and expire at twelve noon on the seventeenth day after the date of publication of such Proclamation or Order; and

[S 10(2)(*a*) subs by s 2 of Act 15 of 1988.]

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

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

[S 10(2)(*b*)(i) subs by s 2 of Act 15 of 1988.]

(ii) any day other than a Full Moon Poya day or any public holiday specified in the First Schedule to the Holidays Act, No. 29 of 1971;

and if, after the publication of the Proclamation or Order referred to in subsection (1), the day specified in such Proclamation or Order is declared to be a public holiday, such declaration shall in no way affect the validity of anything done on such day for the purpose of taking the poll.

11. Notice of intention to contest elections.

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

12. Change of approved symbols of recognised political parties.

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

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

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

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

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

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

(*a*) the Commissioner by reason of his having issued a direction under subsection (1); or

(*b*) a returning officer or any other officer for any act or thing done or omitted to be done in accordance with that direction.

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

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

14. Who may contest election.

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

15. Nomination papers.

(1) Any recognised political party or any group of persons contesting as independent candidates (hereinafter referred to as an "independent group") may, for the purpose of an election of Members of Parliament for any electoral district, submit one nomination paper setting out the names, of such number of candidates as is equivalent to the number of Members to be elected for that electoral district, increased by three. Such nomination paper shall be substantially in Form A set out in the First Schedule to this Act.

[S 15(1) subs by s 3 of Act 15 of 1988.]

(2) The written consent of each candidate to be nominated by a recognised political party or an independent group and an oath or affirmation, as the case may be, in the Form set out in the Seventh Schedule to the Constitution, taken or subscribed or made or subscribed, as the case may be, by every such candidate, shall be endorsed on the nomination paper.

[S 15(2) subs by s 3 of Act 15 of 1988.]

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

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

(5) Where, due to any reason whatsoever, the secretary of a recognised political party or the authorised agent or the group leader is unable to deliver a nomination paper, the candidate whose name appears second on such nomination paper shall deliver such nomination paper to the returning officer as required by subsection (4).

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

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

(8) —

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

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

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

16. Deposits.

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

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

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

(*a*) the name of the group leader by whom the deposit was made or of the authorised person by whom and on whose behalf the deposit was made;

(*b*) the number of candidates;

(*c*) the amount of the deposit; and

(*d*) the time and date of the deposit.

17. Disposal of deposit.

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

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

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

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

18. Consent to nomination an offence under certain circumstances.

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

(*a*) by reason of his conviction for a corrupt or illegal practice or by reason of the report of an Election Judge under the Ceylon (Parliamentary Elections) Order in Council, 1946, or under this Act, or by reason of the report of the Supreme Court under the Presidential Elections Act, 1981; or

(*b*) by reason of the imposition of civic disability on him in terms of Article 81(1) of the Constitution, signifies his consent to be nominated as a candidate at an election under this Act, he shall be guilty of an offence, and shall, on conviction before a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding three months or to both such fine and imprisonment.

19. Rejection of nomination papers.

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

(*a*) that has not been delivered in accordance with the provisions of subsection (4) or subsection (5) of section 15; or

(*b*) that does not contain the total number of candidates required to be nominated in terms of Article 99(3) of the Constitution; or

[S 19(1)(*b*) am by s 4 of Act 15 of 1988.]

(*c*) in respect of which the deposit required under section 16 has not been made; or

(*d*) where the consent of one or more candidates nominated or the oath or affirmation, in the form set out in the Seventh Schedule to the Constitution, of one or more candidates, has or have not been endorsed on the nomination paper.

[S 19(1)(*d*) subs by s 4 of Act 15 of 1988.]

(*e*) where the signature of the secretary in the case of a recognised political party, or of the group leader in the case of an independent group does not appear on the nomination paper or where such signature has not been attested as required by subsection (3) of section 15.

(1A) Objections to a nomination paper may be made to the returning officer between twelve noon and one-thirty o'clock in the afternoon of the last day of the period of nomination, and no such objection shall be entertained by the returning officer after one thirty o'clock in the afternoon of that day.

[S 19(1A) ins by s 4 of Act 15 of 1988.]

(2) Where any nomination paper has been rejected by the returning officer under subsection (1), the returning officer shall inform the secretary of the recognised political party or the group leader, as the case may be, who had submitted such nomination paper the fact of such rejection. The decision of the returning officer to reject such nomination paper shall be final.

20. Uncontested elections.

(1) Where the candidates of only one recognised political party or one independent group stand nominated for election, the returning officer shall call upon the secretary of such recognised political party or the group leader of such independent group to decide, within such period as may be specified by the returning officer, which of the candidates whose names appear in such nomination paper shall be declared elected as Members. If such secretary or group leader communicates his decision to the returning officer within the period specified by the returning officer, the returning officer shall declare elected as Members the respective candidates specified in such declaration. If on the other hand, such secretary or group leader fails to communicate his decision to the returning officer within the period specified by the returning officer, then such number of candidates, in the order in which their names appear in such nomination paper, as is equal to the number of Members to be elected shall be declared elected.

[S 20(1) subs by s 5 of Act 15 of 1988.]

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

21. Procedure where no nomination papers are received.

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

(*a*) that no nomination paper has been duly received on behalf of any recognised political party, or any independent group; or

(*b*) that all the nomination papers received by him have been rejected,

the returning officer shall forthwith report to the Commissioner the fact that no nomination papers have been received or that all the nomination papers received by him have been rejected. The Commissioner shall, not later than seven days after the receipt of such report, publish a notice prescribing a second nomination period. Such period shall commence on the seventh day after the date of the publication of the notice and expire at twelve noon on the tenth day after the publication of such notice. The provisions of this Act shall apply in relation to the second nomination period, subject however that the duration of the nomination period referred to in section 10 shall not be applicable to the second nomination period.

22. Contested elections.

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

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

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

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

(ii) in the absence of such agreement by lots cast or drawn in such manner as the returning officer may, in his absolute discretion, determine, and such symbol shall be printed on the ballot paper opposite

(i) the name of such party; and

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

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

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

(*a*) adjourn such election to enable a poll to be taken in accordance with the provisions hereinafter set out;

(*b*) report to the Commissioner that the election is contested; and

(*c*) send to the Commissioner copies of the nomination papers of the recognised political parties and independent groups, a statement of the symbols allotted to each party or group,

and where there is more than one independent group the distinguishing numbers allotted to each such group, and a statement giving the situation of the polling station or polling stations for each of the polling districts in that electoral district and the particular polling stations, if any, reserved for female voters.

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

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

23. Persons entitled to be present at nomination.

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

PART III

THE POLL

24. Notice of poll.

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

(*a*) the electoral district in which the election is contested;

(*b*) the names of the candidates, (as indicated by the candidates,) placed in alphabetical order, according to the Sinhala alphabet of each recognised political party and independent group nominated for election as Members of that electoral district, the serial number assigned to each such candidate, the approved symbol allotted to such party or group and in the case of an independent group the words "Independent Group" and the distinguishing number, if any;

[S 24(1)(*b*) subs by s 6 of Act 15 of 1988.]

(*c*) the date of poll, being the date specified under section 10; and

(*d*) the situation of the polling station or polling stations for each of the polling districts in that electoral district and the particular polling stations, if any, reserved for female voters.

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

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

25. Death of candidate after nomination.

(1) Whenever the death occurs of a candidate between the adjournment of the election for the purposes of the poll and the commencement of the poll, the Commissioner shall, upon being satisfied of the fact of such death, direct in writing, the secretary of the such party or the group leader of the independent group, as the case may be, by which the deceased candidate was nominated to nominate another candidate in place of the deceased candidate.

