

Provincial Councils Elections

AN ACT TO MAKE PROVISION FOR THE PROCEDURE OF THE ELECTION OF MEMBER OF PROVINCIAL COUNCILS AND FOR MATTERS CONNECTED THERE WITH OR INCIDENTAL THERETO.

BE it enacted by the Parliament of the Democratic Socialist Republic of sri lanka as follows : -

Act Nos,

2 of 1988
35 of 1988
55 of 1988
27 of 1990
29 of 1990
7 of 1993
5 of 2004
14 of 2004
28 of 2011
17 of 2017
21 of 2023

Short tile and date of operation. **1.** This Act may be cited as the Provincial Councils; Elections Act, No. 2 of 1988, and shall come into operation on each date as may be appointed by the President by Order published in the Gazette.

PART I PRELIMINARY

Application of Act. **2.** The provisions of this Act shall apply to every Provincial Council established under the provisions of Part XVIIIA of the Constitution.

Membership of Provincial Council. **3.** (1) Every Provincial Council shall consist of such number of members as may be specified by the President in an Order made under section 2 of the Provincial Councils Act, No. 42 of 1987.
[2, 5 of 2004] (2) Every administrative district in a province shall for the purposes of elections to the Provincial Council established for that

province, constitute an electoral area.

(3) The number of members to be elected, from each administrative district of a province to the Provincial Council established for that province shall be determined by the Commissioner on the following basis:

(a) one member for every 40,000 residents in that administrative district. For the purpose of making determination under this paragraph, the total number of persons who, according to the last general census, were for the time being resident in that administrative district shall be ascertained to the nearest 40,000, and

(b) one member for every 1000 square kilometers of area in that administrative district. For the purpose of making a determination under this paragraph, the area of that administrative district shall be calculated to the nearest 1000 square kilometres:

Provided that, the number of members determined by the Commissioner in terms of this subsection shall correspond to the number of members specified by the President by an Order made under section 2 of the Provincial Councils Act, No. 42 of 1987, less two members to be declared elected in terms of subsection (2) of section 61A.

(4) A determination made by the Commissioner under this section shall be final and conclusive and shall not be called in question in any court.

Delimitation
Committee. [4,
17 of 2017]

3A. (1) There shall be a Delimitation Committee (hereinafter referred to as the 'Committee') appointed by the President within two weeks of the commencement of this Act, consisting of five persons representing the pluralistic character of Sri Lankan society, including professional and social diversity by Order published in the Gazette, one of whom shall be nominated by the President as the Chairman of the Committee.

(2) The Committee shall divide each administrative district into such number of electorates as corresponds to Fifty percent (50%) of the total number of members to be elected from such administrative district in terms of subsection (3) of section 3:

Provided that, if the number corresponding to Fifty percent (50%) of the total number of members to be elected from such administrative

district in terms of subsection (3) of section 3 is an integer and a fraction, the number shall be rounded to nearest integer.

(3) The Committee shall assign names to each such electorate.

(4) In the division of administrative district into electorates, the following factors shall be taken into consideration by the Committee:-

(a) where it appears to the Committee that, there is, in any area of an administrative district, a substantial concentration of persons united by a community of interest, whether racial, religious or otherwise, but differing in one or more of these respects from the majority of the inhabitants of that area, the Committee may make such division of the administrative districts into electorates;

(b) in making such division, the Committee shall have due regard to-

(i) the desirability of reducing to the minimum the disproportion in the number of persons resident in the several electorates of the administrative districts within the Province; and

(ii) the geographical and physical features of the electorates.

(5) Where the Committee is of the view that having taken into consideration the requirements specified in subsection (4), it is appropriate to create an electorate which shall be entitled to return more than one member, the Committee shall create a multi member electorate or electorates, as the case may be for any administrative district.

(6) Each electorate within an administrative district shall be entitled to directly return one or more members, as the case may be, to a Provincial Council.

(7) The Committee shall fulfil its responsibilities and duties in terms of subsections (2), (3), (4) and (5) of this section, within four (4) months of its appointment and thereafter submit its report to the Minister.

(8) The Committee shall endeavour to arrive at a consensus in deciding on the matters entrusted to the Committee.

(9) The Committee shall decide on the procedure to be followed in fulfilling its obligations.

(10) For the purpose of fulfilling its obligations in terms of this

section, the Committee shall appoint such officers, experts, technical committees and sub-committees as may be necessary.

(11) The Committee shall submit its report to the Minister, who shall within two weeks of the receipt of such report, table it in Parliament for its approval by not less than two-thirds of the whole number of Members of Parliament (including those not present) voting in its favour.

(12) Where Parliament does not approve such report in terms of subsection (11) within one month of the tabling of the report, then the Speaker shall appoint a Review Committee, consisting of five persons representing the major communities and, headed by the Prime Minister.

(13) The Review Committee shall cause any alteration to be made to the names, numbers, and boundaries of any electorate.

