

PRESIDENTIAL ELECTIONS ACT

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15 of 1981,
16 of 1988,
35 of 1988,
14 of 2004,
28 of 2011.

AN ACT to provide for the election of the President of the Democratic Socialist Republic of Sri Lanka by the people and for matters connected therewith or incidental thereto.

[Date of Commencement: *12th March, 1981*]

1. Short title.

This Act may be cited as the Presidential Elections Act.

PART I
PRELIMINARY

2. Commissioner to give notice of date of nomination and date of poll.

(1) Where the Commissioner of Elections (hereinafter referred to as the "Commissioner"), is required by the Constitution to conduct the election of the President, he shall by Order published in the *Gazette*—

(a) fix the date of nomination of candidates being a date not less than sixteen days and not more than twenty-one days from the date of publication of such Order, and the place of nomination; and

[S 2(1)(a) am by s 2 of Act 16 of 1988.]

(b) fix the date on which the poll shall be taken, being a date not less than four weeks and not more than six weeks from the date of nomination.

[S 2(1)(b) am by s 2 of Act 16 of 1988.]

(2) The date fixed under paragraph (a) or paragraph (b) of subsection (1) shall be 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 Order under subsection (1), any day specified therein is declared to be a public holiday, such declaration shall in no way affect the validity of anything done on such day for the purposes of that subsection.

3. Electoral districts, polling divisions and polling districts.

(1) Each electoral district proclaimed under Article 97 of the Constitution shall be deemed to be an electoral district for the purposes of this Act.

(2) 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 for the purposes of this Act.

4. Polling stations.

(1) Within two weeks from the date of nomination, the Commissioner shall cause to be published in the *Gazette* a notice specifying the situation of the polling station or stations for each of the polling districts in each electoral district and the particular polling station, if any, reserved for female voters.

(2) Unless the Commissioner 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.

(3) The polling station or stations for each polling district shall be situated within such polling district save where the Commissioner 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.

(4) 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 polling station to be altered in such manner as he may, in his absolute discretion, determine.

5. Registers of electors.

The register of electors to be used in any electoral district for the purposes of this Act shall be the register of electors in operation for that electoral district on the date of the publication of the Order under section 2 notwithstanding to be altered in such manner as he may, in his after the publication of such Order.

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

A register of electors referred to in section 5 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 23 or to plural voting under section 40.

7. Returning officers.

(1) The Commissioner, as occasion may require, shall 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 the 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.

(2) An appointment made by the Commissioner under subsection (1) may be revoked by him at any time.

(3) 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, any person 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 person.

PART II NOMINATIONS

8. Deposits by candidates.

(1) A candidate or some person on his behalf shall deposit, or cause to be deposited, with the Commissioner or with any person authorised by the Commissioner in that behalf between the date of the publication of the Order under section 2 and before twelve noon on the day before the date of nomination

- (a) where such candidate is a candidate nominated by a recognised political party, a sum of fifty thousand rupees in legal tender,
- (b) where such candidate is a candidate nominated by any other political party or by an elector, a sum of seventy-five thousand rupees in legal tender.

(2) No deposit made

- (a) by a candidate or any other person on his behalf shall be accepted unless it is made within the time prescribed by subsection (1); or
- (b) by a candidate referred in paragraph (b) of subsection (1) or any other person on his behalf shall be accepted unless it is accompanied by a certificate under the hand of the Secretary-General of Parliament to the effect that such candidate is, or has been, an elected member of the legislature.

[S 8(2) subs by s 3 of Act 16 of 1988.]

(3) Where the deposit under this section is accepted by the Commissioner or any person authorised by him under subsection (1), the Commissioner or such person shall forthwith issue to the person by whom the deposit was made a receipt in writing signed by him acknowledging his acceptance of such deposit, and the receipt shall state—

- (a) where the deposit is made by a candidate, the name of the candidate, or where the deposit is made by some other person, the name of that person and the name of the candidate on whose behalf the deposit was made;
- (b) the amount of the deposit; and
- (c) the time and date of the deposit.

9. Disposal of deposits.

(1) Every deposit made under section 8 shall forthwith be credited to a deposit account and shall be disposed of according to the provisions of the subsections (2), (3) and (4).

(2) Where the nomination paper of a candidate is rejected under the provisions of section 14 or section 15 the deposit shall be returned to the person who made the deposit.

(3) Where the number of votes polled by any candidate does not exceed one-eighth of the total number of votes polled at the election, the deposit made in respect of such candidate shall be declared forfeit and shall be transferred by the Commissioner 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 shall be deemed to be the number of votes actually counted and shall not include any votes rejected as void or any second preference or third preferences.

10. Power of Commissioner to determine which one of 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 under this Act, 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, determine in his absolute discretion that such recognised political party is either any one such section or none of such sections.

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

- (a) the Commissioner by reason of his having made a determination 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 determination.

(3) A determination 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 determination thereunder shall have effect notwithstanding anything to the contrary in any other provisions of this Act or of any other written law.

11. Who may be nominated to contest election.

Any citizen who is qualified to be elected to the office of President may be nominated as a candidate for such office as hereinafter provided.

12. Nomination papers.

- (1) No candidate shall be nominated by means of more than three separate nomination papers.
- (2) Every nomination paper shall be substantially in Form A set out in the First Schedule to this Act.
- (3) —
- (a) Where any candidate is nominated by means of one nomination paper, such nomination paper shall be signed—
 - (i) where such candidate is nominated by a recognised political party, by the secretary of such party;
 - (ii) where such candidate is nominated by any other political party, by the secretary of such party;
 - (iii) where such candidate is nominated by an elector, by an elector whose name has been entered in any register of electors for the time being in operation.
- (b) Where any candidate is nominated by means of more than one nomination paper, each such nomination paper shall be signed by the same person who has signed the nomination paper in accordance with paragraph (a) and where there is no compliance with the provisions of this paragraph, such candidate shall be deemed not to have been nominated.
- (4) The signature of the person signing any nomination paper shall be attested by a Justice of the Peace or by a notary public.
- (5) The written consent of each candidate to be nominated shall be endorsed on the nomination paper.
- (6) No person shall sign the nomination paper or papers in respect of more than one candidate, and if he does so, his signature shall be operative only in the case of the nomination paper or papers which were first delivered.

13. Delivery of nomination paper to the Commissioner.

- (1) Each nomination paper shall be delivered to the Commissioner at the place of nomination on the date of nomination between the hours of 9 am and 11 am by the candidate or the person who has signed his nomination paper.

[S 13(1) am by s 4 of Act 16 of 1988.]

- (2) The Commissioner shall as soon as practicable make a copy of each nomination paper received by him and display such copy on his notice-board outside the place of nomination.
- (3) The Commissioner shall on application made before the expiry of the time fixed for nominations under subsection (1) supply free of charge a nomination paper to any person; but nothing in this Act shall be deemed to preclude the use of any form of nomination paper not supplied by the Commissioner, so long as such form does not differ substantially from form A set out in the First Schedule to this Act.
- (4) —
- (a) Where it appears that there is any omission or clerical error in a nomination paper submitted under this section, then, the candidate or the person who has signed such nomination paper may make an application to the Commissioner before the expiry of the time fixed for nomination to correct such omission or error on such paper.

- (b) Where the Commissioner is satisfied that such omission or error is due to inadvertence, the Commissioner may allow such candidate or person 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 the secretary of any other political party or an elector 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.

14. Objections to nomination papers.

(1) Objection may be made to the nomination papers of a candidate by any rival candidate or the person who has signed the nomination paper of such rival candidate on the ground—

- (a) that it is apparent from the contents of the nomination paper that the candidate is not qualified to be elected as President;
- (b) that, 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 the Parliamentary Elections Act, 1981, or by reason of the report of the Supreme Court under this Act, the candidate is not qualified to be elected as President, and, for the purposes of this paragraph a copy of the judgment or order of the Court by which he was so convicted, certified by the officer of the Court having custody of such judgment or order, or an order supported, in any case where there was an appeal against such conviction, by a copy of the order of the Court of Appeal or the Supreme Court in such appeal affirming such judgment or order, or a copy of or an extract from the *Gazette* in which such report is published as required by the provisions of the aforesaid laws, shall be conclusive proof of such disqualification;
- (c) that civic disability has been imposed on the candidate by Parliament in terms of Article 81(1) of the Constitution, and for the purposes of this paragraph a copy of the resolution referred to in that Article certified under the hand of the Secretary-General of Parliament shall be conclusive proof of such imposition.

(2) No objection to a nomination paper shall be allowed unless it is made to the Commissioner between 9 am and 11.30 am on the day of nomination.

[S 14(2) am by s 5 of Act 16 of 1988.]

(3) Every objection shall be in writing signed by the objector and shall specify the ground of objection.

(4) The Commissioner shall, with the least possible delay, decide on the validity of every objection taken on the ground referred to in paragraph (a) of subsection (1), and inform the candidate concerned of his decision, and of the grounds therefor if such decision allows the objection.

(5) The decision of the Commissioner if disallowing the objection taken on the ground referred to in paragraph (a) of subsection (1) shall be final; but if allowing such objection shall be subject to reversal on an election petition.

(6) The Commissioner shall refer any objection taken on any ground referred to in paragraph (b) or paragraph (c) of subsection (1) for the decision of the Supreme Court.

(7) Every reference under subsection (6) on any objection taken to the nomination of the candidate concerned—

- (a) shall be made by petition in writing which shall be free of stamp duty;
- (b) shall be made within a period of three days after the day of nomination;
- (c) shall specify the names and addresses of the objector and the candidate concerned;

- (d) shall be accompanied by a copy or copies of the relevant document or documents on which the objection is based; and
- (e) shall be heard and decided by five Judges of the Supreme Court after such summary inquiry as the Supreme Court may deem requisite within a period of seven days after the date of the receipt of such reference. If there is no decision by the Supreme Court on the reference within the period referred to in paragraph (e) of this subsection, the reference shall, for the purposes of this Act, be deemed to have abated, but may be taken by way of an election petition.