(2) Upon receipt of a direction under subsection (1), the secretary of the recognised political party or the group leader of that independent group, as the case may be, shall forthwith inform the Commissioner, of the name and address of the candidate nominated in pursuance of such direction.

(3) Upon receipt of any information under subsection (2), the Commissioner shall direct the returning officer to expunge the name of the deceased candidate from with nomination paper and to enter the name of the candidate nominated under subsection (2) on such nomination paper. The Commissioner shall publish a notice in the *Gazette*, stating the fact of the death of the candidate referred to in subsection (1), and that notwithstanding such death, the nomination paper with the omission of the name of the deceased candidate and the inclusion of the name of the candidate nominated under subsection (2) is valid and that the poll shall be taken as specified in the notice published under section 24.

[S 25 subs by s 7 of Act 15 of 1988.]

26. Voting by Post.

(1) A person who is entitled under this section to be treated as a postal voter for the purpose of an election in any electoral district may vote by post, and shall not vote in person, at such election. Any person who votes in person at an election in contravention of the preceding provisions of this subsection shall be guilty of an offence and shall, on conviction after summary trial before at Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding one year, or to both such fine and imprisonment.

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

(*a*) by a member of the Sri Lanka Army, Sri Lanka Navy, Sri Lanka Air Force, or an officer or servant in the Department of Police, Department of Prisons, the Sri Lanka Government Railway, the Department of Posts and the Department of Telecommunications or the Sri Lanka Central Transport Board or any Regional Transport Board, on the ground that he is unable or likely to be unable to vote in person at the polling station allotted to him by reason of the particular circumstances of his employment as such member, officer or servant, and

[S 26(2)(*a*) am by s 8 of Act 15 of 1988.]

(*b*) by any other officer or servant in the public service or of the Central Bank of Ceylon, or the Local Government Service on the ground of the particular circumstances of his employment on the date of the poll for a purpose connected with the election or of his being likely to be employed for that purpose, and

(*c*) by a candidate at a General Election on the ground that he is unable or likely to be unable to vote in person at the polling station allotted to him by reason of his candidature in some other electoral district.

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

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

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

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

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

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

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

(*a*) a ballot paper;

(*b*) a form of declaration of identity;

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

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

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

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

(12) The returning officer of any electoral district where there is an election shall, as soon as practicable, prepare a list (in this Act referred to as the "postal voters' list") specifying the name, address and number of the register of electors of every person entitled to be treated as a postal voter. Such list shall be prepared in such manner as may be prescribed in that behalf by the regulations contained in the Second Schedule to this Act.

27. Official poll card.

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

(*a*) the name and number of the electoral district;

(*b*) the name, qualifying address, and registration number of the elector as stated in the register;

(*c*) the polling division;

(*d*) the polling district;

(*e*) the polling station allotted to the elector; and

(*f*) the date and hours of the poll;

Provided that no such card shall be sent to an elector who is entitled to be treated as a postal voter or to an elector in respect of whom an application made under section 127B has been allowed.

[S 27(1) proviso am by s 2 of Act 35 of 1988.]

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

(3) Every person who—

(*a*) without authority supplies any official poll card to any other person, or

(*b*) sells or offers to sell any official poll card to any other person or purchases or offers to purchase any official poll card from any other person, shall be guilty of an offence and

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

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

28. Presiding officers.

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

(2) If any presiding officer is by reason of illness or other cause, prevented from acting at any election, and there is not time for another person to be appointed by the returning officer, the presiding officer may appoint a deputy to act for him. Every such appointment shall as soon as

possible be reported to the returning officer and may be revoked by the returning officer, but without prejudice to the validity of anything already done by such deputy.

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

29. Facilities to be provided at polling stations.

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

(*a*) appoint such officers and servants as may be necessary for taking the poll;

(*b*) furnish each polling station in that electoral district with such number of compartments as may be necessary to accommodate a reasonable number of voters at any one time and to ensure that the voters are screened from observation when they mark their ballot papers;

(*c*) furnish each presiding officer with a copy of that part of the register of electors containing the names of electors in such register assigned to his polling station and a list of such of the names of electors in that copy as appear in the postal voters' list. A distinguishing mark shall be placed against the name of every elector who is entitled to be treated as a postal voter and against the name of every elector in respect of whom an application made under section 127B has been allowed in the part of that register supplied to each such presiding officer;

[S 29(1)(*c*)am by s 3 of Act 35 of 1988.]

(*d*) furnish each presiding officer with such number of ballot boxes and ballot papers as, in the opinion of the returning officer, may be necessary for the number of voters assigned to that polling station:

(*e*) provide each polling station with materials to enable voters to mark the ballot papers, with instruments for perforating or stamping thereon the official mark;

(*f*) do such other acts and things as may be necessary for effectually conducting the election in the manner provided by this Act.

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

30. Notices to be exhibited at polling stations.

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

(*a*) outside the polling station and in every compartment thereof, a notice substantially in the form set out in the Third Schedule to this Act, giving directions for the guidance of voters; and

(*b*) outside the polling station a notice specifying the name of each recognised political party contesting the election or in the case of an independent group contesting the election, the words "Independent Group" for each such group and the distinguishing number, if any, allotted to it together with the names of the candidates (as indicated by the candidates) in alphabetical order, according to the Sinhala alphabet of each such Recognised political party or independent group, the serial number assigned to each such candidate and the approved symbol allotted to each such party or group.

[S 30(1)(*b*) subs by s 9 of Act 15 of 1988.]

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

31. Ballot boxes.

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

32. Ballot paper.

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

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

(*a*) shall contain the names of the recognised political parties contesting the election, in Sinhala, Tamil and English, arranged alphabetically, according to the Sinhala alphabet, in the order of the names of such parties and with the symbol allotted to each such party, set out against the name of each such party, and immediately, thereafter, if there are any independent groups contesting the election, the words "Independent Group "repeated for each group and the distinguishing number, if any, in the serial order and the symbol allotted to each such group and set out against the distinguishing number of such group and immediately below this, such number or numbers placed in serial order as is equal to the number of members to be elected from the electoral district, increased by three;

[S 32(2)(*a*) am by s 4 of Act 35 of 1988.]

(*b*) shall be capable of being folded;

(*c*) shall have a number printed on the reverse; and

(*d*) shall have attached a counterfoil with the same number printed on the face.

33. Hours of poll.

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

34. Appointment of polling agents.

(1) The secretary of each recognised political party or its authorised agent or any group leader may appoint a reasonable number of polling agents for each polling station having regard to the need to revoke the appointment of any polling agent for that polling station during the poll. Notice in writing of every such appointment stating the names, the numbers of the national or other identity card issued by a government department or public corporation and addresses of the persons so appointed shall be given by such secretary or authorised agent or group leader to the presiding officer at that station before the opening of the poll or during the poll.

[S 34(1) am by s 11 of Act 15 of 1988.]

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

(3) Where such secretary, authorised agent or group leader or candidate referred to in subsection (2) after informing such presiding officer of the name of any polling agent appointed to act at such station, revokes the appointment of that polling agent and appoints another polling agent to such station, such secretary, authorised agent, or group leader or candidate, as the case may be, shall inform such officer in writing of the revocation of such appointment and of the name, the number of the national or other identity card issued by a government department or public corporation and address of the new polling agent appointed to such station.

[S 34(3) am by s 11 of Act 15 of 1988.]