(14) The Review Committee shall fulfil its responsibilities and duties in terms of subsection (13), within two (2) months of the Minister having referred the report for its consideration and thereafter submit its report to the President.

(15) Upon the receipt of the report of the Review Committee, the President shall by Proclamation forthwith publish the new number of electorates, the boundaries, names assigned to each electorate so created on the report submitted by the Review Committee.

(16) The total number of members which each administrative district is entitled to return shall comprise of-

(a) such number of members as is equivalent to the number of Electorates within such administrative district; and

(b) such number of additional members to be elected (hereinafter referred to as the 'additional members') in order to ensure that the total number of members elected from such administrative district is equivalent to the number of members to be elected from such administrative district of the Province as determined by the Election Commission in terms of subsection

(3) of section 3.

(17) Any recognized political party or any group of persons contesting as independent candidates (hereinafter referred to as an 'independent group') may for the purpose of any election of members of Provincial Councils for any administrative district, submit two nomination papers setting out-

(a) the names of each candidate nominated in respect of each

electorate (in this Act, hereinafter referred to as the 'Electorate List'); and

(b) the names of additional candidates in respect of such administrative district as is equivalent to the number of additional members entitled to be elected from such administrative district, increased by three (in this Act hereinafter referred to as the 'District List').

Polling divisions and polling districts. 4. (1) Each polling division for the time being in force under the Registration of Electors Act, No. 44 of 1980, shall be deemed to be a polling division for the purposes of this Act.

(2) 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 district for the purposes of this Act.

Registers electors. 5. (1) The register to be used for the purposes of an election under this Act shall be the register in operation on the date of publication of notice of nomination under section 10, notwithstanding that a new register may have come into operation after the publication of such notice

(2) For the purposes of subsection (1) a 'register in operation' means a register of electors in operation in terms of the Registration of Electors Act, No. 44 of 1980 and includes a register or registers or a part of a register or any combination of them corresponding to an administrative district.

Register of electors 6. A register of electors referred to in section 5 shall be conclusive

to be conclusive evidence of right to vote. [8, 21 of 2023]

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 or by reason of his disqualification under section 67, 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 four hundred thousand 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 Infringe-infringement of the provisions relating to voting in person under section 24 or to plural voting under section 40.

Returning officers. 7.(1) The Commissioner shall, from time to time, by notice in the Gazette appoint by name or by office a person to be the returning officer of each administrative district and may appoint by name or by office one or more persons to assist the returning officer in the performance of his duties. A person so appointed to assist any returning officer shall have all the powers and may perform all the duties of the officer whom he is appointed to assist, and any reference in this Act to a returning officer shall, unless the context otherwise requires, be deemed to include a reference to an assistant returning officer. An appointment made by the Commissioner under this subsection may be revoked by him at any time.

(2) If any returning officer is by reason of illness or other cause prevented or disabled from performing any of his duties under this Act and there is no time for another person to be appointed by the Commissioner, the returning officer may appoint by name or office, a deputy to act for him. Every such appointment shall as soon as possible be reported to the Commissioner and may be revoked by him, but without prejudice to the validity of anything already done by such deputy.

Recognized political parties for the purpose of elections.

8.(1) Every political party which is treated as a recognized political party under the Parliamentary Elections Act, No. 1 of 1981, shall, so long as that political party continues to be treated as a recognized political party under that Act, be deemed to be a recognized political party for the purpose of elections under this Act.

(2) Where a political party is deemed by virtue of the operation of the provisions of subsection (1) to be a recognized political party for the purpose of elections under this Act, the approved symbol allotted to that party under the Parliamentary Elections Act, No. 1 of 1981, or any other law, shall be deemed to be the approved symbol of that party until such party ceases to be so entitled under subsection (1).

Disqualification of membership. **9.** No person shall be qualified to be elected as a member of a Provincial Council or to sit and vote as an elected member of such Council, if such person is subject to any of the disqualifications as specified in section 3 of the Provincial Councils Act, No. 42 of 1987.

PART II NOMINATIONS

Nomination period. **10.** (1) Within four weeks of the dissolution of a Provincial Council by reason of, the operation of article 154E of the Constitution or an order made under Article 154B (8) (c) of the Constitution or by reason of the operation of section 5A of the Provincial Councils Act, No 42 of 1987 or in the case of the first elections held under this Act, within four weeks from a direction from the President to hold an election to a Provincial Council, the Commissioner shall publish a notice of his intention to hold an election to such Council. The notice shall specify the period (herein after referred to as the ' nomination period') during which nomination papers shall be received by the returning officer of each administrative district in the province for which such Provincial Council is established, during normal office hours at his office, and the number of candidates required under section 13 (1) to be to be set out on the nomination paper.

[2, 17 of 2017]
[2, 29 of 1990]

(2) The nomination period shall commence on the fourteenth day after the date of publication of the notice referred to in subsection (1) and expire at twelve noon or the twenty-first day after the day of publication of such notice.