(8) Where the Commissioner is required by subsection (6) to refer any objection taken under paragraph (b) or paragraph (c) of subsection (1) to the nomination of the candidate concerned for the decision of the Supreme Court, such candidate shall for the purposes of this Act, be a candidate who stands nominated on the day of nomination and shall cease to be a candidate so nominated if, but only if, a decision if any, of that Court allows the objection. The Commissioner shall so act under this Act as to give force and effect to the preceding provisions of this subsection.

(9) The provisions of subsections (6) and (8) shall not apply in the event of the Commissioner allowing any objection against a candidate concerned on the ground referred to in paragraph (a) of subsection (1).

15. Rejection of nomination paper.

(1) The Commissioner shall as soon as practicable after a nomination paper has been delivered to him, examine the nomination paper and reject any nomination paper—

- (a) that has not been delivered in accordance with the provisions of subsection (1) of section 13; or
- (b) in respect of which the deposit required under section 8 has not been made; or
- (c) that does not comply with the provisions of sub-sections (3b), (4), (5) and (6) of section 12; or
- (d) where the signature of the secretary of a recognised political party, or the secretary of any other political party, or of an elector, as the case may be, does not appear on the nomination paper; or
- (e) in respect of which an objection has been made under paragraph (a) of section 14(1) and the Commissioner has allowed such objection.

(2) Where any nomination paper has been rejected by the Commissioner under subsection (1), he shall inform the candidate or the person who had delivered such nomination paper the fact of such rejection. The decision of the Commissioner to reject such nomination paper on any of the grounds set out in paragraphs (a) to (d) of subsection (1) shall be final.

16. Persons entitled to be present at nomination.

No person, other than the Commissioner, the candidates and the persons who have signed their nomination papers and one other person, if any, selected by each candidate shall, except with the consent of and for the purpose of assisting the Commissioner, be entitled to be present at the proceedings under sections 13, 14 and 15.

17. Uncontested election.

(1) Where after the expiry of the time fixed for the delivery of a nomination paper and the time during which objection may be made to a nomination paper and the rejection of a nomination paper or papers only one candidate stands nominated for election, then such candidate shall be declared elected to the office of President.

(2) The Commissioner shall forthwith cause the name of the candidate so declared elected to be published in the *Gazette*.

18. Procedure where no nomination papers are received.

Where at the conclusion of the proceedings under sections 13, 14 and 15, the Commissioner finds that no candidate stands duly nominated, he shall publish a notice prescribing a second nomination day, being a day not earlier than seven days, and not later than fourteen days from the date of

publication of such notice. The provisions of this Act shall apply in relation to the second nomination day.

19. Commissioner may delegate powers.

If the Commissioner is by reason of sickness or any other cause prevented or disabled from performing any of his duties under this Part, he may appoint by name or by office any person to act for him.

20. Allotting of approved symbols.

(1) If more than one candidate stands duly nominated for election, the Commissioner shall forthwith allot—

(a) to the candidate nominated by a recognised political party, the approved symbol allotted to that party under the Parliamentary Elections Act, 1981; and

(b) in respect of any other candidate, an approved symbol for each such candidate determined—

(i) in the first instance by agreement among such candidates; or

(ii) in the absence of such agreement by lot cast or drawn in such manner as the Commissioner may, in his absolute discretion, determine, and such symbol shall be printed on the ballot paper opposite the name of each such candidate. Where a candidate is unable to be present at the proceedings under paragraph (b), the person who signed the nomination paper of such candidate may act on his behalf.

(2) The approved symbol of any recognised political party shall not, whether or not such party is contesting on election, be allotted under paragraph (b) of subsection (1) to any other candidate.

(3) Where a candidate is nominated, he may, forthwith after the approved symbol is allotted to him under subsection (1), in writing under his hand indicate which of his names mentioned in the nomination paper he desires should be omitted and which should be specified by initial only; and for the purposes of the election, the names which the candidate desires to omit may be omitted and initials may be used in place of those names which he desires should be specified by initials.

(4) After the allotting of symbols under subsection (1) and the proceedings under subsection (3) the Commissioner shall forthwith adjourn such election to enable a poll to be taken in accordance with the provisions hereinafter set out.

PART III
THE POLL

21. Notice of poll.

(1) The Commissioner shall not later than fourteen days from the date of nomination, publish a notice in the *Gazette* and in at least one newspaper in Sinhala, Tamil and English specifying—

(a) that the election is contested;

(b) the date on which the poll will be taken and the hours of the poll; and

(c) the names of the candidates in the order in which such names will be printed on the ballot papers, the symbol allotted to each candidate, and—

(i) in the case of a candidate nominated by a recognised political party, or any other political party, the name of such political party; and

(ii) in the case of a candidate nominated by an elector, the name of such elector.

[S 21 renumbered as s 21(1) by s 10 of Act 35 of 1988.]

(2) 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

date for the taking of such poll and such date shall not be later than one month before the expiration of the term of office of the President in office.

[S 21(2) ins by s 10 of Act 35 of 1988.]

(3) Where a new date for taking a poll in an electoral district has been appointed by an Order made under subsection (2), the counting of votes polled in the other electoral districts shall not be commenced until after the close of the polls in the electoral district in respect of which such Order has been made.

[S 21(3) ins by s 10 of Act 35 of 1988.]

22. Procedure where candidate dies.

(1) If, after the adjournment of an election for a poll to be taken, a candidate nominated by the recognised political party or any other political party or an elector dies before the poll has, commenced, the Commissioner shall on being satisfied of the fact of such death, direct the Secretary of any such party or such elector to nominate another candidate within three days of such direction. Such nomination shall be substantially in Form A set out in the First Schedule to this Act: Provided however, that if such recognised political party, political party or elector fails to nominate a candidate, within the time allowed therefor, then—

- (a) if is only one remaining candidate, such candidate shall be declared elected to the office of President;
- (b) if there are more than one remaining candidate, the poll shall be taken as specified in the notice under section 21, as if the name of the deceased candidate were deleted from the ballot papers and all other documents relating to the election; and

[S 22(1) subs by s 6 of Act 16 of 1988.]

(2) The Commissioner shall, upon receipt of such nomination, forthwith publish a notice in the *Gazette* stating the fact of such death and that the poll shall be taken as specified in the notice under section 21 as if the name of the candidate nominated under subsection (1) were substituted in place of the deceased candidate in the ballot papers and in all other documents relating to the election.

(3) .

[S 22(3) rep by s 6 of Act 16 of 1988.]

23. 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 under this Act 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 a Magistrate, be liable to a fine not exceeding five hundred rupees, or to imprisonment of either description for a term not exceeding one year, or to both such fine and imprisonment.

(2) An application to be treated as a postal voter for the purpose of an election may be made—

- (a) by a member of the Sri Lanka Army, Sri Lanka Navy, or Sri Lanka Air Force, or an officer or servant in the Department of Police, Department of Prisons, Sri Lanka Government Railway the Department of Posts and 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 23(2)(a) am by s 7 of Act 16 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 an 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.

(3) An application to be treated as a postal voter for the purpose of an election shall be made to the returning officer of the electoral district where such applicant is registered as an elector so as to reach him within ten days from the date of publication of the Order under section 2. 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 for the purpose of an election shall be allowed by the 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 the returning officer on an application to be treated as a postal voter for the purpose of an election 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 for the purpose of an election shall be final.

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

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

(a) a ballot paper;

(b) a form of declaration of identity;

(c) an envelope which shall be smaller than the envelope referred to in paragraph;

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

(e) 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 for the purpose of an election 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 for the purpose of an election is in this Act referred to as a "postal ballot paper".

(12) The returning officer of any electoral district shall, as soon as practicable prepare a list (in this Act referred to as the "postal voters' list") specifying the name, address and number on the register of electors of every person entitled to be treated as a postal voter for the purpose of an election. 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.

24. Official poll card.

(1) The returning officer for any electoral district shall send to each elector whose name appears in the register for that electoral district 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 and the polling district;
- (d) the polling station allotted to the elector; and
- (e) 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 119B has been allowed.

[S 24(1) am by s 11 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 fine 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.

25. 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 an 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.

26. Facilities to be provided at polling stations.

(1) For the purposes of an election, the returning officer of an electoral 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 the part of that register supplied to each such presiding officer;

[S 26(1) am by s 12 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 non-compliance with the provisions of subsection (1) or any informality relative to polling stations.

27. 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 candidate, the symbol allotted to such candidate and—
 - (i) in the case of a candidate nominated by a recognised political party or any other political party, the name of such party; and
 - (ii) in the case of a candidate nominated by an elector, the name of such elector.

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

28. Ballot boxes.

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

29. Ballot papers.

(1) The votes at an election 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 B set out in the First Schedule to this Act, and—

- (a) shall contain a list of the candidates in Sinhala, Tamil and English, described, subject to the provisions of subsection (3) of section 20, as in their respective nomination papers, and arranged alphabetically in Sinhala in the order of their surnames, or where there is no surname, in the order of their names, or where there is no surname or name, in the order of their other names;
- (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.

30. Hours of poll.

Unless the Commissioner, by notification in the *Gazette*, appoints any other hour, the poll shall open at seven o'clock in the forenoon of the day appointed under section 2 and shall close at four o'clock in the afternoon of that day.

31. Appointment of the election agent.

(1) On or before the day of nomination a person shall be appointed in writing by or on behalf of each candidate as his agent for such election and such person is in this Act referred to as the election agent. In the event of no such appointment being made by or on behalf of such candidate on or before that day, such candidate shall be deemed to have appointed himself as his election agent.

(2) A candidate may appoint himself as his election agent, and thereupon shall, so far as circumstances admit, be subject to the provisions of this Act, both as a candidate and as an election agent, and any reference in this Act to an election agent shall be construed to refer to the candidate acting in his capacity as election agent.