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

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

35. General conduct of the poll.

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

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

Provided however, that only one candidate from each recognised political party or independent group shall be admitted to the polling station at any one time.

[S 35(2) proviso ins by s 12 of Act 15 of 1988.]

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

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

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

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

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

36. Sealing of ballot boxes and commencement of poll.

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

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

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

shall place it in his view for the receipt of ballot papers and keep it so locked and sealed. The duties imposed on the presiding officer by the preceding provisions of this section shall be performed by him in such manner as to ensure that the poll is opened at the hour fixed by this Act.

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

37. Issue of ballot papers.

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

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

(*a*) the number, name and description of the voter as stated in the copy of the register of electors shall be called out;

(*aa*) a valid identity document of the voter shall be inspected and the name and identity ascertained;

[S 37(2)(*aa*) ins by s 6 of Act 14 of 2004.]

(*b*) the number of the voter shall be marked on the counterfoil, and the ballot paper detached therefrom;

(*c*) the ballot paper shall be either stamped, embossed or perforated with the official mark; and

(*d*) a mark shall be placed in the register against the name of the voter to denote that he has received a ballot paper, but without showing the particular ballot paper he has received.

38. Inspections of voter and marking with the appropriate mark.

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

(*a*) if he refuses to allow the presiding officer or a person acting under his authority to make the appropriate inspection of the mark or valid identity document; or

[S 38(1)(*a*) am by s 7 of Act 14 of 2004.]

(*b*) if, having allowed such inspection, it discloses that either such voter has already been marked with the appropriate mark or facts giving rise to suspicion over the identity of the voter; or

[S 38(1)(*b*) am by s 7 of Act 14 of 2004.]

(*c*) if, having allowed such inspection, it discloses that such voter has not already been marked with the appropriate mark, but such voter refuses to allow such officer or person to mark such voter with the appropriate mark, and accordingly such voter shall, notwithstanding anything to the contrary in any other provisions of this Act, not be entitled to vote at such election.

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

(*a*) the number of such voter in the register of electors;

(*b*) the name of such voter as it appears in such register; and

(*c*) the ground on which a ballot paper was not delivered to such voter.

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

(3) In this section—

(*a*) the expression "appropriate mark" means a mark made with indelible ink;

(*b*) the term "appropriate" with reference to any con- text connected with or relating to the inspection or marking of a voter, means—

(i) the little finger of his left hand or, if such finger is missing, any other finger of his left hand; or

(ii) if all the fingers of his left hand are missing, the little finger of his right hand or, if such finger is missing, any other finger of his right hand; or

(iii) if all the fingers of his left and right hands are missing, such extremity of his left, or right hand as such voter possesses.

39. Manner of voting.

(1) The voter, on receiving the ballot paper, shall forthwith proceed into the compartment to which he is directed by the presiding officer or any person acting under that officer's authority and there secretly mark the ballot paper as near as may be in accordance with the directions given for the guidance of voters in the Third Schedule to this Act and fold the ballot paper so as to conceal his vote, and shall then show to the presiding officer the reverse of the paper, so as to disclose the official mark, and put the ballot paper, so folded, into the ballot box in the presence of the presiding officer.

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

40. Assistance to voters to enable them to vote.

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

(2) —

(a) Any voter who is subject to a disability and such disability prevents the voter from voting in accordance with the directions given for the guidance of voters in the Third Schedule to the principal enactment may be accompanied by a person who shall mark the ballot paper of such voter in the manner directed by the voter in the presence of the presiding officer and another member of his polling staff and cause such ballot paper to be placed in the ballot box.

(b) A person subject to a disability who wishes to be accompanied by a person to vote shall be eligible to do so if such person produces a Certificate of Eligibility substantially in the Form set out in the Fifth Schedule to this Act, to the presiding officer or another member of his staff.

(c) For the purposes of this section —

"accompanying person" shall be a person not less than eighteen years of age and shall—

(i) not be a candidate who is contesting at the relevant election;

(ii) not be a presiding officer, an authorised officer or a polling agent at the relevant election;

(iii) not be a person subject to a disability;

"disability" in relation to a registered voter who is subject to a disability and who is eligible to vote in terms of

paragraph (b) of this section, means—

(i) a total or partial visual impairment; or

(ii) a physical disability,

which prevents the voter from validly marking his ballot paper.

[S 40(2) subs by s 5 of Act 28 of 2011.]

41. Voting by proxy forbidden.

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

42. Plural voting to be an illegal practice.

If any person at an election under this Act—

(*a*) votes in more than one electoral district or asks for a ballot paper for the purpose of so voting; or

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

43. Power to require voter to make declarations.

(1) The presiding officer at any polling station may in his discretion and. if required so to do by a polling agent, shall, require any voter, before he is given a ballot paper, to make and subscribe all or any of the declarations in forms E, F, G and H set out in the First Schedule to this Act. Every such declaration shall be exempt from stamp duty.

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

(3) If any person willfully makes a false statement in any such declaration, he shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not

exceeding five hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

44. Spoilt ballot papers.

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

45. Tendered votes.

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

46. Closure of poll.

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

47. Procedure of closure of poll.

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

(*a*) each ballot box at that station, each such box remaining locked as it was at the time of the opening of the poll and being sealed after the closure of the poll so as to prevent the introduction of any ballot papers thereafter;

(*b*) the key of each ballot box;

(*c*) the unused and spoilt ballot papers placed together;

(*d*) the marked copies of the register of electors and the counterfoils of the ballot papers;

(*e*) the list of voters to whom ballot papers are not delivered under section 38; and

(*f*) the tendered votes list, and shall deliver the packets to the counting officer.

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

(*a*) ballot papers issued to voters, other than spoilt ballot papers;

(*b*) spoilt ballot papers; and

(*c*) unused ballot papers,

48. Presiding officer may act through officers appointed to assist him.

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

48A. Disturbances at polling stations.

(1) Where due to the occurrence of events of such a nature—

(*a*) it is not possible to commence the poll at a polling station at the hour fixed for the commencement of the poll; or

(*b*) the poll at such polling station commences at the hour fixed for the opening of the poll but cannot be continued until the hour fixed for the closing of the poll; or

(*c*) any of the ballot boxes assigned to the polling station cannot be delivered to the counting officer.

the presiding officer of such polling station shall forthwith inform the returning officer who shall in turn inform the Commissioner.

(2) On receipt of an information under subsection (1) in relation to a polling station in an electoral district, the Commissioner may, after such inquiries as he may deem necessary to ascertain the truth of such information, by Order published in the *Gazette* declare the poll at such polling station void.

(3) Where the Commissioner makes an Order under subsection (2) in respect of a polling static" in an electoral district, the provisions of Part IV shall, *mutatis mutandis*, apply to the counting of votes polled in the election for such electoral district and the declaration of the result of such election, subject to the modifications set out in this section.

(4) The counting officer in charge of the counting centre to which the polling station in respect of which the Order under sub section (2) has been made, is assigned shall, notwithstanding anything in section 52, commence the counting of votes after he has received all the ballot boxes from the polling stations assigned to his centre other than the ballot boxes from the polling station in respect of which the Order under subsection (2) has been made.

(5) The returning officer shall, from the statements under subsection (7) of section 53 furnished to him by all the counting officers, add up and ascertain the votes polled by each recognised political party and independent group and the preferences secured by each candidate nominated by each such party or group at the election for such electoral district (other than votes polled at the polling station in respect of which an Order under subsection (2) has been made) and shall forthwith forward a statement to that effect to the Commissioner.