Power of Commissioner to direct which one of the rival sections of recognized political party is that party.

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

(2) No suit or other proceeding shall lie against

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

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

(3) A direction issued to a returning officer under sub-section (1) shall be final and conclusive, and shall not be called in question in any court.

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

Who may contest election. 12. Any person who is not disqualified to be elected as a member of a Provincial Council under the Provincial Councils Act may be nominated as a candidate for election.

Nomination papers. [3, 17 of 2017] 13.(1) Any recognized political party or any group of persons contesting as independent candidates (hereinafter referred to as an 'independent group') may for the purpose of an election of members from an administrative district to a Provincial Council submit two nomination papers setting out the names of the candidates contesting electorates, and the names of the candidates on the district list and the electorate list. Such nomination papers shall be substantially in the form prescribed by law:

provided that, in submitting such lists, each political party or independent group shall ensure that not less than one-sixth of the total number of candidates to be nominated on the electorate list, and not less than fifty per centum of the total number of candidates in the district list, shall be women candidates:

Provided further that, in the event that the number corresponding to one-sixth of fifty per centum as the case may be shall be an integer and fraction, the integer shall be deemed to be the applicable number:

Provided further that, the Commissioner of Elections shall, by notice published in the Gazette, simultaneously with the call for nominations, specify the number of women candidates to be nominated on each nomination list, in respect of each administrative district.

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

subscribed or made and subscribed, as the case may be, by every such candidate, and in the case of an independent group, a receipt acknowledging the receipt of the deposit made by such group under section 14.

(3) Each nomination paper shall be signed by the Secretary of a recognized political party or in the case of an independent group, by the candidate who is the independent group leader (hereinafter referred to as the 'group leader') and shall be attested by a Justice of the Peace or by a notary public.

(4) Such nomination paper together with a copy thereof shall be delivered to the returning officer at his office during normal office hours within the nomination period by the secretary of a recognized political party or by the candidate whose name appears first in the nomination paper setting out the names of the candidates on the district list (hereinafter referred to as the 'authorized agent') in the case of a recognized political party, or by the group leader in the case of an independent group.

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

(6) The returning officer shall display a copy of each nomination paper received by him on his notice-board.

(7) The returning officer shall, on application made at any date after the publication of the notice of nomination and before the expiry of the nomination period, supply free of charge a nomination paper to any recognized political party or any independent group ; but nothing in this Act shall be deemed to preclude the use of any form of nomination paper not supplied by the returning officer, so long as such form does not differ substantially from the form prescribed by law.

(8)

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

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

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

Deposits.

14. (1) A group leader or any other person authorized by such group leader, shall, between the date of publication of the notice under section 10 and the submission of the nomination paper of that group, and in any case, not later than 12 p.m. on the day immediately preceding the end of the nomination period, deposit in legal tender with the returning officer, a sum calculated at two thousand rupees in respect of each candidate nominated by such group.
- (2) No deposit made by a group leader or a person authorized by such group leader under subsection (1) shall be accepted by the returning officer unless it is made within the time prescribed in that subsection.
- (3) Where a deposit under this section is accepted by the returning officer, such officer shall forthwith issue to the person by whom the deposit was made a receipt in writing signed by such officer acknowledging his acceptance of such deposit, and the receipt shall state
- (a) the name of the group leader by whom the deposit was made or of the authorized person by whom and on whose behalf the deposit was made;
 - (b) the number of candidates ;
 - (c) the amount of the deposit; and
 - (d) the time and the date of the deposit.

Disposal of deposits.

- 15.(1) Every deposit made with a returning officer under section 14 shall forthwith be credited by such officer to a deposit account and shall be

[2, 7 of 1993]

disposed of according to the provisions of subsections (2), (3) and (4).

(2) Where a nomination paper of an independent group is rejected under the provisions of section 17, the deposit shall be returned to the person who made the deposit.

(3) Where none of the candidates nominated by an independent group for an administrative district are elected to the Provincial Council from that administrative district, the deposit made in respect of the candidates of such group shall be declared forfeit and shall be transferred by the returning officer from the deposit account to the Consolidated Fund, and in every other case, the deposit shall be returned to the person who made the deposit, as soon as may be after the result of the election is declared.

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

Connect to
nomination of
offence under
certain
circumstances.
[8, 21 of 2023]

16. where any Person who is not qualified to be elected as a member of a Provincial Council

(a) by reason of his conviction for a corrupt or illegal practice or by reason at the report of an Election Judge under the Ceylon (Parliamentary Elections) Order in Council, 1346, or under the Parliamentary Elections Act, No. 1 of 1931, or by reason of the report of the Supreme Court under the law relating to the election of the President; or

(b) by reason of the imposition of civic disability on him in terms of Article 81 (1) of the Constitution; or

(c) by reason of his being subject to any of the disqualifications specified in the Local Authorities (Imposition of Civic Disabilities) (No. 1) Law, No. 38 of 1978, or the Local Authorities (Imposition of Civic Disabilities) (No. 2) Law, No. 33 of 1978,

signifies his consent to be nominated as a candidate at an election under this Act, he shall be guilty of an offence, and shall, on conviction before a Magistrate be liable to a fine not exceeding four hundred thousand rupees or to imprisonment of either description for a term not exceeding three months or to both such fine and imprisonment.