(3) Each candidate or some other person on his behalf shall forthwith, after his election agent has been appointed under subsection (1), declare in writing the name, the number of the national or other identity card issued by a government department or public corporation, and address of such agent to the Commissioner, and the Commissioner shall forthwith, by affixing a notice in a conspicuous place outside his office, give public notification of the name and address of every election agent so declared.

[S 31(3) am by s 8 of Act 16 of 1988.]

(4) One election agent only shall be appointed for each candidate, but the appointment, whether the election agent appointed be the candidate himself or not, may be revoked and in the event of such revocation or of his death, whether such event is before, during or after the election, then forthwith another election agent shall be appointed, and his name, the number of the national or other identity card issued by a government department or public corporation and address declared in writing to the Commissioner who shall forthwith give public notice of the same in the manner aforesaid. In the event of another election agent not being so appointed, the candidate shall, except in the case where the election agent who has died is the candidate himself, be deemed to have appointed himself as his election agent in place of the agent whose appointment was revoked or the agent who died.

[S 31(4) am by s 8 of Act 16 of 1988.]

32. Appointment of authorised and other agents.

(1) Each election agent may appoint not more than one authorised agent in respect of each electoral district the name, the number of the national or other identity card issued by a government department or public corporation and address of each such authorised agent shall be notified by the election agent in writing to the returning officer of that electoral district within one week from the date of nomination. In the event of no appointment being made as aforesaid, such election agent shall be deemed to have appointed himself as his authorised agent.

[S 32(1) am by s 9 of Act 16 of 1988.]

(2) An authorised agent referred to in subsection (1), may appoint not more than one divisional agent in respect of each polling division within that electoral district the name, the number of the national or other identity card issued by a government department or public corporation and address of each such divisional agent shall be notified by the authorised agent in writing to the returning officer of that district within two weeks from the date of nomination. In the event of no appointment

being made as aforesaid, such authorised agent shall be deemed to have appointed himself as the divisional agent.

[S 32(2) am by s 9 of Act 16 of 1988.]

(3) —

(a) Each divisional agent may appoint a reasonable number of polling agents for each polling station within that polling division 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 appointed shall be given by the divisional agent to the presiding officer at that station before the opening of the poll or during the poll.

[S 32(3)(a) am by s 9 of Act 16 of 1988.]

(b) Not more than two polling agents in respect of each candidate shall at any time be admitted to or be allowed to remain in any polling station.

(c) No polling agent whose name has not been notified to the presiding officer as required by paragraph (a) shall be admitted to a polling station. Appointment of authorised and other agents.

33. 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, election agents, authorised agents, divisional agents and polling agents, and the police officers on duty and other persons officially employed at the polling station.

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

34. 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.

35. 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 35(2)(aa) ins by s 9 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.

36. Inspection of voter and marking with the appropriate mark.

(1) No ballot paper shall be delivered to any 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 36(1)(a) am by s 10 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 36(1)(b) am by s 10 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 C 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 and address 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 36".

(3) In this section—

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

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

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

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

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

37. 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 paper

38. 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 to vote, of the polling agents, if present, the method of voting specified in the directions specified 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 candidate.

(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 38(2) subs by s 11 of Act 28 of 2011.]

39. Voting by proxy for bidden.

No voter shall be entitled to vote by proxy at an election under this Act.

40. Prohibition of plural voting.

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

41. Power to require voter to make declaration.

(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 the forms D, E, F, and G 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.

42. 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 (in this Act called a "spoilt ballot paper"), and the spoilt ballot paper shall be immediately cancelled by the presiding officer.

43. 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 H 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 I set out in the First Schedule to this Act. Tendered ballot papers shall be dealt with in the manner hereinafter provided.

44. Closure of the 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.

45. Procedure on closure of the 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 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 36; 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 J 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 spoiled ballot papers;
- (b) spoiled ballot papers; and
- (c) unused ballot papers.

46. Presiding officers 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.

46A. Disturbance 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 returning 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 making 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 station in an electoral district the provisions of Part IV shall, *mutatis mutandis*, apply to the counting of votes in such polling station and the declaration of the result of the 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 subject 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) Where the Commissioner is of the opinion, upon receipt of the statement under section 55 furnished to him by all the returning officers, that the result of the election will not be effected 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 proceed to make a declaration under section 56 or section 61.

(6) —

- (a) Where the Commissioner is of the opinion, upon receipt of the statements under section 55 furnished to him by all the returning officers, that the result at the election 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 forth with appoint a date for taking a fresh poll at such polling station, and the date so appointed shall be not later

than one month before the expiration of the term of office of the President in office. The Commissioner shall give notice of the new date of poll in at least one newspaper in each of the National language and by notices conspicuously displayed in the polling district in which such polling station is situated.

- (b) The provisions of section 25, 26, 27, 28, 29, 30, 31, 33, 34, 35, 36, 38, 39, 41, 42, 43, 44 and 45 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.
- (c) For the purpose of the application of the provisions of sections 73, 74 and subsection (2) of section 78 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.
- (d) 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.

(7) Where a new date for taking a poll at a polling station has been appointed under subsection (6) no declaration shall be made by the Commissioner under section 56 or section 61 or section 63 until after the counting of the votes polled at such poll has been completed and a statement, under section 55, indicating the number of votes cast in favour of each candidate at such poll has been transmitted to the Commissioner.

(8) The Commissioner shall consult every candidate contesting an election held under this Act, or an agent authorised for that purpose by such candidate, before making a declaration under subsection (5) or appointing a date, under subsection (6) of this section, or making an Order under subsection (2) of section 21.

[S 46A(a) ins by s 13 of Act 35 of 1988.]

PART IV THE COUNT

47. 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.

48. Notice of the count.

The returning officer shall make arrangements for counting of votes as soon as possible after the close of the poll and shall give notice in writing to each candidate, election agent and authorised agent of the situation of each counting centre, the date and time of the commencement of the count, and a statement showing the polling station or stations assigned to each such counting centre.

49. Appointment of counting agents.

(1) Each authorised agent may appoint not more than five agents (hereinafter referred to as "counting agents") to attend at the counting of the votes at each counting centre before the votes are counted.

(2) Notice in writing 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 appointed under subsection (1) shall be given by such authorised agent 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 the 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 centre.

[S 49(2) subs by s 10 of Act 16 of 1998.]

50. 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 48.

(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 referred to in subsection (2) of section 45 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) For the purpose of this section the counting officer shall not count—

(a) where there are three candidates, the second preference cast in favour of any candidate; and

(b) where there are more than three candidates, the second and third preferences cast in favour of any candidate.

(6) The counting officer shall not count the tendered ballot papers but shall place them in separate packets according to the candidates and shall mark each packet with the name of the candidate, and hand over such packets to the returning officer. For the purpose of this subsection the second and third preferences cast in favour of any candidate shall not be taken into account.

(7) 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.

51. Ballot papers to be rejected and the preparation of statement of the number of votes cast in favour of each candidate.

(1) Any ballot paper—

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

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

(c) which is unmarked; or

(d) which is void for uncertainty; or

(e) in which a voter has—

(i) not voted for any candidate; or

(ii) voted for more than one candidate; or

(iii) specified a second preference or a third preference only, or both such preferences only, 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 to any candidate or to specify if he has so desired his

second or his second and third preferences in favour of any candidate, 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 specified in the Third Schedule to this Act for the guidance of voters.

(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 cast in favour of each candidate not taking into account the second or third preferences in favour of any candidate and such statement shall be certified by the counting officer and witnessed by one of his assistants and the agents of any candidate as are present and desire to sign. The counting officer shall on request allow any counting agent to copy the statement.

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

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

52. Special provisions relating to powers, duties and functions under sections 50 and 51.

Any power, duty or function of a counting officer under section 50 or section 51 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.

53. 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 ballot papers counted in favour of each candidate with the name of such candidate on each packet;
- (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 45(1);
- (f) the record of the count under subsection (2b) of section 50;
- (g) the statement under section 51(6); and
- (h) the written statement under section 51(7) of the number of votes given to each candidate.

54. 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 contained 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

55. Returning officer to prepare statement.

(1) After the receipt of the documents referred to in section 53, the returning officer shall from the statements under subsection (7) of section 51 furnished to him by all the counting officers, (including the counting officers at the counting centres where postal ballot papers were counted) add and ascertain the number of votes cast in favour of each candidate in that electoral district and prepare a statement in words as well as in figures to that effect. Such statement shall be witnessed by one of his assistants and the authorised agent of any candidate as may be present and desires to sign. The returning officer shall on request allow any authorised agent to copy the statement.

(2) The returning officer shall forthwith transmit the statement referred to in subsection (1) to the Commissioner.

(3) No person other than the returning officer, his assistants and clerks, authorised agents and one other person selected by each authorised agent shall be entitled to be present at the proceedings under this section.

56. Commissioner to ascertain whether any candidate obtains absolute majority.

(1) The Commissioner shall forthwith ascertain from the statements under section 55 furnished to him by all the returning officers whether any candidate has received more than one-half of the valid votes cast at the election.

(2) Where any candidate has received more than one-half of the valid votes cast, the Commissioner shall forthwith declare such candidate elected to the office of President.

57. Procedure where no candidate receives absolute majority.

(1) Where no candidate has received more than one half of the valid votes cast at the election, the Commissioner shall

(a) where there are three candidates at the election—

(i) eliminate from the contest the candidate who has received the lowest number of votes, and

(ii) direct each returning officer to take such steps as may be necessary to count the second preference of each voter whose vote has been for the candidate eliminated under subparagraph (i) of this paragraph, as a vote in favour of one or the other of the remaining two candidates; or

(b) where there are more than three candidates at the election—

(i) eliminate from the contest the candidates other than the candidates who received the highest and second highest number of votes, and

(ii) direct each returning officer to take such steps as may be necessary—

(aa) to count the second preference of each voter whose vote had been for a candidate eliminated under subparagraph (1) of this paragraph, if it is for one or the other of the remaining two candidates, as a vote in favour of such remaining candidate; and

(bb) where the second preference of a voter is not counted under this sub paragraph, to count the third preference of such voter if it is for one or the other of the remaining two candidates, as a vote in favour of such remaining candidate.

