



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**LOCAL AUTHORITIES ELECTIONS
(AMENDMENT)
ACT, No. 1 OF 2002**

[Certified on 13th March, 2002]

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*Local Authorities Elections (Amendment)
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L.D.—O. 12/2002.

AN ACT TO AMEND THE LOCAL AUTHORITIES
ELECTIONS ORDINANCE

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

1. This Act may be cited as the Local Authorities Elections (Amendment) Act, No. 1 of 2002. Short title.

2. Section 38 of the Local Authorities Elections Ordinance as amended by Law No. 24 of 1977, (hereinafter referred to as the “Principal enactment”) is hereby further amended in subsection (3) of that section, by the substitution for the words “Where due to any emergency the poll for the election”, of the words “Where the elections officer in consultation with the Commissioner is of the opinion, that due to any emergency or unforeseen circumstances the poll for the election”. Amendment of section 38 of Chapter 262.

3. Sections 79, 80 and 81 of the principal enactment are hereby repealed. Repeal of sections 79, 80 and 81 of the principal enactment.

4. Sections 81C and 81D of the principal enactment are hereby repealed. Repeal of sections 81C and 81D of the principal enactment.

5. The following heading is hereby inserted immediately after section 82 of the principal enactment :—

“CORRUPT PRACTICES”

Insertion of heading in the principal enactment.

6. The following new sections are hereby inserted in the principal enactment immediately after the heading “Corrupt Practices”, and shall have effect as sections 82A, Insertion of new sections 82A to 82N in the principal enactment.

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82B, 82C, 82D, 82E, 82F, 82G, 82H, 82J, 82K, 82L, 82M and 82N
of that enactment :—

'Personation. 82A. (1) Every person who at any election—

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

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

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

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

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

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

(c) has marked, whether or not validly and returned a ballot paper issued for the purpose of voting by post,

shall be deemed to have voted.

Treating. 82B. Every person who, corruptly, by himself or by any other person, either before, during or after an election, under this Ordinance, directly or indirectly gives or provides or causes to be given or provided, or is necessary 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 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, refreshment or provision or any such money or ticket or who adopts such other means or device to enable the procuring of such meat, drink, refreshment or provision, shall be guilty of the offence of treating.

Undue
influence.

82c. (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, or on account of such person having voted or refrained from voting at an election under this Ordinance, 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 first day of the nomination period at any election under this

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Ordinance and ending on the day following the date of the poll at such election—

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

shall be guilty of the offence of undue influence.

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

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

- (b) excludes, or threatens to exclude, such member or adherent from such order or organization.

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

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

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

in order to induce or compel such other person to vote or refrain from voting for any recognized political party or independent group at an election under this Ordinance or to support or refrain from supporting any recognized political party or independent group at such election, or on account of such other person having voted or refrained from voting for any recognized political party or independent group at such election, or having supported or refrained from supporting any

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

Bribery.

82d. The following persons shall be deemed to be 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 endeavor 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 Ordinance ;
- (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 endeavor to procure any office, place of 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 any election under this Ordinance ;
- (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 endeavor to procure the return of any person as a member of a local authority or the vote of any elector at an election under this Ordinance ;
- (d) every person who upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement procures or engages, promises or endeavors to procure, the return of any person as a member of a local authority, or the vote of any elector at an election under this Ordinance ;
- (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 Ordinance 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 Ordinance, 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 Ordinance, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or to refrain from voting at such election ;
- (h) every person who directly or indirectly, by himself or by any other person on his behalf, on account of and as payment for voting or for having voted or for agreeing or having agreed to vote for any recognized political party or independent group at an election under this Ordinance, or on account of and as payment for his having assisted or agreed to assist any recognized political party or independent group at an election, applies to any candidate nominated by such recognized political party or independent group, or to his agent or agents, for the gift or loan of any money or valuable consideration, or for the promise of the gift or loan of any money or valuable consideration or for any office, place or employment or for the promise of any office, place or employment ;
- (i) every person who directly or indirectly, by himself or by any person on his behalf, in order to induce any other person to agree to be nominated as a candidate at an election under this Ordinance 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 endeavor to procure an 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 endeavor to procure any money or valuable consideration to or for any person or to or for such other person, or to or for any person on behalf of such other person.