(6) Where the Commissioner is of the opinion, upon receipt of a statement under subsection (5) that the result of the election for such electoral district will not be affected by the failure to count the votes polled, or the votes which would have been polled, in the polling station in respect of which an Order under subsection (2) has been made, he shall direct the returning officer to make a declaration under subsection (2) of section 60 in accordance with such statement and the provisions of that subsection, and the returning officer shall make a declaration accordingly.

(7) —

(*a*) Where the Commissioner is of the opinion, on receipt of a statement under subsection (5) that the result of the election for such electoral district will be affected by the failure to count the votes polled, or the votes which would have been polled, at the polling station in respect of which an Order under subsection (2) has been made, he shall forthwith appoint a date for taking a fresh poll at such polling station.

(*b*) The Commissioner shall give notice of the new date of poll in at least one news paper in each of the National languages and by notices conspicuously displayed in the polling district in which such polling station is situated.

(*c*) The provisions of section 28 to 47 (both inclusive) shall *mutatis mutandis*, apply to. and in relation to voting at a poll ordered under paragraph (*a*). The register of electors to be used at that poll shall be same as that used at the earlier poll.

(*d*) For the purposes of the application of the provisions of sections 73, 74 and sub section (2) of section 79 to a poll ordered under paragraph (*a*), the references in those sections to the day following the date on which a poll is taken at such election shall be deemed to be a reference to the day following the date appointed for the taking of such poll.

(*e*) A person who votes more than once at an election by reason of his voting at a poll ordered under Paragraph (*a*) shall be deemed not to be guilty of any offence under this Act.

(8) Upon receipt of the documents referred to in section 55 in respect of the poll ordered under subsection (7) the returning officer shall add the votes polled by each recognised political party and independent group and the preferences secured by each candidate nominated by each such party or group and set out in statement forwarded to the Commissioner under subsection (5) to the votes polled by each such party or group and the preferences secured by each such candidate at the poll ordered under subsection (7), and shall make a declaration under subsection (2) of section 60, in accordance therewith.

(9) The Commissioner shall consult the Secretary of every recognised political party and the group leader of every independent group, contesting an election held under this Act, or an agent authorised for that purpose by such Secretary or group leader, before giving a direction under subsection (6) or appointing a date under subsection (7) of this section, or marking an Order under subsection 3 of section 24.

[S 48A ins by s 5 of Act 35 of 1988.]

PART IV

COUNTING OF VOTES AND DECLARATION OF RESULT

49. Counting officers.

(1) Subject to the general or special directions of the Commissioner, each returning officer shall appoint, and may revoke the appointment of, a counting officer to be in charge of the counting of votes at each counting centre, and such number of assistants and clerks and other officers to assist such counting officer in the performance of his duties.

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

50. Notice of count.

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

51. Appointment of counting agents.

(1) The secretary of each recognised political party or its authorised agent or a group leader may appoint—

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

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

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

(3) Notice in writing stating the names, the numbers of national or other identity card issued by a government department or public corporation and addresses of the persons appointed under subsection (1) or subsection (2) shall be given by the secretary of such recognised political party or its authorised representative of the group leader or the candidate referred to in subsection (2) to the counting officer before the counting of votes commences. The counting officer may refuse to admit to the counting centre any counting agent whose name, the number of national or other identity card issued by a government department or public corporation and address has not been so given and who does not produce a letter from the returning officer authorising him to be present at that counting center,

[S 51(3) subs by s 13 of Act 15 of 1988.]

52. The count.

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

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

(*a*) show such counting agents the ballot paper account and permit them to take copies thereof, and

(*b*) open each ballot box, and having taken out the ballot papers therein, count and record the number of such papers in each such box and then mix together the whole of the papers contained in the ballot boxes.

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

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

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

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

53. Ballot papers to be rejected.

(1) Any ballot paper—

(*a*) which does not bear the official mark; or

(*b*) on which votes are given for—

(i) more than one recognised political party; or

(ii) more than one independent group; or

(iii) a combination of one or more recognised political parties and independent groups; or

(*c*) on which anything is written or marked by which the voter can be identified except the printed number on the reverse; or

(*d*) which is unmarked; or

(*e*) which is void for uncertainty, shall be rejected by the counting officer. The counting officer shall endorse the word "rejected" on any such ballot paper.

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

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

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

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

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

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

[S 53(7) subs by s 14 of Act 15 of 1988.]

(7A) The preferences indicated by a voter in his ballot paper for the candidates nominated by a nominated by such party or group.

[S 53(7A) ins by s 14 of Act 15 of 1988.]

(7B) Where a voter indicates in his ballot paper more than one preference for a candidate nominated by a recognised political party or independent group all the preferences so indicated shall be regarded as one preference.

[S 53(7B) ins by s 14 of Act 15 of 1988.]

(7C) Any preference indicted by a voter in his ballot paper which is void for uncertainty as to the candidate for whom if, is indicated shall be rejected.

[S 53(7C) ins by s 14 of Act 15 of 1988.]

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

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

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

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

55. Closure of the count.

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

(*a*) the counted ballot papers;

(*b*) the rejected ballot papers;

(*c*) the tendered ballot papers;

(*d*) the ballot paper account;

(*e*) the packets referred to in paragraphs (*c*) to (*f*) of section 47(1);

(*f*) the record of the count under subsection (2)(*b*) of section 52;

(*g*) the statement under section 53(6); and

(*h*) the written statement under section 53(7) of the number of votes given to each recognised political party or independent group and the number of preferences secured by each candidate nominated by each such party or group.

[S 55(*h*) subs by s 15 of Act 15 of 1988.]

56. Counting of postal ballot papers.

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

57. Notice of declaration of result.

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

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

Each recognised political party or independent group which has nominated candidates at an election for any electoral district may appoint not more than two agents to attend at the proceedings at the declaration of the result. Notice in writing of such appointments stating the names and addresses of the person appointed shall be given by the secretary of such recognised political party or its authorised agent or the group leader to the returning officer before the proceeding at the declaration of the result commence. The returning officer may refuse to admit to the place where such proceeding take place any agent whose name and address have not been so given.

59. Persons entitled to be present at the declaration of the result.

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

60. Declaration of the result.

(1) After the receipt of the documents referred to in section 55 the returning office shall from the statements under subsection (7) of section 53 furnished to him by all the counting officers (including the counting officers of the counting centre or centres where postal ballot papers were counted) add up and determined the number of votes given for each recognised political party and independent group and the number of preferences indicated for each candidate nominated by each such party or

group. The returning officer shall, before he opens a sealed packet referred to in paragraph (*h*) of section 55, upon a request made by an agent appointed under section 58, permit such agent to inspect the seals on such packet.

[S 60(1) subs by s 16 of Act 15 of 1988.]

(2) Upon such determination, the returning officer shall forthwith declare elected, in accordance with the provisions of Article 99 of the Constitution, such number of Members which the electoral district is entitled to return as has been specified by the Commissioners in the Order published in accordance with the provisions of paragraph (8) of Article 98 of the Constitution.

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

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

62. Publication of result in the *Gazette*.

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

63. Disposal of ballot papers.

(1) The returning officer shall retain the packets and all documents forwarded to him under section 55 for a period of six months reckoned from the date of the receipt thereof and thereafter shall cause the said packets and documents to be destroyed unless otherwise directed by the Commissioner

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

PART V

FILLING OF VACANCIES

64. Filling of vacancies.

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

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

(3) Where all the candidates whose names appear in the nomination paper submitted by any recognised political party or independent group in respect of an electoral district have been exhausted by election or otherwise or where none of the candidates whose names remain on such a nomination paper have secured any preferences, and thereafter a vacancy occurs to be filled by a

member nominated by such party or group, the returning officer of such electoral district shall inform the Commissioner,

[S 64(3) subs by s 17 of Act 15 of 1988.]