(2) For the purposes of subsection (i)—

(a) the second preference shall not be counted if the voter has specified his second preference for more than one candidate;

(b) the third preference shall not be counted if the voter has specified his third preference for more than one candidate.

58. Returning officer to direct counting officers to comply with Commissioner's directions.

(1) Upon the receipt of a direction under section 57, the returning officer shall direct the counting officers to break the seals only of the packets in which the votes cast in favour of the candidates eliminated from the contest have been sealed, and to comply with the directions given under section 57.

(2) The counting officer shall endorse the words "not counted" on any ballot paper not counted by him under section 57(2). Before deciding not to count a ballot paper under the provisions of that section, the counting officer shall show it to each counting agent, if present, and hear his views thereon.

59. Counting officer to report result to returning officer.

(1) The counting officer shall upon the conclusion of the count under section 58, prepare a statement in words as well as in figures showing the second preference or the second and third preferences counted as a vote in favour of each of the remaining two candidates.

(2) The statement referred to in subsection (1) shall be certified by him and witnessed by one of his assistants and by any of the counting agents as are present and desire to sign and thereafter such statement shall be forwarded to the returning officer. The counting officer shall on request, allow any counting agent to copy the statement.

(3) Before the counting officer makes a written statement under subsection (1) 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.

(4) Upon the conclusion of the count under section 58 the counting officer shall forthwith seal the ballot papers counted and forward the sealed packets to the returning officer.

(5) The provisions of section 50(7) shall apply to proceedings under section 58 and this section.

60. Returning officer to add preferences and prepare statement.

The returning officer shall on receipt of the statements forwarded to him by all the counting officers under section 59, prepare a statement indicating the number of second preferences and third preferences specified in favour of the remaining two candidates in respect of the electoral district. Such statement shall be certified by him and witnessed by any authorised agent who desires to do so and thereupon such statement shall be forwarded to the Commissioner. The provisions of section 55(3) shall apply to proceedings under this section.

61. Commissioner to declare result.

The Commissioner shall, on receipt of the statements referred to in section 60 from the returning officer of every electoral district, add the second and third preferences as indicated in such statements, to the votes already counted under section 55 and thereby ascertain which of the remaining two candidates has received the majority of the votes so counted and forthwith declare the candidate who has obtained such majority to be elected to the office of President.

62. Commissioner to hold fresh elections in certain circumstances.

(1) Notwithstanding anything in this Act—

(a) if the Commissioner is satisfied that the candidate who, under section 17(1) or section 56(2) or section 61, is entitled to be declared elected to the office of President is dead, he shall, if he has

not declared such candidate elected, not declare the candidate elected, and proceed to fix fresh dates of nomination and election; or

(b) if the candidate who has been declared elected to the office of President under section 17(1) or section 56(2) or section 61 dies before the commencement of his term of office, the Commissioner shall fix fresh dates of nomination and election.

(2) The provisions of this Act shall, *mutatis mutandis*, apply to, and in relation to, the fresh dates of nomination and election referred to in subsection (1).

63. Equality of votes.

(1) Where an equality is found to exist between the votes received by two candidates, and the addition of one vote would determine which candidate would be declared President under this Act, the determination of the candidate to whom such additional vote shall be deemed to have been given for the purpose of such determination shall be made by lot by the Commissioner in such manner as he may, in his absolute discretion, determine, and he shall forthwith declare such candidate elected to the office of President.

(2) Where an equality is found to exist between votes received by two or more candidates and the addition of one vote would determine which candidate is not to be eliminated under this Act, then the determination of the candidate to whom such additional vote shall be deemed to have been given for the purpose of such determination shall be made by lot by the Commissioner in such manner as he may, in his absolute discretion, determine.

64. Commissioner to notify candidates time and place of declaration of result.

(1) The Commissioner shall, before he declares the results of an election under section 56 or section 61 or section 63 notify the candidates and the election agents the time and place at which the result will be declared.

(2) The name of the candidate declared elected as President under section 56 or section 61 or section 63 shall be published in the *Gazette*.

(3) No person other than the Commissioner, his assistants and clerks, the candidates, their election agents and one other person selected by each candidate shall be entitled to be present at the proceedings under section 56 or section 61 or section 63.

65. Disposal of ballot papers etc.

(1) The returning officer shall retain the packets and all documents forwarded to him under sections 53, 55 and 59, 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) A Judge of the Supreme Court 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, copy 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

OFFENCES

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

Every person who—

- (a) forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to the Commissioner 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) willfully displays a marked ballot paper inside a polling station; or
[S 66(cc) ins by s 11 of Act 16 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 the 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 an 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 to the office of President.

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 a half a kilometer 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 candidate;
- (d) persuading any elector not to vote at the election;
- (e) distributing or exhibiting any handbill placard, poster, photograph or drawing or notice relating to the election (other than any official handbill, placard, poster, photograph or drawing or notice) or any symbol allotted under section 20 to any candidate.

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 neighborhood thereof, any megaphone or loudspeaker 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 neighborhood thereof, so as to cause annoyance to any person visiting the polling station for the poll or so as to interfere with the work of the officers and other persons on duty at the polling station.

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

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

69. Restriction on processions.

No person—

- (a) shall, at any time during the period commencing on the day of nomination and ending one week after the date on which the result of the poll taken at such election is declared by the Commissioner 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) of this subsection, 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 fixed for the poll and ending one week after the result of the poll has been declared. 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 or marking instrument, as well as the property in the counterfoil of any ballot paper, may be stated to be in the Commissioner or the returning officer, as the case may be.

(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, shall be guilty of an offence and shall on conviction by a Magistrate be liable to a fine not exceeding five hundred rupees:

Provided, however, that a person shall not be guilty of an offence under the preceding provisions of this section, in relation to any advertisement, handbill, placard or poster, if he satisfies the Magistrate that the omission of the aforesaid names and addresses or any such name or address, as the case may be, arose from 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 a candidate at an election, or is the agent of such candidate, shall not have—
- (a) during the period commencing from the day of nomination at such election and ending on the day immediately following the date on which a poll is taken at such election, any election office, other than one notified central election office in each 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 each electoral district and one notified branch election office in each polling division.

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

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

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

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

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

74. Provisions relating to display of handbills posters, etc.

(1) During the period commencing from the day of nomination 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 the 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, notice, photograph of a candidate, symbol, sign or drawing 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 such premises; or
- (c) any handbill, placard, poster, notice, photograph of a candidate, symbol, sign, drawing, flag or banner, on or across any public road; or
- (d) any handbill, placard, poster, notice, photograph of a candidate, symbol, sign, or drawing in or 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 sub-section (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, photograph of a candidate, symbol sign, draw ins, flag or banner used in such contravention.

75. Maintenance of 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 before so attending make a statutory declaration of secrecy, substantially in the form K 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 candidate for whom 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 candidate for whom 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 candidate for whom 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 75(4A) ins by s 12 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 75(4B) ins by s 12 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 afore said, 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

76. Personation.

(1) Every person who at an 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.

77. 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.

78. Undue influence.

(1) Every person who directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of any force, violence, or restraint, or inflicts or threatens to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at an election under this Act, 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 such election shall be guilty of the offence of undue influence.

(2) Every person who, at any time during the period commencing from the day of nomination 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 candidate 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, sign, symbol, 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 of any candidate 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 ministrations, service or benefit, to which such member or adherent would in the ordinary course have been entitled; or
- (b) excludes, or threatens to exclude, such member or adherent from such order or organisation, in order to induce or compel such member or adherent to vote or refrain from voting for any candidate at an election under this Act, or to support or refrain from supporting any candidate at such election,

or on account of such member or adherent having voted or refrained from voting for a candidate at such election, or having supported or refrained from supporting any candidate 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 candidate at an election under this Act, or to support or refrain from supporting any candidate at such election, or on account of such other person having voted or refrained from voting for any candidate at such election, or having supported or refrained from supporting any candidate at such election, shall be guilty of the offence of undue influence.

79. 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 election of any person to the office of President, 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 election of any person to the office of President, 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 candidate at an election, or on account of and as payment for his having assisted or agreed to assist any candidate at an election, applies to such candidate 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.

80. 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 an election under this Act or of being elected to the office of President.

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

81. 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 to the office of President at such 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 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 to the office of President.

(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 to the office of President at such election—

- (a) except within the period during which an election petition could, if such candidate had been elected to the office of President 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 93; 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 to the office of President at an election under this Act from being prosecuted for a corrupt practice in connection with such election under section 80.

ILLEGAL PRACTICES

82. Certain expenditure to be illegal practice.

(1) No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at an election under this Act, 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, during the period commencing one hour before the time of the opening of the poll at an election 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 knowingly 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, any regional Transport Board or the Sri Lanka Government Railway, shall be deemed not to be an illegal practice within the meaning of this section;
 - (d) where the returning officer for any electoral district is satisfied, upon written application in that behalf made to him by any person, or on behalf of such person by any other person (not being a candidate, election agent, authorised agent or divisional agent),
so as to reach such officer seven days before the day on which a poll is to be taken at an election under this Act, that such person is unable, by reason of any physical disability, to convey himself to and from the poll on foot or in any public transport service referred to in paragraph (c) of this subsection, the returning officer may give such person written authority to use any vehicle, vessel or animal for the purpose of conveying himself to and from the poll, and accordingly the use of a vehicle, vessel or animal for the purpose of such conveyance by such person shall be deemed not to be an illegal practice within the meaning of this section.

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

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

83. 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 who is contesting such election, or
 - (b) the conduct or management of such election by such candidate, 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.

84. Certain employment to be illegal.

(1) No person shall, for the purpose of promoting or procuring the election of a candidate at an election under this Act, 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) one election agent and no more;
- (b) one authorised agent in respect of each electoral district;
- (c) one divisional agent in respect of each polling division;
- (d) 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 five counting agents for each counting centre;
- (e) a reasonable number of clerks and messengers.

(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.