Rejection of
nominated papers.

17. (1) The returning officer shall, immediately after the expiry of the nomination period, examine the nomination papers received by him and reject any nomination paper
- (a) that has not been delivered in accordance with the provisions of subsection (1) or subsection (5) of section 13 ; or
 - or
 - (b) that does not contain the total number of candidates required to be nominated in terms of section 13 ; or
 - (c) in respect of which the deposit required under section 14 has not been made ; or
 - (d) where the consent of one or more candidate has or have not been endorsed on the nomination paper or where the oath or affirmation in the form set out in the seventh schedule to the constitution of one or more candidates has or have not been annexed to the nomination paper ; or
 - (e) where the signature of the secretary in the case of a recognized political party, or of the group leader in the case of an independent group does not appear on the nomination paper or where such signature has not been attested as required by subsection (3) of section 13.
- (2) Where any nomination paper has been rejected by the returning officer under subsection (1), the returning officer shall inform the secretary of the recognized political party or the group leader, as the case may be, who had submitted such nomination paper the fact of such rejection. The decision of the returning officer to reject such nomination paper shall be final and conclusive.

Uncontested
election.
[5, 17 of 2017]

- 18.(1) Where the candidates of only one recognized political party or one independent group stand nominated for election, the returning officer shall declare the candidates on the electorate list of such party or group as having been elected as members of that Provincial Council, and shall call upon the secretary of such recognized political party or the group leader of such independent group to decide, within such period as may be specified by the returning officer, which of the candidates whose names appear in the District List shall be declared elected as additional members of that Provincial Council. Where such secretary or group leader communicates his decision to the returning officer within the period specified by the returning officer, the

returning officer shall declare such candidates elected as additional members of that Provincial Council. Where such secretary or independent group leader fails to communicate his decision to the returning officer within the period specified by the returning officer, then such number of candidates, in the order in which their names appear in such district list, as is equal to the number of additional members to be elected to that Provincial Council, shall be declared elected as members. The provisions of section 58B shall apply to such nominations. The provisions of section 58B shall apply to any nomination made by such Secretary or independent group leader, as the case may be or to any declaration made by the returning officer under this subsection.

(2) The returning officer shall forthwith make a return which shall be substantially in the prescribed form, to the Commissioner who shall cause the names of the members so elected to be published in the Gazette.

Procedure where no nomination papers are received.

19. Where in the case of any administrative district the returning officer finds at the expiry of the nomination period

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

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

the returning officer shall not later than seven days after the expiry of the nomination period publish a notice prescribing a second nomination period. Such period shall commence on the seventh day after the date of the publication of the notice and expires at twelve noon on the fourteenth day after the date of publication of such notice. The provisions of this Act shall apply in relation to the second nomination period subject however that the duration of the nomination period referred to in section 10 shall not be applicable to the second nomination period.

Contested elections.

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

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

(b) in respect of each independent group, an approved symbol

and where there is more than one independent group an approved symbol and a distinguishing: number determined

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

(ii) in the absence of such agreement by lots cast or drawn in such manner as the returning officer may, in his absolute discretion, determine,

and such symbol shall be printed on the ballot paper opposite

(i) the name of such party; and

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

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

(3) Alter the allocation of symbols under subsection (1) the returning officer shall forthwith adjourn such election to enable a poll to be taken in accordance with the provisions hereinafter set out.

Persons entitled to be present at nomination.

21. No person other than the returning officer, the secretary of a recognized political party, the authorized agent, second on a nomination paper and one other person, if any, the group leader, the candidates whose name appears second on a nomination paper and one other person, if any, selected by such secretary or authorized agent or group leader shall, except with the consent of and for the purpose of assisting the returning officer, be entitled to be present at the proceedings under sections 13, 17, 18 and 20.

PART III THE POLL

Notice of poll.
[6, 17 of 2017]
[3, 5 of 2004]

22. (1) The returning officer shall, as soon as may be after the conclusion of the proceedings under section 20, publish a notice in the Gazette specifying

(a) the administrative district in which the election is contested ;

(b) the names of each political party or independent group contesting in each administrative district, and the approved symbol allotted to each such party or independent group, and in the case of an independent group, the words 'Independent Group'

and the distinguishing number if any, and-

(i) the names of candidates of each party or group contesting in respect of each electorate; and

(ii) the names of the candidates of each party or independent group on the district list, in the same order as appears in the nomination paper submitted by such party or independent group;;

(c) the date of poll, such date being a date Tailing on a Saturday or 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 being a date not less than five weeks or more than eight weeks from the date of publication of the notice ;

(d) the situation of the polling station or stations for each electorate in the administrative district and the particular polling station, if any, reserved for female voters.