Punishment
and
incapacities
for corrupt
practice.

82E. (1) Every persons 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 under this Ordinance, 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 under this Ordinance, 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 a Magistrate 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, on conviction, become incapable for a period of seven years from the date of his conviction, of being registered as an elector or of voting at any election under this Ordinance or of being elected as a member of a local authority, and if at that date he has been elected as a member of a local authority his election shall be vacated from the date of such conviction.

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

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

82F. (1) Where a corrupt practice is committed in connection with an election under this Ordinance by any candidate who was not elected as a member at the election or with his knowledge or consent or by any of his agents, such candidate shall on conviction by a Magistrate 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 Magistrate—

(a) that no corrupt or illegal practice was committed at the election by such candidate and any such offence was

committed contrary, to the orders and without the sanction or connivance of such candidate ; and

- (b) that such candidate took all reasonable means for preventing the commission of corrupt and illegal practice 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, on 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 Ordinance, or of being elected as a member of a local authority and if at that date he has been so elected, his election shall be vacated from the date of such conviction.

(3) A prosecution for a corrupt practice under this section shall not be instituted against any candidate at an election under these Ordinance who was not elected as a member at such election except with the sanction of the Attorney-General.

(4) Nothing in the preceding provisions of this section shall be deemed or construed to preclude or prevent a candidate who was not elected as a member at an election under this Ordinance from being prosecuted for a corrupt practice in connection with such election under section 82E.

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ILLEGAL PRACTICES

Certain
expenditure
to be illegal
practice.

82G. (1) No payment or contract for payment shall, at an election under this Ordinance, 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 Ordinance, 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 Ordinance, a person shall not let, lend, employ, a person shall not let, lend, employ, hire, borrow or use, or aid or abet any other person to let, lend, employ, hire, borrow or use, any vehicle vessel or animal, in any electoral area during the period commencing

one hour before the time of the opening of the poll at an election in that area, and ending one hour after the time of the closure of such poll —

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

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

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

- (a) where it is the ordinary business of an elector as an advertising agent to exhibit for payment bills and advertisements, a payment to or contract with such elector, if made in the ordinary course of business, shall not be deemed to be an illegal practice within the meaning of this section;
- (b) where electors are unable at an election to reach their polling stations from their place of residence without crossing the sea or a branch or arm thereof or a river, means may be provided for conveying such electors by sea to their polling stations, or to enable them to cross the river in order to reach their polling stations ;

- (c) the conveyance of a person at his own expense to or from the poll at an election in, or the use by any person at his own expense for the purpose of that conveyance of himself to or from the poll of, any public transport service shall be deemed not to be an illegal practice within the meaning of this section ;
 - (d) where the returning officer of any electoral area is satisfied upon written application in that behalf made to him by any person, or on behalf of such person by any other person not being a candidate, so as to reach such officer seven days before the day on which a poll is to be taken at an election in that area, that such person is unable, by reason of any physical disability to convey himself to and from the poll in 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 area, 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 until the conclusion of the poll.

(6) A Magistrate 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.

False reports
in
newspapers
or electronic
media.

82H. (1) Where there is published in any newspaper any false statement concerning, or relating to —

- (a) the utterances or activities at an election under this Ordinance of any candidate, or any recognized political party or independent group which is contesting such election; or
- (b) the conduct or management of such election by such candidate, or any such recognised political party, or independent group,

and such statement is capable of influencing the result of such election, then, every person who at the time of such publication or broadcast was the Proprietor, the Manager, the Editor, the Publisher or other similar officer of that newspaper publishing such statement or the Corporation or licensed radio or television station broadcasting such false statement or who was purporting to act in such capacity, shall each be guilty of an illegal practice unless such person proves that such publication or broadcast was made without his consent or connivance, and that he exercised all such diligence to prevent such publication or broadcast 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.