85. Printing of election publication by candidates and authorised agents.

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 under this Act and which does not bear upon its face the names and addresses of its printer and publisher shall be guilty of an illegal practice.

86. Punishment on conviction for illegal practice.

(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.

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

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

(1) Where an illegal practice is committed in connection with an election under this Act by any candidate who was not elected to the office of President at the election or with his knowledge or consent or by any of his agents, such candidate shall, on conviction by a Magistrate 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 Magistrate—

- (a) that no corrupt or illegal practice was committed at the election by such candidate or his agents 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 or his agents; and
- (b) that such candidate and his agents 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.

(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 to the office of President at such election—

- (a) except within the period during which an election petition could, if such candidate had been elected to the office of President at such election, have been presented against him in connection with his election; and
- (b) except by a person who would have the right to present such petition under section 93; 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 to the office of President at an election under this Act from being prosecuted for an illegal practice in connection with such election under section 86.

EXCUSE FOR CORRUPT OR ILLEGAL PRACTICE

88. Report exonerating Candidates in certain cases of corrupt and illegal practice by agent.

Where, upon the trial of an election petition respecting an election under this Act, the Supreme Court 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 Supreme Court farther reports, after giving the Attorney-Genera 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 or his agents and the offences mentioned in the said report were committed contrary to the orders and without the sanction or connivance of such candidate or his authorised agent; and
- (b) that such candidate and his agents took all reasonable means for preventing the commission of corrupt and illegal practices at such election; and
- (c) that the offences mentioned in the said report were of a trivial, unimportant and limited character; and
- (d) that in all other respects the election was free from any corrupt or illegal practice on the part of such candidate and of his agents, then the election of such candidate shall not, by reason of the offences mentioned in such report, be void, nor shall the candidate be subject to any incapacity under this Act.

89. Power of Supreme Court to except innocent act from being illegal practice.

Where on application made, it is shown to the Supreme Court by such evidence as seems to the Court sufficient—

- (a) that any act or omission of a candidate at an election under this Act or of his agents or of any other agent or 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 Court, after giving the candidates, and any elector 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 Court 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 VI

ELECTION PETITIONS

90. Avoidance by conviction of candidate.

The election of a candidate to the office of President is avoided, by his conviction for any corrupt or illegal practice.

91. Avoidance of election on election petition.

The election of a candidate to the office of President 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 Supreme Court, namely—

- (a) that by reason of general bribery, general treating, or general intimidation, or other misconduct, or other circumstances, whether similar to those before enumerated or not, the majority of electors were or may have been prevented from electing the candidate whom they preferred;
- (b) noncompliance 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 affected the result of the election;
- (c) that a corrupt practice 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;
- (d) 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 Ceylon (Parliamentary Elections) Order in Council, 1946, or the law relating to the election of Members of Parliament or the law relating to Referenda, or under this Act;
- (e) 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;
- (f) that the candidate was at the time of his election a person disqualified for election to the office of President.

92. Powers of the Supreme Court to hear election petitions relating to the election of the President.

The hearing and determination of a proceeding relating to the election of the President shall be by at least five Judges of the Supreme Court of whom, unless he otherwise directs, the Chief Justice shall be one.

93. Who may present petition.

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

- (a) a person who was a candidate at an election under this Act and claims to have had a right to be returned or elected at such election;
- (b) any person who signed the nomination paper or papers of any candidate referred to in paragraph (a)

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

(d) where the office of President is claimed for an unsuccessful candidate on the ground that he had a majority of lawful votes, a scrutiny.

95. Parties to a petition.

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

- (a) where the petition, in addition to claiming that the election of the returned candidate 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 further declaration is claimed, the returned candidate; 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 Supreme Court, 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 Supreme Court may determine.

96. Contents of the petition.

An election petition—

- (a) shall state the right of the petitioner to petition within section 93;
- (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 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 some specified person should be declared duly returned or elected, or that the election should be declared void, or as the case may be, 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.

97. Special provisions relating to the procedure before the Supreme Court.

(1) The Supreme Court may, upon such terms as to costs or otherwise as the Court 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 the opinion of the Court be necessary for ensuring a fair or effective trial of the petition so, however, that the Court 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 Supreme Court shall make order deciding such petition without undue delay after the date of the conclusion of the trial of such petition.

98. Determination of Supreme Court.

At the conclusion of the trial of an election petition the Supreme Court shall determine whether the person 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 dealt with as hereinafter provided.

99. Report of Supreme Court as to corrupt or illegal practice.

At the conclusion of the trial of an election petition the Supreme Court 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 on behalf of whom the office of President is claimed by an election petition, is reported by the Supreme Court under this section, the Court shall give such person an opportunity of being heard and of giving and calling evidence to show why he should not be so reported.

100. Certificate and report to be forwarded to the Speaker.

The Supreme Court shall forward to the Speaker the certificate of the Supreme Court issued under section 98 together with the report made under section 99. The Speaker shall thereupon transmit to the Commissioner such certificate together with such report.

101. Effect of certificate and report.

(1) Upon the transmission to the Commissioner of the certificate of the determination of the Supreme Court as required by section 100, the determination 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
- (c) where the determination is to the effect that the election is to be declared void, the Commissioner shall, within one month of the receipt of such certificate, by notice in the *Gazette* order the holding of an election.

(2) —

(a) The Commissioner shall, upon receipt of the report of the Supreme Court transmitted to him under section 100, 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.
- (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.

(3) It shall be the duty of every registering officer forthwith to peruse every such report which is published in the *Gazette* as provided in subsection (2), 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.

102. 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 practice and specifically alleging a payment of money or other act to have been made or done since the date aforesaid by the person whose election is questioned or by an agent of such person or with

the privity of such person or his authorised agent in pursuance or in furtherance of such corrupt practice may, so far as respects such corrupt 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 a Judge of the Supreme Court within the time within which an election petition questioning the return or the election upon that ground may be presented.

103. Prohibition of disclosure of vote.

No elector who has voted at any election shall, in any proceeding to question the election, be required to state for whom he has voted.

104. Votes to 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) the vote of any person proved to have voted in more than one electoral district, or more than once in the same 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 23, 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.

105. Procedure and practice on election petitions.

(1) Subject to the provisions of this section the procedure and practice on election petitions shall, until Parliament otherwise provides, be regulated by the rules contained in the Fourth Schedule to this Act.

(2) If any matter of procedure or practice on an election petition shall arise which is not provided for by this Act or by such rules or by any Act of Parliament such matter shall be dealt with in such manner as the Chief Justice shall direct.

106. 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 51 shall not be questioned.

PART VII
GENERAL

107. Powers of Commissioner of Elections.

The Commissioner shall—

- (a) exercise general direction and supervision over the administrative conduct of an election to the office of President;

- (b) have power to issue to Deputy and Assistant Commissioners of Elections, returning officers, presiding officers, counting 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 this Act.

108. Inaccurate description of places and persons.

No misnomer or inaccurate description of any person or place named or prescribed 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.

109. Publication of notices.

(1) Where any notice is required by this Act to be published and, 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 area to which the notice relates or take 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.

110. Duty of employers to grant leave to enable employees 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 110(1) am by s 12 of Act 16 of 1988.]

(1A) Every employer 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 person have been granted such leave,

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

[S 110(1A) ins by s 12 of Act 16 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 110(2) am by s 12 of Act 16 of 1988.]

111. Use of schools as polling stations.

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

112. Requisitioning premises for use as polling stations.

(1) Where the Commissioner considers that any premises, other than any school referred to in section 111, 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.

113. Compensation for requisitioning premises.

(1) Where any premises are requisitioned under section 112, the Commissioner shall pay, out of moneys provided for the purpose by Parliament, compensation for such requisition to the person who was in actual possession of those premises immediately before the requisition or, where no person was in such actual possession, the owner of those premises, and shall make good any damage done to those premises during the period of the requisition.

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

- (a) the rent payable in respect of those premises, or where no rent is so payable, the rent payable for similar premises in the locality; and
- (b) if, in consequence of the requisition of those premises, the person who was in actual possession of those premises immediately before the requisition was compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.

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

114. Candidate's right to send matter relating to election post free.

(1) Subject to the provisions of subsection (2) of this section, a person who is nominated as a candidate at an election shall, at any time between the day of nomination 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 charge for postage to each elector whose name appears in the register of electors for any electoral district one postal communication by ordinary post containing matter relating to such election only.

[S 114(1) am by s 13 of Act 16 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 the poll or be delivered by him to an elector, after the fifth day before the day of the poll.

[S 114(1A) ins by s 13 of Act 16 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.

115. 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.

116. Non-attendance of agents.

Where, under this Act, any act or thing which is required or authorised to be done in the presence of the agent or agents of any candidate, the non-attendance of any agent or agents, of such candidate 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.

117. Broadcasts by candidates.

(1) Each candidate 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, upon application made in that behalf within one week from the date of nomination, be entitled to the use of broadcasting facilities during the period commencing from the day after the last date fixed for making such application and ending seventy-two hours prior to the commencement of the poll.

[S 117(1) am by s 14 of Act 16 of 1988.]

(2) In the allocation of broadcasting time during the period referred to in subsection (1) to any candidate who makes an application in that behalf, the Chairman of the Sri Lanka Broadcasting Corporation and the Chairman of the Sri Lanka Rupavahini Corporation shall ensure that each such candidate shall be permitted, without payment, to use—

(a) in the case of radio broadcasting, a total period not exceeding ninety minutes which may be used on one occasion and not more than three occasions, the use on each such occasion being for not less than fifteen minutes and not more than thirty minutes.

(b) in the case of television broadcasting, a total period not exceeding ninety minutes, which may be used on one occasion or not more than three occasions, the use on each such occasion being for not less than fifteen minutes and not more than thirty minutes.

[S 117(2) subs by s 14 of Act 16 of 1988.]

(3) Where two or more candidates agree to debate any matter of national importance over the radio or television, it shall be the duty of the Chairman of the Sri Lanka Broadcasting Corporation or the Chairman of the Sri Lanka Rupavahini Corporation to afford facilities for that purpose, on payment made therefor. The period allocated to any candidate for that purpose on radio or television shall not exceed forty-five minutes, which shall be in addition to the period allocated to the use of such candidate under subsection (2).