(2) If, after the publication of the notice referred to in subsection (1), the day specified in such notice 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 the election.

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

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

Provided that, the Elections Commission shall at all times have the power to direct that a polling station be established in respect of more than one electorate.

(5) 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 returning officer may cause the situation of that station to be altered in such manner as he may, in his absolute discretion, determine.

(6) Where at an election of members of a Provincial Council from the

administrative districts within the province for which that Provincial Council is established, due to any emergency or unforeseen circumstances the poll in any such administrative district cannot be taken on the day specified in the notice published under subsection (1), the Commissioner may, by notice published in the Gazette, appoint another day for the taking of the poll in such administrative district and in every other administrative district within that province, such other day being a day not earlier than the fourteenth, day after the publication of the notice In Gazette.

Death of candidate after nomination. 23. Whenever the death occurs of a candidate between the adjournment for the purposes of the poll and the commencement of the poll, the returning officer shall, upon being satisfied of the fact of such death, expunge the name of that candidate from the nomination paper and notwithstanding such death, the nomination paper with the omission of the name of the deceased candidate shall be valid in respect of the other candidates in that nomination paper and the poll shall be taken as specified in the notice under section 22.

Voting by post. [8, 21 of 2023] [7, 17 of 2017] 24. (1) A person who is entitled under this section to be treated as a postal vote 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 any 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 two hundred thousand rupees or to imprisonment of either description for a term not exceeding one year or to both such fine and imprisonment.

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

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

(b) by any other officer or servant in the public service or of the

Central Bank of Sri Lanka or the Provincial 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 in some other administrative district.

(3) An application to be treated as a postal voter shall be made to the returning officer so as to reach him within ten days after the date of publication of the notice of nomination under section 10. Such application shall be substantially in the form prescribed for the purpose by the prescribed by law.

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

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

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

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

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

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

(a) a ballot paper ;

(b) a form of declaration of identity ;

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

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

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

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

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

Official poll card. [8, 21 of 2023] 25.(1) The returning officer shall send to each elector whose name appears in the register a poll card (in this Act referred to as an 'official poll card') in such form as may be determined by the Commissioner, and specifying

(a) the name of the administrative district;

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

(c) the polling division;

(d) the polling district;

(e) the polling station allotted to the elector; and (f) the date and hours of the poll:

Provided that no such card shall be sent to an elector who is entitled to be treated as a postal voter.

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

Presiding officers. 26.(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, here master called presiding officers, to preside at each polling-station in the administrative 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 overall 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 no 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.

Facilities to be provided at polling 27.(1) For the purposes of an election in any administrative district the returning officer shall

station.

- (a) appoint such officers and servants as may be necessary for taking the poll;
- (b) furnish each polling station in that administrative district 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 in the part of that register supplied to each such presiding officer;
- (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.

Notice to be exhibited at polling stations.
[8, 17 of 2017]

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

- (a) outside the polling station a notice substantially in the form prescribed by law, giving directions for the guidance of voters ; and
- (b) the names of each political party or independent group contesting in each administrative district, and the approved symbol allotted to each such party or independent group and in the case of an independent group the words 'Independent Group' and the distinguishing number if any, and-

(i) the names of candidates of each party or independent group contesting in respect of each electorate; and

(ii) the names of the candidates of each party or independent group on the district list, in the same order as appears in the nomination paper submitted by such party or independent group.

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

Ballet boxes. 29. 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.

Ballot papers. [9, 17 of 2017] 30.(1) The votes at every election under this Act in an administrative district shall be given by ballot. The ballot of each voter shall consist of a ballot paper in the form and containing the particulars hereinafter prescribed.

(2) Every ballot paper shall be substantially in form prescribed by law, and

(a) shall contain the approved symbol allotted to each political party or independent group contesting in the administrative district, and the name of the candidates of each party or independent group contesting in respect of such electorate within such administrative district;

(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.

Hours of poll. 31. Unless the Commissioner, by notification in the Gazette, appoints any other hour, the poll in any administrative district shall open at seven O'clock in the forenoon of the day specified under section 22 and shall close at four O'clock in the afternoon of that day.

Appointment of polling. 32.(1) the secretary of each recognized political party agents. or its authorized agent or any group leader may appoint a reasonable number of polling agents for each polling station having regard to the need to revoke the appointment of any polling agent for that polling station during the poll. Notice in writing of every such appointment

stating the names, addresses and national identity-card numbers of the Provincial Councils Elections 19 Act, No. 2 of 1988 persons appointed shall be given by such secretary or authorized agent or group leader to the presiding officer at that station before the opening of the poll or during the poll.