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

(5) Notwithstanding anything in the preceding provisions of this section, where the seat of a member of Parliament declared elected under Article 99A of the Constitution becomes vacant, Secretary-General of Parliament shall inform the Commissioner who shall require the Secretary of the recognised political party or the group leader of the independent group to which the member who vacated the seat belonged, to nominate a member of such party or group to fill the vacancy.

[S 64(5) ins by s 6 of Act 35 of 1988.]

Upon receipt of such nomination, the Commissioner shall declare such person elected as a Member of Parliament and cause the name of the member so declared to be published in the *Gazette*.

65. .

[S 65 rep by s 18 of Act 15 of 1988.]

PART VI

OFFENCES

66. Offences relating to nomination papers ballot papery official poll cards.

Every person who—

(*a*) forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to the returning officer any nomination paper knowing the same to be forged; or

(*b*) forges or counterfeits or fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper; or

(*c*) without due authority supplies any ballot paper to any person; or

(*cc*) wilfully displays a marked ballot paper Inside a polling station; or

[S 66(*cc*) ins by s 19 of Act 15 of 1988.]

(*d*) sells or offers to sell any ballot paper to any person or purchases or offers to purchase any ballot paper from any person; or

(*e*) not being a person entitled under this Act to be in possession of any ballot paper which has been marked with the official mark in accordance with this Act, has any such ballot paper in his possession; or

(*f*) puts into any ballot box anything other than the ballot paper which he is authorised by law to put in: or

(*g*) without due authority takes out of any polling station any ballot paper or is found in possession of any ballot paper outside a polling station; or

(*h*) without due authority destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers in use or intended to be used for the purposes of an election; or

(*i*) without due authority prints any ballot paper or what purports to be or is capable of being used as a ballot paper at an election; or

(*j*) manufactures, constructs, imports into the Republic, has in his possession, supplies or uses for the purpose of an election, or causes to be manufactured, constructed, imported into the Republic, supplied or used for the purpose of an election, any appliance, device or mechanism by

which a ballot paper may be extracted, affected or manipulated after having been deposited in a ballot box during the polling at an election; or

(*k*) willfully makes a false statement in any application to be treated as a postal voter under this Act, or in any declaration of identity sent to him under the postal voters' regulations set out in the Second Schedule to this Act; or

(*l*) without due authority destroys, takes, opens, or otherwise tampers or interferes with, any application to be treated as a postal voter, or any declaration of identity, or any covering envelope or ballot paper envelope within the meaning of the postal voters regulations set out in the Second Schedule to this Act; or

(*m*) without due authority prints any official poll card or what purports to be or is capable of being used as an official poll card at an election; or

(*n*) without due authority places an appropriate mark on any voter at any election or what purports to be or is capable of being mistaken for that mark; or

(*o*) fraudulently defaces an appropriate mark placed on any voter at an election without due authority; or

(*p*) votes at an election knowing that he is legally incapable of, or disqualified from, so voting, shall be guilty of an offence and shall, on conviction by the High Court, be liable to imprisonment of either description for a term not exceeding two years and shall, by conviction, become incapable, for a period of seven years from the date of his conviction, of being registered as an elector or of voting at an election under this Act, or of being elected as a Member of Parliament, and if at that date he has been elected as a Member of Parliament, his election shall be vacated from the date of such conviction.

67. Certain persons not to canvass or act as agents.

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

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

68. Certain acts prohibited on polling day.

(1) No person shall, on any date on which a poll is taken at a polling station, do any of the following acts within the precincts, or a distance of half a kilometre of the entrance, of that polling station—

(*a*) canvassing for votes;

(*b*) soliciting the vote of any elector;

(*c*) persuading any elector not to vote for any particular recognised political party or independent group;

(*d*) persuading any elector not to vote at the election;

(*e*) distributing or exhibiting any handbill, placard, poster, drawing, photograph of a candidate, or notice relating to the election (other than any official handbill, placard, poster or notice) or any symbol allotted under section 22 to any recognised political party or independent group.

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

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

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

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

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

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

69. Restriction on processions.

No person—

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

(*b*) shall, at any procession held or conducted during the period referred to in paragraph (*a*), do any act or thing calculated to promote the election referred to in the said paragraph (*a*). Every person who contravenes any of the preceding provisions of this section shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one hundred rupees, or to imprisonment of either description for a term not exceeding one month, or to both such fine and imprisonment.

70. Restriction on public meetings.

No public meeting shall be held during the period commencing forty-eight hours before the date of the poll and ending one week after the Members of Parliament for all the electoral districts in respect of which a poll has been taken on such date have been declared elected by the respective returning officers. Every person who contravenes any of the preceding provisions of this section shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one hundred rupees, or to imprisonment of either description for a term not exceeding one month, or to both such fine and imprisonment.

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

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

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

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

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

72. Printing of election publications by persons other than candidates.

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

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

73. Restriction on number of election offices.

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

(*a*) during the period commencing from the first day of the nomination period at such election and ending on the day immediately preceding the date on which a poll is taken at such election, any election office, other than one notified central election office in the electoral district, and one notified branch election office in each polling district;

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

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

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

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

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

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

74. Provision relating to display of handbills, posters.

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

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

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

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

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

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

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

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

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

75. Candidate not to visit residences for canvassing.

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

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

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

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

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

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

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

76. Maintenance secrecy at elections.

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

(2) Every officer, clerk, candidate, and agent in attendance at a polling station shall maintain, and aid in maintaining, the secrecy of the voting in such station, and shall not communicate, except for

some purpose authorised by law, before the poll is closed, to any person any information as to the name or number on the register of electors of any elector who has or has not applied for a ballot paper or voted at that station, or as to the official mark.

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

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

(4A) Every person accompanying a voter to a polling station who is subject to a disability to mark and place the ballot paper of such voter in the ballot box as directed by the voter shall maintain and aid in maintaining the secrecy of such voting.

[S 76(4A) ins by s 6 of Act 28 of 2011.]

(4B) It shall be the duty of the presiding officer to maintain a record of the relevant information of every person accompanying a voter who is subject to a disability to a polling station to mark the ballot paper of such voter.

[S 76(4B) ins by s 6 of Act 28 of 2011.]

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

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

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

CORRUPT PRACTICES

77. Personation.

(1) Every person who at any election—

(*a*) votes in person or by post as some other person, whether that other person is living or dead or is a fictitious person; or

(*b*) votes more than once in or under his own name at such election,

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

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

(*a*) has applied for a ballot paper for the purpose of voting in person; or

(*b*) has made an application to be treated as a postal voter; or

(*c*) has marked, whether or not validly, and returned a ballot paper issued for the purpose of voting by post, shall be deemed to have voted.

78. Treating.

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

79. Undue influence.

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

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

(*a*) utters at any religious assembly any words for the purpose of influencing the result of such election or inducing any elector to vote or refrain from voting for any Recognised political party or independent group at such election; or

(*b*) for such purpose distributes or displays at any religious assembly, any handbill, placard, poster, drawing, notice, photograph of a candidate, symbol, sign, flag or banner; or

(*c*) holds or causes to be held a public meeting at a place of worship for the purpose of promoting the election or the election campaign of any recognised political party or independent group at such election, shall be guilty of the offence of undue influence.