[S 117(3) subs by s 14 of Act 16 of 1988.]

(4) The order in which each candidate shall use the broadcasting facilities shall be determined—

(a) in the first instance by agreement among the candidates; 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 117(4)(b) am by s 14 of Act 16 of 1988.]

(5) 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.

(6) The Commissioner may permit every candidate to use, without payment and in addition to the periods allocated to such candidate under subsections (2) and (3), broadcasting facilities on radio and television for such equal periods as may be determined by the Commissioner having regard to the principals set out in subsection (2).

[S 117(6) ins by s 14 of Act 16 of 1988.]

(7) The Chairman of the Sri Lanka Broadcasting Corporation and the Chairman of the Sri Lanka "Rupavahini Corporation shall ensure, that except as provided in the preceding provision of this section, no material is broadcast over the radio or the television, during the period commencing on the day of nomination and ending on the date of declaration of the result, which will have the effect of promoting, directly or indirectly, the candidature of any candidate at the election. The Chairman of the Sri Lanka Broadcasting Corporation and the Chairman of the Sri Lanka Rupavahini Corporation shall act in consultation with the Commissioner in implementing the provision of this subsection.

[S 117(7) ins by s 14 of Act 16 of 1988.]

118. Power to make orders to meet difficulties arising under this Act.

If any difficulty arises in first giving effect to any of the provisions of this Act, the Commissioner as occasion may require, may, by Order published in the *Gazette*, do anything which appears to him necessary for the purpose of removing the difficulty.

119. Power of Commissioner to make regulations and rules.

(1) The Commissioner may make regulations amending, modifying, revoking or replacing the regulations, set out in the Second Schedule to this Act.

(2) The First Schedule to this Act may be amended, varied, or replaced by rules made by the Commissioner.

(3) No regulation or rule made by the Commissioner under this section shall come into force until it has been approved by Parliament, and notification of such approval is published in the *Gazette*. Every such regulation or rule shall, upon its coming into force, be as Valid and effectual as though it were herein enacted.

119A. 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 119A ins by s 15 of Act 16 of 1988.]

119B. Procedure for casting vote where there is a reasonable fear of an inability to cast vote at a given polling station.

(1) Notwithstanding the provisions of any other law, any registered elector who reasonably fears that due to conditions

[S 119B(1) ins by s 15 of Act 16 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 119B(2) ins by s 15 of Act 16 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 119B(3) ins by s 15 of Act 16 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 119B(4) ins by s 14 of Act 35 of 1988.]

120. Interpretation.

In this Act, unless the context otherwise requires—

"approved symbol" means a symbol approved by the Commissioner for the purposes of the Parliamentary Elections Act, 1981, by notification published in the *Gazette*;

"candidate" means a person who is nominated as a candidate at an election under this Act;

"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 person to the office of President;

"elector", "electoral district", "register of electors" and "registering office" shall have the same meanings as in the Registration of Electors Act, 1980;

"recognised political party" shall have the same meaning as in the Parliamentary Elections Act, 1981; 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.

SCHEDULES
FIRST SCHEDULE
FORM A
[SECTION 12(2)]

FORM OF NOMINATION PAPER

The.....which is a recognised
(insert name of recognised political party)

Political party/

The which is not a recognised political party

*.....being an elector whose name has been entered in a register of electors, for the time being in operation hereby nominates the person whose name and other particulars are set out below as a candidate for election to the office of President.

Full name of candidate:.....

Date of Birth.....

Age.....

Occupation.....

Address.....

Where candidate is nominated by a political party other than a recognised political party or by an election state whether candidate is or has been an elected member of the legislature (Give particulars).

Where candidate is nominated by an elector, give the following particulars of such elector—

(a). Name and number of electoral district where elector is registered:.....

(b). Polling division:.....

(c). Polling district:.....

(d). Registration number in register of electors in operation:

.....
Signature of Secretary of recognised political party

*/other political party */elector

.....
Name of Secretary of recognised

political party */other political party

*/elector.

Address:.....

Signed by the above named Secretary of recognised political party */other political party */elector in my presence of

..... on this day of 20...

Justice of the Peace or Notary Public Declaration by candidate

I,, hereby consent.....to the above

nomination and declare that the particulars relating to me as.....set out above are

true and that I am not subject to any disqualification in terms of the Constitution to be elected to the office of President.

.....

Signature of Candidate

Date:.....

*Delete inapplicable words.

FORM B
[SECTION 29(2)]
FORM OF FRONT OF BALLOT PAPER

Counterfoil No

"XX" *

"XX" *

"XX" *

Note—

"XX" *

The counterfoil is to have a number to correspond with that on the book of the ballot paper.

"XX" *

"XX" *

Here print symbol allotted to each Candidate.

XX Here print name of Candidate alphabetically in Sinhala.

FORM C

LIST OF VOTERS TO WHOM BALLOT PAPERS ARE NOT DELIVERED UNDER SECTION 36

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

Polling Division.....

Polling District.....

Polling Station.....

Date of Poll.....

Number of

voter in

Name

Reason for not delivering ballot paper

register of

of Voter

electors

Refuses	Already marked	Refuses to be	No valid identity
appropriate	with the	mark with	documents or identity
inspection	appropriate mark	appropriate mark	not established.

.....
Signature of Presiding Officer

[First Sch Form C am by s 11 of Act 14 of 2004.]

FORM D
[SECTION 41]
DECLARATION

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

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

Declared before me thisDay of..... 20.....

.....
(Signature or Presiding Officer)

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

FORM E
[SECTION 41]
DECLARATION

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

.....
Signature or thumb mark of voter

Declared before me this.....Day of..... 20.....

.....
Signature of Presiding Officer

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

FORM F
[SECTION 41]
DECLARATION

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

.....
Signature or thumb mark of voter

Declared before me this.....Day of..... 20.....

.....
Signature of Presiding Officer

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

Polling Station.....:

FORM G
[SECTION 41]
DECLARATION

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

.....
Signature or thumb mark of voter

Declared before me this.....Day of.....20.....

.....
Signature of Presiding Officer

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

FORM H
[SECTION 43]
DECLARATION

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

Signature or thumb mark of voter

Declared before me this.....Day of..... 20.....

.....
Signature of Presiding Officer

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

FORM I
[SECTION 43]
TENDERED VOTES LIST

No. of VoterName of Voter

Signature of Presiding Officer

Date:.....

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

Polling Division.....:

Polling District.....:

Polling Station.....:

FORM J
[SECTION 45]
BALLOT PAPER ACCOUNT

Name and Number of Electoral District:-.....
 Polling Division.....:-
 Polling District.....:-
 Polling Station.....:-
 No of ballot papers received.....:-.....
 No of ballot papers issued other than spoilt ballot papers:-
 Spoilt ballot papers.....:-.....
 Unused ballot papers.....:-.....
 No. of tendered ballot papers received.....:-.....
 No. of tendered ballot papers issued to voters.....:-
 No. of unused tendered ballot papers.....:-

Signature of Presiding Officer
 Date:-

FORM K
[SECTION 75]
 FORM OF DECLARATION OF SECRECY

I solemnly promise and declare that I will not at this election do anything forbidden by section 75 of the Presidential Elections Act, 1981, which has been read to me.

Signature of declarant

Declared before me this.....day of..... 20.....

.....
 Signature of person taking declaration

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

SECOND SCHEDULE
 POSTAL VOTERS' REGULATIONS, 1981

[SECTION 23]

1. Short title.

These regulations may be cited as the Postal Voters' (Presidential Elections) Regulations, 1981.

2. Interpretation.

For the purposes of these regulations, unless the context otherwise requires—

"Issue" includes the original and any subsequent issue;

"Postal ballot paper" means a ballot paper issued to a postal voter;

"Postal voter", with reference to an election, means a person entitled to be treated as a postal voter for the purpose of that election;

"Schedule" means the Schedule to these regulations;

"The Act" means the Presidential Elections Act, 1981.

3. Form of application to be treated as a postal voter.

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

4. Record and list of postal voters.

(1) Subject to the provisions of this regulation, the record and list of postal voters kept by the Returning Officer under the Act shall be in such form as appears to him to be convenient.

(2) The address to which the ballot paper of a postal voter is to be sent shall be specified opposite his name in the postal voters' list.

(3) The names in the postal voters' list shall be numbered consecutively.

(4) As soon as the postal voters' list has been prepared, the Returning Officer shall publish it by making a copy thereof available for inspection at his office.

5. Form of postal ballot paper.

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

6. Form of declaration of identity.

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

7. Appointment of clerks.

There may be appointed persons to assist the Returning Officer as Clerks at the proceedings on the issue of postal ballot papers:

Provided that no person be so appointed who has been employed by or on behalf of a candidate in or about the election.

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

(1) No person other than—

(a) the Returning Officer and his Clerks,

(b) an authorised agent,

(c) a person appointed by an authorised agent to attend in his place, and

(d) any agents appointed under paragraph (2) of this regulation.

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

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

(3) Notice of the appointment stating the names and addresses of the persons appointed under paragraph (2) of this regulation shall be given by the authorised agent to the Returning Officer before the time fixed for the issue of the postal ballot papers.

(4) If an agent dies or becomes incapable of acting, the authorised agent may appoint another agent in his place and shall forthwith give to the Returning Officer notice in writing of the name and address of the agent appointed.

(5) Agents may be appointed and notices of their appointment may be given to the Returning Officer by any other person appointed by the authorised agent in writing instead of by the authorised agent himself.

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

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

(8) Where in these regulations any act or thing is required or authorised to be done in the presence of the authorised agent or his agents the non-attendance of any such person or persons at the time

and place appointed for the purpose shall not, if the act or thing is otherwise validly done, invalidate the act or thing done.