Certain employment to be illegal. 82j. (1) No person shall, for the purpose of promoting an election under this Ordinance, be engaged or employed for payment or promise of payment for any purpose or in any capacity whatsoever, except for the purpose or in the capacities following :—

- (a) a reasonable number of polling agents for each polling station having regard to the need to revoke the appointment of any polling agent for that polling station during the poll; and not more than the number of counting agents referred to in section 60 for each counting center;
- (b) a reasonable number of clerks and messengers having regard to the extent of the electoral area and the number of electors on the register of electors for such area.

(2) Subject to such exception as may be allowed in pursuance of this Ordinance, 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.

Printing &c. of election publications. 82k. 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 Ordinance and which does not bear upon its face the names and addresses of its printer and publisher shall be guilty of an illegal practice.

Punishment on conviction for illegal practices. 82L. (1) Every person who commits an illegal practice shall on conviction by a Magistrate be liable to a fine not exceeding three hundred rupees and shall on conviction become incapable for a

period of three years from the date of his conviction of being registered as an elector or of voting at an election under this Act or being elected as a member of a local authority, and if at that date he has been elected as a member of a local authority, his election shall be vacated from the date of such conviction.

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

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

82M. (1) Where an illegal practice is committed in connection with an election under this Ordinance by any candidate who was not elected as a member at the election or with his knowledge or consent or by any of his agents, such candidate shall on conviction by 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 satisfaction of the Magistrate—

- (a) that no corrupt or illegal practice was committed at the election by such candidate and the illegal practice which is the subject matter of the prosecution was committed contrary to the orders and without the sanction or connivance of such candidate; and
- (b) that such candidate took all reasonable means for preventing the commission of corrupt and illegal practices at the election ; and

- (c) that the offence or offences constituting such illegal practice was or were of a trivial, unimportant and limited nature; and
- (b) 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 Ordinance or of being elected as a member of a local authority, and if at that date he has been elected as a member of a local authority, his election shall be vacated from the date of such conviction.

(3) A prosecution for an illegal practice under this section shall not be instituted against any candidate at an election under this Ordinance who was not elected as a member at such election except with the sanction of the Attorney-General.

(4) Nothing in the preceding provisions of this section shall be deemed or construed to preclude or prevent a candidate who was not elected as a member at an election under this Ordinance from being prosecuted for an illegal practice in connection with such election under section 82L.

Additional
penalty for
certain
offences.

82N. Any person who is convicted of an offence specified in sections 77, 78, 81A, 81B, 82, 82A, 82B, 82C, 82D, 82G, 82H, 82J and 82K shall, in addition to any other penalty prescribed for such offence, be disqualified for a period of five years

from the date of such conviction from being elected to, or from sitting or voting as a member of, any local authority.”.

7. The following new Part is hereby inserted immediately after section 82N of the principal enactment and shall have effect as Part IV A of that enactment :—

Insertion of new Part IV A in the principal enactment.

“PART IVA

ELECTION PETITIONS

Avoidance by conviction of candidate.

82O. (1) The election of a candidate as a member of local authority is avoided by his conviction for any corrupt or illegal practice.

(2) Where the election of a person as a member of a local authority is declared void, he shall be disqualified from sitting or voting in such local authority.

Avoidance of election on election petition.

82P. (1) The election in respect of any electoral area shall be declared void on an election petition on the following grounds which may be proved to the satisfaction of the Election Judge, namely –

- (a) that by reason of general bribery, general treating or general intimidation or other misconduct or other circumstances whether similar to those enumerated before or not a section of electors was prevented from voting for the recognized political party or independent group which it preferred and there by materially affected the result of the election ;
- (b) non-compliance with the provisions of this Ordinance relating to elections, if it appears that the election was not

conducted in accordance with the principles laid down in such provisions and that such non-compliance materially affected the result of the election.

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

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

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

High Court established by Article 154P to try election petitions.

82Q. A High Court established by Article 154P of the Constitution shall have and exercise jurisdiction to try election petitions in respect of elections held under this Ordinance, where such election petition is in relation to an election for any electoral area situated within such court's jurisdiction (hereinafter referred to as "High Court"). The jurisdiction of High Court in respect of its powers under this section shall be exercised by the Judge of such High Court and references in this Ordinance to "Election Judge" shall be construed accordingly.