(3) Any member or official of a religious order or organisation

(*a*) who denies, or threatens to deny, to any member or adherent of that order or organisation, or to any member of the family of such member or adherent, any spiritual ministration, service or benefit, to which such member or adherent would in the ordinary course have been entitled; or

(*b*) excludes, or threatens to exclude, such member or adherent from such order or organisation, in order to induce or compel such member or adherent to vote or refrain from voting for any recognised political party or independent group at an election,

or to support or refrain from supporting any political party or independent group at such election, or on account of such member or adherent having voted or refrained from voting for a recognised political party or independent group at such election, or having supported or refrained from

supporting any such recognised political party or independent group at such election, shall be guilty of the offence of undue influence.

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

(*a*) terminates or threatens to terminate such employment; or

(*b*) denies or threatens to deny to such other person any benefit or service which such other person already enjoyed,

or would have enjoyed, in the ordinary course of such employment, in order to induce or compel such other person to vote or refrain from voting for any recognised political party or independent group at en election, or to support or refrain from supporting any recognised political party or independent group at such election, or on account of such other person having voted or refrained from voting for any recognised political party or independent group at such election, or having supported or refrained from supporting any recognised political party or independent group at such election, shall be guilty of the offence of undue influence.

80. Bribery.

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

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

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

(*c*) every person who, directly or indirectly by himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement, or agreement as aforesaid to or for any person in order to induce such person to procure or endeavour to procure the return of any person as a Member of Parliament, or the vote of any elector at an election under this Act;

(*d*) every person who upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement procures or engages, promises or endeavours to procure, the return of any person as a Member of Parliament, or the vote of any elector at an election under this Act;

(*e*) every person who advances or pays or causes to be paid any money to or to the use of any other person with the intent that such money or any part thereof shall be expended in bribery at an election under this Act or who knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at such election;

(*f*) every elector who, before or during an election under this Act, directly or indirectly, by himself or by any other person on his behalf, receives, agrees, or contracts for any money, gift, loan, or valuable consideration, office, place or employment, for himself or for any other person, for voting or agreeing to vote or for refraining or agreeing to refrain from voting at such election;

(*g*) every person who, after an election under this Act, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or to refrain from voting at such election;

(*h*) every person who directly or indirectly, by himself or by any other person on his behalf, on account of and as payment for voting or for having voted or for agreeing or having agreed to vote for any recognised political party or independent group at an election, or on account of and as payment for his having assisted or agreed to assist any recognised political party or independent group at an election, applies to any candidate nominated by such recognised political party or independent group, or to his agent or agents, for the gift or loan of any money or valuable consideration, or for the promise of the gift or loan of any money or valuable consideration or for any office, place or employment or for the promise of any office, place or employment;

(*i*) every person who directly or indirectly, by himself or by any person on his behalf, in order to induce any other person to agree to be nominated as a candidate or to refrain from becoming a candidate or to withdraw if he has become a candidate gives or procures any office, place or employment or agrees to give or procure or offers or promises to procure or to endeavour to procure any office, place or employment to or for such other person, or gives or lends, or agrees to give or lend, or offers or promises to procure or to endeavour to procure any money or valuable consideration to or for any person or to or for such other person, or to or for any person on behalf of such other person.

81. Punishment and incapacities for corrupt practice.

(1) Every person who—

(*a*) commits the offence of personation, or aids, abets, counsels or procures the commission of the offence of personation; or

(*b*) commits the offence of treating, undue influence or bribery; or

(*c*) makes or publishes, before or during an election, for the purpose of affecting the result of that election, any false statement of fact in relation to the personal character or conduct of any candidate; or

(*d*) makes or publishes, before or during an election, for the purpose of affecting the result of that election, any false statement of the withdrawal of any candidate at such election, shall be guilty of a corrupt practice, and shall on conviction by the High Court be liable, in the case referred to in paragraph (*a*) of this subsection, to rigorous imprisonment for a term not exceeding twelve months, and, in any other case, to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

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

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

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

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

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

(*a*) that no corrupt or illegal practice was committed at the election by such candidate and any such offence was committed contrary to the orders and without the sanction or connivance of such candidate; and

(*b*) that such candidate took all reasonable means for preventing the commission of corrupt and illegal practices at the election; and

(*c*) that any such offence was of a trivial, unimportant and limited character; and

(*d*) that in all other respects the election was free from any corrupt or illegal practice on the part of such candidate and his agents.

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

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

(*a*) except within the period during which an election petition could, if such candidate had been elected as a Member at such election, have been presented against him in connection with his election; and

(*b*) except by a person who would have had a right to present such petition under section 95; and

(*c*) except with the sanction of the Attorney-General.

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

ILLEGAL PRACTICES

83. Certain expenditure to be illegal practice.

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

(*a*) on account of the conveyance of electors to or from the poll, whether for the hiring of vehicles or animals of transport of any kind whatsoever, or for railway fares, or otherwise; or

(*b*) to or with an elector on account of the use of any house, land, building, or premises for the exhibition of any address, bill, or notice, or on account of the exhibition of any address, bill, or notice.

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

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

(*a*) for the purpose of the conveyance of voters to or from the poll; or

(*b*) for any other purpose, other than—

(i) any legitimate business; or

(ii) any official business, that is to say, the performance of any duty or the discharge of any function accruing from or connected with or incidental to any office, service or employment, held or undertaken or carried on by him. Any person acting in contravention of this subsection shall be guilty of an illegal practice.

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

(*a*) where it is the ordinary business of an elector as an advertising agent to exhibit for payment bills and advertisements, a payment to or contract with such elector, if made in the ordinary course of business, shall not be deemed to be an illegal practice within the meaning of this section;

(*b*) where electors are unable at an election to reach their polling stations from their place of residence without crossing the sea or a branch or arm thereof or a river, means may be provided for conveying such electors by sea to their polling stations, or to enable them to cross the river in order to reach their polling stations;

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

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

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

84. False reports in newspapers.

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

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

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

and such statement is capable of influencing the result of such election, then, every person who at the time of such publication was the proprietor, the Manager, the Editor, the Publisher or other similar officer of that newspaper or was purporting to act in such capacity, shall each be guilty of an

illegal practice unless such person proves that such publication was made without his consent or connivance, and that he exercised all such diligence to prevent such publication as he ought to have exercised having regard to the nature of his function in such capacity and in all the circumstances.

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

85. Certain employment to be illegal.

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

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

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

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

86. Printing of election publications.

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

87. Punishment on conviction for illegal practices.

(1) Every person who commits an illegal practice shall on conviction by the High Court be liable to a fine not exceeding three hundred rupees and shall by conviction become incapable for a period of three years from the date of his conviction of being registered as an elector or of voting at an election under this Act or being elected as a Member of Parliament, and if at that date he has been elected as a Member of Parliament, his election shall be vacated from the date of such conviction.

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

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

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

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

(*a*) that no corrupt or illegal practice was committed at the election by such candidate and the illegal practice which is the subject-matter of the prosecution was committed contrary to the orders and without the sanction or connivance of such candidate; and

(*b*) that such candidate took all reasonable means for preventing the commission of corrupt and illegal practices at the election; and

(*c*) that the offence or offences constituting such illegal practice was or were of a trivial, unimportant and limited nature; and

(*d*) that in all other respects the election was free from any corrupt or illegal practice on the part of such candidate and his agents.