9. Declaration of secrecy.

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

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

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

(a) except for some purposes authorised by law, communicate, before the poll is closed, to any person any information obtained at those proceedings as to the official mark made on postal ballot papers; or

(b) except for some purpose authorised by law, communicate to any person at any time information obtained at those proceedings as to the number on the back of a postal ballot paper.

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

10. Notice of issue of postal ballot papers.

(1) The Returning Officer shall, not later than ten days after the day of the nomination, notify each authorised agent of the time and place at which he will issue the postal ballot papers and of the number of agents he may appoint under paragraph (2) of regulation 8 to attend the said issue.

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

11. Official mark to be made on postal ballot papers.

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

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

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

12. Refusal to issue postal ballot paper.

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

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

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

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

14. Delivery to post office of envelopes addressed to postal voters.

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

15. Sealing up of postal voters' list and counterfoils.

(1) The Returning Officer, as soon as practicable after the completion of the issue of the postal ballot papers, and in the presence of the agents of the authorised agents, shall make up in separate packets—

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

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

and shall seal such packets.

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

16. Provision of postal voters' ballot box.

(1) The Returning Officer shall, at the proceedings on the original issue of the postal ballot papers to postal voters, provide a ballot box or ballot boxes for the reception of the covering envelopes that may be received from postal voters. Every such ballot box shall be treated as a ballot box for the purposes of section 54 of the Act.

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

17. Receipt of covering envelopes from postal voters.

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

18. Counting Officers.

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

19. Notice of the count.

The Returning Officer shall make arrangements for counting the votes on the postal ballot papers as soon as possible after the close of the poll and shall give notice in writing to each authorised agent

of the situation of the counting centre or each counting centre where postal ballot papers are to be counted and the date and time of the commencement of such count.

20. Appointment of counting agents.

Each authorised agent may appoint not more than two agents (hereinafter referred to as "counting agents") to attend at the counting of the votes at each counting centre where postal ballot papers are to be counted before the commencement of such count Notice in writing of such appointments stating the names and addresses of the persons appointed shall be given by the authorised agent to the Counting Officer before the commencement of the count The Counting Officer may refuse to admit to the counting centre any counting agent whose name and address have not been so given.

21. Persons entitled to be present at the count.

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

22. Maintenance of secrecy at the count.

The provisions of section 75 of the Act shall apply at the proceedings at the counting of the postal ballot papers.

23. Opening of postal voters' ballot box.

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

24. Opening of the covering envelopes.

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

(2) Where the Counting Officer opens a covering envelope and—

(a) finds therein—

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

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

(iii) only a declaration of identity, or

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

(v) only a ballot paper envelope, or

(b) finds nothing therein,

the succeeding provisions of this regulation shall apply.

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

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

- (a) mark on the declaration of identity the words "declaration of identity rejected";
- (b) show such declaration to such counting agents as are present and, if any objection is made by any agent to the decision of the Counting Officer regarding such declaration, add to the words marked on such declaration under the preceding sub paragraph (a) the words "rejection objected to";
- (c) attach to such declaration, in the case referred to in the aforesaid sub paragraph (a)(i), the ballot paper envelope or, in the case referred to in the aforesaid sub paragraph (a)(ii), the ballot paper; and
- (d) place such declaration and the documents which under the preceding sub paragraph (c) are attached to such declaration in a receptacle (hereinafter referred to as the 'receptacle for rejected votes of postal voters').

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

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

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

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

- (a) if so satisfied, shall place such declaration in the receptacle for declarations of identity and place such ballot paper in the receptacle for postal voters' ballot papers, and
- (b) if not so satisfied, shall—

- (i) mark on such declaration the words "declaration of identity rejected";
- (ii) show such declaration to such counting agents as are present and, if any objection is made by any agent to the decision of the Counting Officer regarding such declaration, add to the words marked on such declaration under the preceding sub paragraph (i) the words "rejection objected to";
- (iii) attach to such declaration the ballot paper envelope and such ballot paper; and
- (iv) place such declaration and the documents which under the preceding sub paragraph (iii) are attached to such declaration in the receptacle for rejected votes of postal voters.

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

- (a) only a declaration of identity, or
- (b) only a ballot paper, or
- (c) nothing,

he shall—

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

- (ii) in the case referred to in the preceding sub paragraph (b) mark on such ballot paper the words "Rejected, no declaration of identity received";
- (iii) in the case referred to in the preceding sub paragraph (c), mark on the ballot paper envelope the words "rejected, no contents received"; and
- (iv) if a declaration of identity or a ballot paper is found in the ballot paper envelope, attach such declaration or ballot paper to such envelope; and

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

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

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

25. Opening of ballot paper envelopes.

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

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

(3) Where a ballot paper envelope contains a ballot paper, the Counting Officer shall—

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

26. Sealing up of rejected votes and declarations of identity.

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

27. The count.

(1) 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, take out the ballot papers placed in the receptacle for postal voters' ballot papers and count and record the number of such papers in such receptacle.

(2) In counting the votes in the ballot papers placed in the receptacle for postal voters' ballot papers, the provisions of subsections (3) and (4) of section 50 and sections 51, 52, 58 and 59 of the Act shall apply.

28. Closure of the count.

Upon the completion of the counting, the Counting Officer shall forthwith deliver in sealed packets to the Returning Officer—

- (a) the counted ballot papers;
- (b) the rejected ballot papers;

- (c) the written statement of the number of votes given to each candidate prepared in terms of subsection (7) of section 51 of the Act;
- (d) the record of the count under regulation 27(1);
- (e) the statement drawn up in terms of subsection (6) of section 51 of the Act; and
- (f) the two sealed packets referred to in regulation 26.

SCHEDULE TO THESE REGULATIONS

FORM A

REGULATION 3

APPLICATION TO BE TREATED AS A POSTAL VOTER

To the Returning Officer of Electoral District No.....

(give number and name of electoral district)

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

Polling division letter.....

Polling district number.....

Serial number of my name—.....

I hereby apply to be treated as a postal voter at the election of the President because I am unable/likely to be unable to vote in person at the polling station allotted to me—

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

*(a) as a member of the Sri Lanka Army/Sri Lanka Navy/Sri Lanka Air Force;

*(b) as an officer or servant in the Department of Police/Sri Lanka Government Railway/Department of Posts and Department of Telecommunications/Sri Lanka Central Transport Board/.....Regional Transport Board;

*(c) as an Officer or servant in the Public Service appointed */likely to be appointed for duties connected with the election;

(d) as an officer or servant of the Central Bank of Ceylon appointed/likely to be appointed for duties connected with such election;

(2) By reason of my candidature.

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

If the applicant is not entitled to function.....

as a Certifying Officer in accordance with

the note appearing below, state official.....

designation and address of applicant's

Certifying Officer.....

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

Date:...

.....

Signature of Applicant

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

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

.....
Signature and designation of Certifying
Officer*/applicant

*Delete inapplicable words.
NOTE

1. Every application shall be made to the Returning Officer of the electoral district where the applicant is registered as an elector within ten days from the date of publication of the Order under section 2 of the Act.
2. Every application shall be duly filled in as otherwise it is liable to rejection by the Returning Officer.
3. Every applicant will be informed of the decision of the Returning Officer.
4. The ballot paper and other documents will be despatched to any applicant whose application has been allowed to his name and address as stated in his application if he is entitled to function as a Certifying Officer or, if he is not so entitled, under the care of the Certifying Officer whose official designation and address are stated in his application.
5. The expression "Certifying Officer",—
 - (a) in relation to any applicant who, being a member of the Sri Lanka Army or Sri Lanka Navy or Sri Lanka Air Force—
 - (i) is the Commander of that Army or the Captain of that Navy or the Commander of that Air Force, or is the officer in immediate charge of the unit or establishment in which the applicant is serving, means the applicant; or
 - (ii) is not a person referred to in clause (i) of this sub paragraph, means the officer in immediate charge of the unit or establishment in which the applicant is serving;
 - (b) in relation to any applicant who, being on office or servant in the Public Service or the Central Bank of Ceylon;
 - (i) is, the officer in immediate charge of any officer means the applicant; or
 - (ii) is not a person referred to in clause (i) of this sub paragraph, means the officer in immediate charge of the office in which the applicant is serving; or
 - (c) in relation to any applicant who is a candidate means the Returning Officer for the electoral district in which the applicant is registered as an elector.

[Am by s 16(1) of Act 16 of 1988.]

FORM B
REGULATION 6

FORM OF DECLARATION OF IDENTITY FRONT OF FORM

Serial number of ballot paper.....
(to be inserted by Returning Officer)

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

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

Date:.....

.....

Voter's Signature

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

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

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

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

.....

Signature and designation of witness

Date and official frank:-.....

(see instructions on back of this form)

Delete if inapplicable.

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

BACK OF FORM

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

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

- (i) the envelope in which the form of declaration of identity and the ballot paper were forwarded to the voter under the care of such Officer;
- (ii) that the serial number of the ballot paper specified in the declaration of identity is the same as the number appearing on the ballot paper handed over to him.

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

2. The voter has only one vote.

3. The voter shall vote in accordance with the directions given below.

The voter will go into the place reserved for the marking of ballot papers and mark the figure "1" in the space provided for the purpose on the right hand side of the ballot paper opposite the symbol and the name of the candidate for whom he votes -

ASymbol1

BSymbol

While casting his vote for any candidate, the voter may—

(a) where there are three candidates for election, specify his second preference by making the figure "2" opposite the symbol and the name of the candidate.

ASymbol1

BSymbol

CSymbol2

(b) where there are more than three candidates for election specify his second and third preferences, by marking the figure "2" to indicate his second preference and the figure '3" to indicate his third preference opposite the symbol and the name of the candidate.

ASymbol1

BSymbol

CSymbol2

DSymbol3

4. The voter shall not allow any person to see how he has voted.

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

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

6. A postal ballot paper shall be deemed not to be duly returned, unless it is returned so as to reach the returning officer before the close of the poll on the polling day appointed, and is accompanied by the declaration of identity duly signed and witnessed.

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

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

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

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

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

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

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

The voter has only one vote.