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

(3) Where such secretary, authorized agent or group leader or candidate referred to in subsection (2) after informing such presiding officer of the name of any polling agent appointed to act at such station, revokes the appointment of that polling agent and appoints another polling agent to such station, such secretary authorized agent or group leader or candidate, as the case may be shall inform such officer in writing of the revocation of such appointment and of the name and address of the new polling agent appointed to such station.

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

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

General conduct
the poll.

33.(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 secretary of a recognized political party and the candidates, the polling agents, the police officers on duty and other persons officially employed at the polling station; provided that only one candidate from each recognized political party or independent group shall be admitted to the polling station at any one time.

(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 authorized in writing by the presiding officer or by the returning officer.

(4) Any person removed from a polling station under sub-section (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.

Sealing of ballot boxes and commencement of poll.

34.(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 paragraph (b) of subsection (1) shall apply to every ballot box which is to be used after the commencement of the poll.

Issue of ballot papers.
[12, 14 of 2004]

35.(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 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;
- (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.

Inspection of voter and marking with the appropriate mark.

[10, 17 of 2017]

[13, 14 of 2004]

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

- (a) if he refuses to allow the presiding officer or a person acting under his authority to make the appropriate inspection of the mark or valid identity document; or
- (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
- (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 prescribed by law, the following particulars relating to each voter to whom a ballot paper was not delivered at such station under subsection (1)

- (a) the number of such voter in the register of electors ;
- (b) the name of such voter as it appears in such register; and
- (c) the ground on which a ballot paper was not delivered to such voter.

Such list is in this Act called the ' list of voters to Whom ballot papers are not delivered under section 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.

Manner of voting.
[11, 17 of 2017]

37.(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 and fold the ballot paper so as to conceal his vote, and shall then show to the presiding officer the reverse of the paper, so as to disclose the official mark, and put the ballot paper, so folded, into the ballot box in the presence of the presiding officer.

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

Assistance to
voters to enable
them to vote.
[12, 17 of 2017]
[14, 28 of 2011]

38.(1) The presiding officer, or any person authorized by the presiding officer, may, if he thinks fit on the application of any voter, explain to the voter, within sight and hearing of the polling agents, if present, the method of voting specified in the directions given for the guidance of voters, 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 recognized political party or independent group.

(2)

(a) Any voter who is subject to a disability and such disability prevents the voter from voting in accordance with the directions given for the guidance of voters 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 prescribed by law, 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 authorized 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) total or partial visual impairment; or

(ii) a physical disability,

which prevents the voter from validly marking his ballot paper.

Voting by proxy forbidden. 39.No voter shall be entitled to vote by proxy at any election under this Act.

Plural voting to be an illegal practice. 40.If any person at an election under this Act-
(a) votes in more than one administrative district or ask for a ballot paper for the purpose of so voting ; or
(b) votes more than once in the administrative district or ask for a ballot paper for the purpose of so voting, he shall be guilty of an illegal practice under this Act.

Power to require voter to make declarations. 41.(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,

[8, 21 of 2023]
[13, 17 of 2017]

before he is given a ballot paper, to make and subscribe all or any of the declarations in the forms prescribed by law. Every such declaration shall be exempted 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 wilfully 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 two hundred thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

Spoilt ballot
papers.

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

Tendered votes.
[14, 17 of 2017]

43. 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 exempted from stamp duty and which shall be substantially in form prescribed by law, 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 prescribed by law. Tendered ballot papers shall be dealt with in the manner hereinafter provided.

Closure of poll.

44. 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.

Procedure on

45. (1) As soon as practicable after the closure of the poll, the presiding

closure of poll.
[15, 17 of 2017]

officer of each polling station shall, in the presence of the polling agents make up into separate packets, sealed with his own seal and the seals of such polling agents as desire to affix their seals

- (a) each ballot box at that station, each such box remaining locked as it was at the time of the opening of the poll and being sealed after the closure of the poll so as to prevent the introduction of any ballot papers thereafter;
- (b) the key of each ballot box;
- (c) the unused and spoilt ballot papers placed together;
- (d) the marked copies of the register of electors and the counterfoils of the ballot papers;
- (e) the list of voters to whom ballot papers are not delivered under section 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 the forms prescribed by law (hereinafter referred to as ' the ballot paper account') made by the presiding officer, showing the number of ballot papers entrusted to him and accounting for them under the heads of

- (a) ballot papers issued to voters, other than spoilt ballot papers;
- (b) spoilt ballot papers; and
- (c) unused ballot papers.

Presiding officers may act through officers appointed to assist him.

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

Disturbances at polling stations.
[16, 17 of 2017]
[16, 35 of 1988]

46A. (1) Where due to the occurrence of events of such a nature

- (a) it is not possible to commence the poll at a polling station at the hour fixed for the commencement of the poll, or
- (b) the poll at such polling station commences at the hour fixed for the opening of the poll but cannot be continued until the hour fixed for the closing of the poll, or
- (c) any of the ballot boxes assigned to the polling station cannot be delivered to the counting officer,

the presiding officer of such polling station shall forthwith inform 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 administrative 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 administrative district; the provisions of Part IV shall, mutatis mutandis, apply to the counting of votes polled in the election for such administrative district and the declaration of the result of such election, subject to the modification set out in this section.