Who may present petition.

82R. An election petition may be presented to the High Court by any one or more of the following persons, namely :—

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

Relief which may be claimed.

82S. All or any of the following reliefs to which the petitioner may be entitled may be claimed in an election petition, namely a declaration that —

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

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Parties to a
petition.

82T. (1) A petitioner shall join as respondents to his election petition—

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

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

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

Contents of
the petition.

82U. An election petition —

- (a) shall state the right of the petitioner to petition under section 82R of this Ordinance ;
- (b) shall state the holding and result of the election ;
- (c) shall contain a concise statement of the material facts on which the petitioner relies ;

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

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

Special provision relating to the procedure before an Election Judge.

82v. (1) The Election Judge may, upon such terms as to costs or otherwise as he may deem fit, allow the particulars of any corrupt or illegal practice specified in an election petition to be amended or amplified in such manner as may in his opinion, be necessary for ensuring a fair or effective trial of the petition so, however, that he shall not allow such amendment or amplification if it will result in the introduction of particulars of any corrupt or illegal practice not previously alleged in the petition.

(2) Every election petition shall be tried as expeditiously as possible and every endeavor shall be made to conclude the trial of such petition within a period of six months after the date of the

presentation of such petition. The Election Judge shall make his order deciding such petition without undue delay after the date of the conclusion of the trial of such petition.

Determination
of Election
Judge.

82w. At the conclusion of the trial of an election petition the Election Judge shall determine whether the member whose return or election is complained of, or any other and what person, was duly returned or elected, or whether the election was void; and shall certify such determination in writing.

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

Report of
Judge as to
corrupt or
illegal
practice.

82x. At the conclusion of the trial of an election petition the election Judge shall also make a report setting out —

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

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

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

Appeal
against
determination
under
section 82w
and any
other
decision or
order of
Election
Judge.

82y. (1) Any person dissatisfied with —

- (a) the determination of an Election Judge under section 82w; or
- (b) any other decision or order of an Election Judge,

may appeal to the Supreme Court, with leave first had and obtained from the Supreme Court.

(2) Until rules are made under Article 136 of the Constitution pertaining to leave to appeal application made under this section, the rules made under that Article pertaining to application for special leave to appeal to the Supreme Court shall apply in respect of every leave to appeal application made under this section.

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

(4) The Attorney-General shall be entitled to appear or be represented at any application for leave to appeal or at any appeal under this Part.

Security by applicant for costs &c. of application.

82z. (1) At the time of the filling of the application under section 82y or within three days afterwards, security for the payment of all costs, charges and expenses that may become payable by the applicant shall be given on behalf of the applicant.

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

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

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

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

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

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

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

Hearing of
appeal.

82AA. (1) Upon leave to appeal being granted the Registrar of the Supreme Court shall enter the petition in the roll of pending appeals, and the matter of the appeal shall come up for hearing before a bench of three judges of the Supreme Court without further notice to the parties concerned in accordance with the directions given to such Registrar by the Chief Justice.

(2) The Supreme Court may of its own motion or on an application of a party of such appeal and with reasonable notice to the other parties concerned, accelerate the hearing of such appeal, upon such terms as to the cost of appeal as it may think fit.

(3) When the appeal comes up for hearing the appellant shall be heard in support of the appeal and the respondents against the appeal.

Power of the
Supreme
Court in
appeal.

82AB. (1) The Supreme Court may, upon hearing the parties to the appeal affirm, vary or reverse the determination or decision of the Election Judge to which the appeal relates.

(2) Where the Supreme Court reverses on appeal the determination of the Election Judge under section 82w, the Supreme Court shall decide whether the member whose return or election was complained of in the election petition, was duly returned or elected, or whether the election was void, and a certificate of such decision shall be issued by the Supreme Court.

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

(4) The Supreme Court may make any order which it may deem just as to the costs of the appeal and as to the costs of, and incidental to, the presentation of the election petition and of the proceedings consequent thereon, and may by such order reverse or vary any order, as to costs made by the Election Judge ; and the Supreme Court may make rules as to the award, taxation and recovery of costs in the Supreme Court.