3. The voter shall vote in accordance with the directions given below.

The voter will go into the place reserved for the marking of ballot papers and mark the figure '1" in the space provided for the purpose on the right hand side of the ballot paper opposite the symbol and the name of the candidate for whom he votes.

ASymbol1

BSymbol

While casting his vote for any candidate, the voter may—

(a) where there are three candidates for election, specify his second preference by making the figure "2" opposite the symbol and the name of the candidate.

ASymbol 1

B Symbol

CSymbol 2

(b) where there are more than three candidates for election, specify his second and third preferences, by marking the figure "2" to indicate his second preference and the figure "3" to indicate his third preference opposite the symbol and the name of the candidate.

ASymbol1

BSymbol

CSymbol2

DSymbol3

4. The voter shall not allow any person to see how he has voted.

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

6. A postal ballot paper shall be deemed not to be duly returned, unless it is returned so as to reach the returning officer before the close of the poll on the polling day appointed and is accompanied by the declaration of identity duly signed and witnessed.

[Cages omitted by s 16 of Act 16(2) of 1988.]

FORM C

REGULATION 9(1)

Form of declaration of secrecy

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

.....

Signature of declarant

.....

Signature of person before whom the declaration is made

Date:-.....

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

THIRD SCHEDULE

DIRECTIONS FOR THE GUIDANCE OF VOTERS

1. The voter will go into the place reserved for the marking of ballot papers and mark the figure "1" in the space provided for the purpose on the right hand side of the ballot paper opposite the symbol and the name of the candidate for whom he votes.

ASymbol1

BSymbol

[Cages omitted by s 17 of Act 16 of 1988.]

2. While casting his vote for any candidate, the voter may—

(a) where there are three candidates for election, specify his second preference by making the figure "2" opposite the symbol and the name of the candidate.

ASymbol1

BSymbol

CSymbol2

(b). where there are more than three candidates for election, specify his second and third preferences, by marking the figure "2" to indicate his second preference and the figure '3" to indicate his third preference opposite the symbol and the name of the candidate.

ASymbol1

BSymbol

CSymbol2

DSymbol3

[Cages omitted by s 17 of Act 16 of 1988.]

The voter shall then fold the ballot paper so as to show the official mark on the reverse, and without showing the face of the paper to any person show the official mark on the reverse to the Presiding Officer, put the paper into the ballot box and forthwith quit the polling station.

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

4. If the voter places any mark on the ballot paper by which he may afterwards be identified, his ballot paper will be void and will not be counted.

5. Any ballot paper in which a voter has—

(a) not voted for any candidate; or

(b) voted for more man one candidate; or

(c) Specified a second preference or a third preference only or both such preferences only, will be void and will not be counted.

FOURTH SCHEDULE

Presidential Election Petition Rules, 1981

1. Short title.

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

2. Interpretation.

In these rules, unless the context otherwise requires—

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

"Court" means the Supreme Court;

"Registrar" means the Registrar of the Supreme Court; and

"the Act" means the Presidential Elections Act, of 1981.

3. Manner of presentation of petition.

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

Received on the.....Day of..... 20at the Registry of the Supreme Court petition touching the election of A.B. as the President of the Republic purporting to be signed by.....(insert the names of petitioners).

Registrar.

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

4. Form of election petition.

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

IN THE SUPREME COURT OF THE REPUBLIC OF SRI LANKA

The Presidential Elections Act, 1981

Election for the office of President held on the day of20.....

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

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

(2) And your petitioners state that the election was held on the..... day of 20....., when A.B., CD., and E.F., were candidates, and the Commissioner has returned A.B. as being duly elected.

(3) . And your petitioners say that (here state the facts and grounds on which the petitioners rely). Wherefore your petitioners pray that it might be determined that the said A.B. was not duly elected or returned, and that the election was void (or that the said E.F. was duly elected and ought to have been returned, or as the case may be).

(Signed) X
Y.

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

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

6. List of votes objected to where office claimed by unsuccessful candidate.

When a petitioner claims the office for an unsuccessful candidate, the party complaining of or defending the election or return shall, six days before the day appointed for trial deliver to the Registrar, and also at the address, if any, given by the petitioners and respondent, as the case may be, a list of the votes intended to be objected to, and of the heads of objection to each such vote, and the Registrar shall allow inspection and office copies of such lists to all parties concerned; and no evidence shall be given against the validity of any vote, not upon any head of objection not specified in the list, except by leave of the Court, upon such terms as to amendment of the list, postponement of the inquiry, and payment of costs, as may be ordered.

7. List of objections in recriminatory case.

The respondent in a petition complaining of an undue return and claiming the office for some person may lead evidence to prove that the election of such person was undue, and in such case such

respondent shall, six days before the day appointed for trial, deliver to the Registrar, and also at the address, if any, given by the petitioner, a list of the objections to the election upon which he intends to rely, and the Registrar shall allow inspection of office copies of such lists to all parties concerned; and no evidence shall be given by a respondent of any objection to the election not specified in the list, except by leave of the Court, upon such terms as to amendments of the list, postponement of the inquiry, and payment of costs, as may be ordered.

8. Appointment of agent by petitioner.

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

9. Appointment of agent by respondent.

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

10. Registrar to keep book with addresses and names of agents.

The Registrar shall cause to be kept a book at his office in which shall be entered all addresses and the names of agents given under rule 8 or rule 9, which book shall be open to inspection by any person during his office hours.

11. Security by petitioner for costs of election petition.

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

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

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

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

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

12. Security by deposit of money.

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

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

13. Return of money so deposited.

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

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

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

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

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

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

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

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

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

15. When petition to be deemed at issue.

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

16. List of petitions.

The Registrar shall make out the election petition list. In it he shall insert the names of the agents of the petitioners and respondents appointed under rule 8 and rule 9 respectively, and the addresses to which notices may be sent, if any. The list may be inspected at the office of the Registrar at any time

during office hours, and shall be affixed for that purpose upon a notice board appropriated to proceedings under the Act, and headed "The Presidential Elections Act, 1981".

17. Time and place of trial of election petition.

The time and place of the trial of each election petition shall, subject to the provisions of section 97 of the Act be fixed by the Court, and not less than fourteen days' notice thereof shall be given to the petitioner and respondent by letter directed to the address left by such petitioner or respondent with the Registrar; or, if no such address has been left, by notice in the *Gazette*.

18. Postponement of trial.

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

19. Adjournment and continuation of trial.

No formal adjournment of the Court for the trial of an election petition shall be necessary, but the trial is to be deemed adjourned and may be continued from day to day until the inquiry is concluded and in the event of any Judge before whom the trial commenced is disabled by reason of illness or otherwise, the Chief Justice shall name another Judge in place of such Judge.

20. Withdrawal of election petition.

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

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

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

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

21. Form of application to withdraw petition.

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

(2) The following form shall be sufficient—

The Presidential Elections Act, 1980 Petition of X (state name of petitioner)
presented day of 20.....

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

Dated this.....day of..... 20.....

(Signed).....

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

22. Copy of application to be given to respondent.

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

The Presidential Elections Act, 1981

In the election petition in whichis petitioner and respondent.

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

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

(Signed).....

23. Application to be substituted as petitioner, on withdrawal.

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

24. Time and place of hearing the application.

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

25. Substitution of another petitioner.

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

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

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

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

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

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

26. Non-abatement of election petition by reason only of vacation of office of President.

An election petition shall not be abated by reason only of the vacation of office of President by the person whose election to such office is the subject of such petition and accordingly in the event of such vacation such petition shall be heard or continued to be heard, and determined as though such office had not been vacated.

27. Abatement of petition by death.

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

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

28. Application to be substituted as petitioner on abatement.

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

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

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

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

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

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

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

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

30. Respondent not opposing petition not to appear as party.

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

31. Countermanding notice of trial where petition abated.

After receiving the petitioner's application for leave to withdraw or notice of the respondent's intention not to oppose or of the abatement of the petition by death, or of the happening of day of the events mentioned in rule 29, if such notice be received after notice of trial shall have been given, and

before the trial has commenced, the Registrar shall forthwith countermand the notice of trial. The countermand shall be given in the same manner, as near as may be, as the notice of trial.

32. Costs.

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

33. Taxation and recovery of costs.

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

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

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

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

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

35. Notice of appointment of agent.

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

36. Service of notices on agents.

Service of notices and proceedings upon such agents shall be sufficient for all purposes.

FIFTH SCHEDULE

CERTIFICATE OF ELIGIBILITY TO VOTE ISSUED TO A PERSON WHO IS SUBJECT TO A DISABILITY IN TERMS OF THE PRESIDENTIAL ELECTIONS ACT, NO. 15 OF 1981

[SECTION 38(2C)]

PART I

DECLARATION BY THE APPLICANT/VOTER

Full Name:

Address:

Occupation:

Date of Birth:

NIC/Driving Licence /Passport No.:

I, of being a voter registered in the District, being subject to a disability, declare that the above particulars are true and accurate and do hereby apply for the issue of a Certificate of Eligibility entitling me to

vote at the forthcoming (Name of Election) as a person subject to a disability, as provided for by law.

Date: Name of Voter:

Signature of Voter:

CERTIFICATE OF GRAMA NILADHARI

I certify that the information given above is correct and that the following information relating to the application of (Name of Applicant/Voter) is correct according to the records maintained by me.

Name:

No. on the voters list:

Province:

District:

Electoral Division:

Other relevant information:

Date: Signature of Grama Niladhari:

Name of Grama Niladhari:

Division:

Seal:

PART II

CERTIFICATE OF THE GOVERNMENT MEDICAL OFFICER

I have personally examined of who has applied to be entitled to vote as a person subject to a disability, at the forthcoming (Name of Election) and do hereby certify that (Name of Voter/Applicant) is entitled/not entitled to vote as a person subject to a disability, as provided for by law.

Date: Name of Government

Medical Officer:

Signature of Government

Medical Officer:

Seal:

[Fifth Sch ins by s 13 of Act 28 of 2011.]