(4) The counting officer in charge of the counting central to which the polling station in respect of which the Order under subsection (2) has been made, is assigned shall notwithstanding anything in section 50, commence the counting of votes after he has received all the ballot boxes assigned to his centre, other than the ballot boxes from the polling station in respect of which the Order under subsection (2) has been made.

(5) The returning officer shall, from the statements under subsection (7) of section 51 furnished to him by all the counting officers, add up and ascertain the number of votes polled by each recognized political party and independent group in respect of each electorate and in respect of the administrative district as a whole at the election for such administrative district other than the votes polled at the polling station in respect of which an Order under subsection (2) has been made and shall forthwith forward a statement to that effect to the Commissioner.

(6) Where the Commissioner is of the opinion, on receipt of a statement under subsection (5), that the result of the election for such administrative district or electorate will not be affected by the failure to count the votes polled, or the votes that would have been polled, at the polling station in respect of which an Order under subsection (2) has been made he shall direct the returning officer to make a declaration under section 58 in accordance with that statement and the provisions of that section, and the returning officer shall make a declaration accordingly.

(7)

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

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

(c) The provisions of sections 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 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.

(d) For the purposes of the application of the provisions of section 73, 74 and subsection (2) of section 80 to a poll ordered under paragraph (a) the references in those sections to 'the day following the date on which a poll is taken at such election' shall be deemed to be a reference to the day following the date appointed for the taking of such poll.

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

(8) Upon receipt of the documents referred to in section 53 in respect of the poll ordered under subsection (7), the returning officer shall add the votes polled by each recognized political party and independent group in respect of each electorate and in respect of the administrative district as a whole and set out in the statement forwarded to the Commissioner under subsection (5) to the votes polled by each such party or independent group at the poll ordered under subsection (7) and shall make a declaration under section 58 in accordance therewith.

(9) The Commissioner shall consult the Secretary of every recognized political party and the group leader of every independent group contesting an election held under this Act, or an agent authorized for this purpose by such Secretary or group leader, before giving a direction under subsection (6) or appointing a date

under subsection (7) of this section, or making an Order under subsection (6) of section 22.

PART IV

COUNTING OF VOTES AND DECLARATION OF RESULT

- Counting officers. 47. (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 thing 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.
- Notice of count. 48. The returning officer shall make arrangements for counting the votes as soon as possible after the close of the poll and shall give notice in writing to each secretary or the authorized agent of a recognized political party and the group leader of any independent group contesting the election, of the situation of each counting centre, and the date and time of the commencement of the count, and a statement setting out the counting centre and the polling station or stations assigned to such counting centre.
- Appointment of counting agents. 49. (1) The Secretary of each recognized political party or its authorized agent or a group leader may appoint
- (a) not more than five agents (hereinafter referred to as 'counting agents') to attend at the counting of the votes at each counting centre, where such counting centre has been assigned more than one polling station under section 48 ;
 - (b) not more than two counting agents to attend at the counting of votes at each counting centre where such counting centre has been assigned only one polling station under section 48.
- (2) Any candidate to whom the power of appointing polling agents has been delegated under section 32 may, in like manner, be delegated the power of appointing counting agents in respect of any counting centre referred to in paragraph (b) of subsection (1).
- (3) Notice in writing stating the names, addresses and national identity card numbers of the persons appointed under subsection (1)

or subsection (2) shall be given by the secretary of such recognized political party or its authorized agent or the group leader or the candidate referred to in subsection (2), to the counting officer before the counting of votes commences. The counting officer may refuse to admit to the counting centre any counting agent whose name, address and identity card number have not been so given and who does not produce a letter from the returning officer authorizing him to be present as that counting centre.

The count.
[17, 17 of 2017]

50.(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 authorized by him shall, in the presence of such of the counting agents as attend

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

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

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

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

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

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

Ballot papers to be rejected.

[18, 17 of 2017]

51.(1) Any ballot paper

- (a) which does not bear the official mark ; or
- (b) on which votes are given for
 - (i) more than one recognized political party ; or
 - (ii) more than one independent group ; or
 - (iii) a combination of one or more recognized political parties and independent groups ; or
- (c) on which any thing is written or marked by which the voter can be identified except the printed number on the reverse; or
- (d) which is unmarked; or
- (e) which is void for uncertainty as to the recognized political party or independent group for which the vote is given, shall be rejected by the counting officer. The counting officer shall endorse the word ' rejected ' on any such ballot paper.

(2) Where the counting officer is satisfied that any mark made on a ballot paper clearly indicates the intention of the voter to give his vote and the recognized political party or independent group for which he give his vote, the counting officer shall not reject the ballot paper under sub-section (1) on the ground solely that it has not been marked in all respects in accordance with the directions given to 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 view thereon taking all proper precautions to prevent any person from seeing the number printed on the reverse of the paper.