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

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

(*a*) except within the period during which an election petition could, if such candidate had been elected as a Member at such election, have been presented against him in connection with his election; and

(*b*) except by a person who would have had the right to present such petition under section 95; and

(*c*) except with the sanction of the Attorney-General.

(4) Nothing in the preceding provisions of this section shall be deemed or construed to preclude or prevent a candidate who was not elected as a Member at an election under this Act from being prosecuted for an illegal practice in connection with such election under section 87

EXCUSE FOR CORRUPT OR ILLEGAL PRACTICE

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

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

(*a*) that no corrupt or illegal practice was committed at such election by the candidate and the offences mentioned in the said report were committed contrary to the orders and without the sanction or connivance of such candidate; and

(*b*) that such candidate took all reasonable means for preventing the commission of corrupt and illegal practices at such election; and

(*c*) that the offences mentioned in the said report were of a trivial, unimportant and limited character; and

(*d*) that in all other respects the election was free from any corrupt or illegal practice on the part of such candidate and of his agents, then the election of such candidate shall not, by reason of the offences mentioned in such report be void, nor shall the candidate be subject to any incapacity under the Act.

90. Power of Court to except innocent act from being illegal.

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

(*a*) that any act or omission of a candidate at an election, or of any of his agents or other person, would, by reason of being a payment, engagement, employment, or contract in contravention of this Act or of otherwise being in contravention of any of the provisions of this Act, be but for this section an illegal practice; and

(*b*) that any such act or omission arose from inadvertence or from accidental miscalculations or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith, and in the circumstances it seems to the Judge, after giving the candidates, the returning officer,

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

PART VII

ELECTION PETITIONS

91. Avoidance by conviction of candidate.

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

92. Avoidance of election on election petition.

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

(*a*) that by reason of general bribery, general treating or general intimidation or other misconduct or other circumstances whether similar to those enumerated before or not a section of electors was prevented for the recognised political party or group which it preferred and there the result of the election;

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

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

(*a*) that a corrupt or illegal practice was committed in connection with the election by the candidate or with his knowledge or consent or by any agent of the candidate;

(*b*) that the candidate personally engaged a person as a canvasser or agent or to speak on his behalf knowing that such person had within seven years previous to such engagement been found guilty of a corrupt practice under the law relating to the election of the President or the law relating to Referenda or under the Ceylon (Parliamentary Elections) Order in Council, 1946, or under this Act, by a court of competent jurisdiction or by the report of an Election Judge;

(*c*) that the candidate personally engaged a person as a canvasser or agent or to speak on his behalf knowing that such person had been a person on whom civic disability had been imposed by a resolution passed by Parliament in terms of Article 81 of the Constitution, and the period of such civic disability specified in such resolution had not expired;

(*d*) that the candidate was at the time of his election a person disqualified for election as a Member.

93. Court of Appeal to try election petitions.

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

94. Place of trial of an election petition.

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

95. Who may present petition.

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

(*a*) Some person claiming to have had a right to be returned or elected at such election;
(*b*) some person alleging himself to have been a candidate at such election.

96. Relief which may be claimed.

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

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

97. Parties to a petition.

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

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

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

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

98. Contents of the petition.

An election petition—

(*a*) shall state the right of the petitioner to petition under section 95 of this Act;
(*b*) shall state the holding and result of the election;
(*c*) shall contain a concise statement of the material facts on which the petitioner relies;
(*d*) shall set forth full particulars of any corrupt or illegal practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt or illegal practice and the date and place of the commission of such practice, and shall also be accompanied by an affidavit in support of the allegation of such corrupt or illegal practice and the date and place of the commission of such practice;
(*e*) shall conclude with a prayer as, for instance, that the election in respect of any electoral district should be declared void, and shall be signed by all the petitioners:

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

99. Special provisions relating to the procedure before an Election Judge.

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

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

100. Determination of Election Judge.

At the conclusion of the trial of an election petition the Election Judge shall determine whether the Member whose return or election is complained of, or any other and what person, was duly returned or elected, or whether the election was void, and shall certify such determination in writing Such certificate shall be kept in the custody of the Registrar of the Court of Appeal to be dealt with as hereinafter provided.

101. Report of Judges as to Corrupt or illegal practice.

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

(*a*) whether any corrupt or illegal practice has or has not been proved to have been committed by or with the knowledge and consent of any candidate at the election, or by his agent, and the nature of such corrupt or illegal practice, if any; and

(*b*) the names and descriptions of all persons, if any, who have been proved at the trial to have been guilty of any corrupt or illegal practice:

Provided, however, that before any person, not being a party to an election petition nor a candidate, is reported by an Election Judge under this section, the Election Judge shall give such person an opportunity of being heard and of giving and calling evidence to show why he should not be so reported. Such report shall be kept in the custody of the Registrar of the Court of Appeal to be dealt with as hereinafter provided.

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

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

(*a*) the determination of an Election Judge under section 100; or

(*b*) any other decision or order of an Election Judge.

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

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

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

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

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

103. Security by appellant of appeal.

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

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

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

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

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

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

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

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

104. Power of the Supreme Court in appeal.

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

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

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

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

105. Transmission to President of certificate and report.

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

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

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

(*a*) the report of the Election Judge made under section 101, if it is in the opinion of the Supreme Court not affected by the decision in the appeal; or

(*b*) if the Supreme Court considers it necessary, a report in respect of the matters referred to in section 101 made by the Supreme Court in accordance with the provisions of that section.

106. Effect of certificate.

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

(*a*) the return or the election shall be confirmed; or

(*b*) the return or the election shall be altered in accordance with such determination or decision, as the case may be; or

(*c*) where the determination or the decision is to the effect that the election in respect of any electoral district is to be declared void, the President shall, within one month of the receipt of such certificate, by Order published in the *Gazette* require the holding of an election in respect of that electoral district.

107. Effect of report.

(1) —

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

(*b*) —

(i) Where the report referred to in paragraph (*a*) is to the effect that a corrupt or illegal practice has been committed by any person, that person shall be subject to the same incapacities as if at the date of the said report he had been convicted of that practice and the returning officer shall expunge the name of such person from any nomination paper in respect of the election which was the subject-matter of the election petition.

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

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

108. Time for presentation.

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

Provided that an election petition questioning the return or the election upon the ground of a corrupt or illegal practice and specifically alleging a payment of money or other act to have been made or done since the date aforesaid by the member whose election is questioned or by an agent of the member or with the privity of the member in pursuance or in furtherance of such corrupt or illegal

practice may, so far as respects such corrupt or illegal practice, be presented at any time within twenty-eight days after the date of such payment or act.

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

109. Prohibition of disclosure of vote.

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

110. Votes to be struck off at a scrutiny.

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

(*a*) the vote of any person whose name was not on the register of electors assigned to the polling station at which the vote was recorded;

(*b*) the vote of any person whose vote was procured by bribery, treating, or undue influence;

(*c*) the vote of any person who committed or procured the commission of personation at the election;

(*d*) where the election was a General Election, the vote of any person proved to have voted at such General Election in more than one electoral district;

(*e*) the vote of any person, who, by reason of the operation of paragraphs (*e*), (*f*), (*g*), (*h*), (i) and (*j*) of Article 89 of the Constitution, was incapable of voting at the election;

(*f*) the vote of any person who, not being entitled to vote in person at the election by reason of subsection (1) of section 26, voted in person at the election.