Transmission
to President
of certificate
and report.

82AC. (1) Where no application is preferred against the determination of an Election Judge under section 82w within the period hereinbefore

specified in that behalf, the Election judge shall transmit to the President the certificate of such court issued under that section, together with the report of such Judge made under section 82x.

(2) Where an application is preferred to the Supreme Court under section 82y, the Election Judge shall transmit to the Supreme Court the certificate of the Election Judge issued under section 82w together with the report of the Election Judge made under section 82x.

(3) Where the determination of the Election Judge is reversed by the Supreme court in appeal, the Supreme Court shall transmit to the President the certificate of the decision of that Court issued under section 82AB together with—

- (a) the report of the Election Judge made under section 82x, if it is in the opinion of the Supreme Court not affected by the decision in the appeal ; or
- (b) if the Supreme Court considers it necessary, a report in respect of the matters referred to in section 82x made by the Supreme Court.

Effect of
Certificate.

82AD. Upon the transmission to the President of the certificate of the determination of an Election Judge or of the decision of the Supreme Court as required by section 82AC, the determination or decision, as the case may be, shall take effect and accordingly—

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

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

Effect of
Report.

82AE. (1) (a) The President shall, upon receipt of the report of the Election Judge or of the Supreme court transmitted to him under section 82AC forthwith cause a copy of the report, to be published in the Gazette.

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

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

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

Time for presentation.

82AF. (1) Every election petition under this Ordinance shall be presented within twenty-one days of the date of publication of the result of the election in the Gazette :

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

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

Prohibition of disclosure of vote.

82AG. No elector who has voted at an election shall, in any proceeding to question the election, be required to state for which recognized political party or independent group he has voted.

Votes to be
struck off at
a scrutiny.

82AH. (1) On a scrutiny at the trial of an election petition the following votes only shall be struck off, namely the vote of any person—

- (a) whose name was not on the register of electors assigned to the polling station at which the vote was recorded ;
- (b) whose vote was procured by bribery, treating, or undue influence ;
- (c) who committed or procured the commission of personation at the election ;
- (d) proved to have voted in more than one electoral area ;
- (e) 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) who, not being entitled to vote in person at the election by reason of subsection (1) of section 39B, 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 voter shall, on the application of any party to the petition, be added to the poll.

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Procedure and practice on election petitions. 82AJ. The procedure and practice on election petitions under this Act shall be in accordance with the rules made by the Supreme Court under Article 136 of the Constitution.

Rejection of ballot paper by counting officer to be final. 82AK. On an election petition the decision of a counting officer whether or not a ballot paper shall be rejected under section 63 shall not be questioned.

Report Exonerating candidate in certain cases of corrupt or illegal practices. 82AL. Where, upon the trial of an election petition respecting an election under this Ordinance, the Election Judge reports that a candidate at such election has been guilty by his agents of the offence of treating or undue influence or of any illegal practice in reference to such election, and the Election Judge further reports, after giving the Attorney-General an opportunity of being heard, that the candidate has proved to the court—

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

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

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

Power of
Court to
exempt
innocent act
from being
illegal.

82AM. Where, on application made, it is shown to an Election Judge or to the Judges of the Supreme Court, in the case of an appeal, by such evidence as seems to the Election Judge or the Judges of the Supreme Court sufficient—

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

and in the circumstances it seems to the Judge, or the Judges of the Supreme Court as the case may be after giving the candidates, the returning officer, and any elector within the electoral district an opportunity of being heard, to be just that the candidate in question and his agent or other person, or any of them should not be subject to

any of the consequences under this Ordinance of the said act or omission, the Election Judge or the Judges of the Supreme Court as the case may be, may make an order allowing such act or omission to be an exception from the provisions of this Ordinance which would otherwise make the same an illegal practice, payment, employment, or hiring, and the;eupon such candidate, agent or person shall not be subject to any of the consequences under this Ordinance of the said act or omission.'.

8. Section 83 of the principal enactment is hereby repealed.

Repeal of section 83 of the principal enactment.

9. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text to prevail in case of inconsistency.

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