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

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

111. Procedure and practice on election petitions.

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

112. Rejection of ballot paper by counting officer to be final.

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

PART VIII

GENERAL

113. Power to order elections.

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

114. Failure to comply with provisions of Act.

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

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

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

116. Use of schools as polling stations.

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

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

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

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

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

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

119. Prohibition of disclosure of vote.

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

120. Inaccurate description of places and persons.

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

121. Publication of notices.

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

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

122. Duty of employers to grant leave to enable employee to vote.

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

[S 122(1) am by s 20 of Act 15 of 1988.]

(1A) Every employers shall prepare a statement setting out—

(*a*) the names of the persons applying for leave under subsection (1); and

(*b*) the names of the persons granted leave under that subsection and the periods for which such persons have been granted such leave,

and shall cause such statement to be conspicuously exhibited at the place of employment

[S 122(1A) ins by s 20 of Act 15 of 1988.]

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

[S 122(2) am by s 20 of Act 15 of 1988.]

123. Requisitioning of premises for use as polling stations.

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

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

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

124. Compensation for requisitioning premises.

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

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

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

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

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

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

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

[S 125(1) am by s 21 of Act 15 of 1988.]

(1A) No such postal communication as is referred to in subsection (1) shall be accepted for delivery by the Postmaster-General or any person acting under his authority, after the tenth day before the day of poll or be delivered by him to an elector, after the fifth day before the date of poll.

[S 125(1A) ins by s 21 of Act 15 of 1988.]

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

(*a*) such communication shall be open for examination, and shall not exceed thirty grams in weight; and

(*b*) the length and width of, and the manner of franking, arranging and handling, such communication shall be as determined from time to time by the Postmaster-General.

126. Political broadcasts.

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

[S 126(1) am by s 22 of Act 15 of 1988.]

(2) A recognised political party or independent group making application under subsection (1) for the use of broadcasting facilities during the period referred to in that subsection, shall be permitted—

(*a*) in the ease of radio broadcasting, to use—

(i) a total period of thirty minutes, if such party or group has submitted nomination papers in respect of only one electoral district;

(ii) a total period of sixty minutes, if such party or group has submitted nomination papers in respect of more than one but less than fourteen electoral districts or has nominated not less than one hundred and thirty two candidates for the electoral districts, in respect of which it has submitted nomination papers;

(iii) a total period of ninety minutes, if such party or group has submitted nomination papers in respect of fourteen or more electoral districts or has nominated more than one hundred and

thirty-two candidates for the electoral districts in respect of which it has submitted nomination papers;

(*b*) in the case of television broadcasting, to use—

(i) a total period of thirty minutes if such party or group has submitted nomination papers for only one electoral district;

(ii) a total period of sixty minutes, if such party or group has submitted nomination papers in respect of more than one but less than fourteen electoral districts or has nominated not less than one hundred and thirty two candidates for the electoral districts in respect of which it has submitted nomination papers;

(iii) a total period of ninety minutes, if such party or group has submitted nomination papers in respect of fourteen or more electoral districts or has nominated more than one hundred and thirty two candidates for the electoral districts in respect of which it has submitted nomination papers.

The time allotted to each recognised political party or independent group in accordance with the provisions of this subsection may be used by such party or group on one or more occasions, so however that the use on each such occasion shall be for a period not less than fifteen minutes and not more than thirty minutes.

[S 126(2) subs by s 22 of Act 15 of 1988.]

(3) Where two or more recognised political parties or in dependent groups agree to debate any matter of national importance, it shall be the duty of the Chairman of Sri Lanka Broadcasting Corporation and the Chairman of the Sri Lanka Rupavahini Corporation to afford broadcasting facilities to such parties or groups, so however that the time permitted for such de bate shall not exceed the time allotted to each such party or group under subsection (2).

[S 126(3) am by s 22 of Act 15 of 1988.]

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

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

(*b*) in the absence of such agreement by lots cast or drawn in such manner as the Chairman of the Sri Lanka Broadcasting Corporation and the Chairman of the Sri Lanka Rupavahini Corporation may, in his absolute discretion, determine.

[S 126(4)(*b*) am by s 22 of Act 15 of 1988.]

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

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

(7) The Commissioner may permit every recognised political party or independent group to use, in addition to the period allocated to such party or group under subsection (2), broadcasting facilities on radio and television for such periods as may be determined by the Commissioner having regard to the principles set out in subsection (2).

[S 126(7) ins by s 22 of Act 15 of 1988.]

(8) The Chairman of the Sri Lanka Broadcasting Corporation and the Chairman of the Rupavahini Corporation shall ensure that except as provided in the preceding provision of this section no material is broadcast, over the radio or television during the period commencing on the nomination day and ending on the date of declaration of the result, which will have the effect of promoting the

candidature of a particular political party or independent group or of a particular candidate. In implementing the provisions of this subsection, the Chairman of the Sri Lanka Broadcasting Corporation and the Chairman of the Sri Lanka Rupavahini Corporation shall act in consultation with the Commissioner.

[S 126(8) ins by s 22 of Act 15 of 1988.]

(9) For the purpose of this section a person whose name appears in the list of persons submitted by a recognised political party or an independent group contesting a general election, to the Commissioner, under Article 99A of the Constitution, shall be deemed to be a candidate nominated by such recognised political party or independent group, as the case may be, to contest such election.

[S 126(9) ins by s 7 of Act 35 of 1988.]

127. State assistance to recognised political parties.

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

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

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

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

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

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

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

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

127A. Police to assist Commissioner.

Every police officer shall ensure the orderly conduct of an election held under this Act, and shall comply with any direction given to him in that regard by the Commissioner.

[S 127A ins by s 23 of Act 15 of 1988.]

127B. Procedure for casting vote where there's a tear of an reasonable inability to east vote at a given polling station.

(1) Notwithstanding the provisions of any other law, any registered elector who reasonably fears that due to conditions prevailing in the area within which his polling station is situate, that he is unable to cast his vote at such polling station, may make an application to the Commissioner of Elections within one week of the notice of nomination, requesting that he may be allowed to cast his vote at another polling station determined by the Commissioner, in his absolute discretion.

[S 127B(1) ins by s 23 of Act 15 of 1988.]

(2) The Commissioner shall within a week of receipt of an application, inform such elector whether such application is accepted or rejected. The decision of the Commissioner shall be final and conclusive and shall not be questioned in any court of law.

[S 127B(2) ins by s 23 of Act 15 of 1988.]

(3) Where such vote is cast, such vote shall be counted along with the votes of the electoral district where such elector is registered.

[S 127B(3) ins by s 23 of Act 15 of 1988.]

(4) The Commissioner shall cause to be published a list of the names of the registered electors whose applications have been accepted under this section by making copies thereof available for inspection at his office and at the relevant district offices.

[S 127B(4) ins by s 8 of Act 35 of 1988.]

128. Powers of Commissioner.

The Commissioner shall—

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

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

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

129. Removal of difficulties.

If any difficulty arises in first giving effect to any of the provisions of this Act, the Commissioner may, by Order published in the *Gazette*, issue all such directions as he may deem necessary with a view to providing for any special or unforeseen circumstances or to determining or adjusting any question or matter for the determination or adjustment of which no provision or effective provision is made by this Act.

129A. .

[S 129A rep by s 2 of Act 54 of 1988.]

130. Repeal.

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

131. Interpretation.

In this Act, unless the context otherwise requires—

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

"candidate" means a person who is nominated as a candidate at an election by a recognised political party or an independent group;

"Commissioner of Elections" means the Commissioner of Elections appointed under Article 103 of the Constitution;

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

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

"elector", "electoral district", "register .of electors", and

"registering officer” shall have the same meanings as in the Registration of Electors Act, No. 44 of 1980; and

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