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

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

(7) The counting officer shall prepare a written statement in words as well as in figures, of the number of votes given for each recognized political party and independent group, and a separate statement, in words as well as figures, in respect of the votes polled in respect of each electorate by the candidate nominated by each such party or group, and each such statement shall be certified by the counting officer and witnessed by one of his assistants and clerks and the agents of any party or group as are present and desire to sign.

Repealed of subsections (8), (9) and (10)

(11) 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.

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

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

52. 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.

Closure of the count.
[19, 17 of 2017]

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

- (a) the counted ballot papers ;
- (b) the rejected ballot papers ;
- (c) the tendered ballot papers ;
- (d) the ballot paper account;
- (e) the packets referred to in paragraphs (c) to (f) of section 45 (1) ;
- (f) the record of the count under subsection (2) (b) 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 recognized political party or independent

group in respect of the votes polled in respect of each electorate by each such party or group.

- Counting of postal ballot papers. [20, 17 of 2017]
54. The postal ballot papers in respect of any administrative district shall be counted in accordance with the postal voters' regulations prescribed by regulation at a separate counting centre or such number of counting centres as may be determined by the returning officer.
- Notice of declaration of result.
55. The returning officer shall, before he proceeds to declare the result of an election, give notice in writing to the secretary or the authorized agent of a recognized political party or the group leader of an independent group contesting that election, of the time and place at which the result will be declared.
- Appointment of agents to attend at the declaration of result.
56. Each recognized political party or independent group which has nominated candidates at an election in respect of an administrative district may appoint not more than two agents to attend at the declaration of the result. Notice in writing of such appointments stating the names, addresses and national identity card numbers of the persons appointed shall be given by the secretary of such recognized political party or its authorized agent or the group leader to the returning officer before the proceedings at the declaration of the result commence. The returning officer may refuse to admit to the place where such proceedings take place any agent whose name, address and national identity card number have not been so given.
- Persons entitled to be present at the declaration of result.
57. Except with the consent of the returning officer, no person other than the returning officer, the persons appointed to assist him and the agents appointed under section 56 may be present at the declaration of result.
- Declaration of the result. [21, 17 of 2017] [2, 55 of 1988]
58. (1)
- (a) 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 of the counting centre or centres where postal ballot papers were counted) add up and determine the number of votes given for each recognized political party and independent group in such administrative district in respect of the votes polled in respect of each electorate by the candidate nominated by each such party or group. The returning officer

shall, before he opens a sealed packet referred to in paragraph (h) of section 53, upon a request made by an agent appointed under section 56, permit such agent to inspect the seals on such packet.

(b) the candidate belonging to the recognized political party or the independent group who obtained the highest number of votes in each electorate and who was nominated by such recognized political party or independent group in its nomination paper as its candidates for that electorate shall be declared elected as the member of such electorate;

(c) where and equality of votes is found to exist between any two or more recognized political parties or two or more independent groups, and the addition of a vote would entitle the nominated candidate of one such recognized political party or independent group to be elected as the member of such electorate, the determination of the recognized political party or independent group to which such additional vote shall be deemed to have been given, shall be made by lot drawn in the presence of the chief counting officer, in such manner as he shall determine.

(2) Repealed by 21, 17 of 2017

(3) Where under subsection (1) or subsection (2) equality of votes is found to exist between the by two or more recognized political parties or two independent groups or any combination of them and the addition of a vote would entitle the candidates of one such recognized political party or independent group to be elected, the determination of the party or group to which such additional vote shall be deemed to have been given shall be made by lot drawn in the presence of the returning officer in such manner as he may, in his absolute discretion, determine.

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

(5) Where a recognized political party or independent group is entitled, under the preceding provisions of this section, to have one of the candidates nominated by it declared elected as a member but none of the candidates nominated by it or none of the candidates remaining on the nomination paper submitted by it, have secured any preferences the returning officer shall call upon the secretary of such political party or the group leader of such group to decide within a period to be specified by the returning officer, which of the candidates

nominated by such party or group or which of the candidates remaining on the nomination paper submitted by it shall be declared elected as member. If such secretary or group leader communicates his decision to the returning officer within the period specified by the returning officer, the returning officer shall declare elected as member, the candidate specified in such decision. If on the other hand, such secretary or group leader fails to communicate his decision to the returning officer within the period specified by the returning officer, the returning officer shall declare elected as member, the candidate whose name appear next in the nomination paper submitted by such party or group.

(6) For the purposes of this section and section 63, where two or more candidates nominated for election to a Provincial Council from an administrative district, by a recognized political party or an independent group, have secured an equal number of preferences at such election and the addition of a preference shall entitle one such candidate to be elected as a member of such Provincial Council, the determination of the candidate to whom such additional preference shall be deemed to have been given shall be made by lot drawn in the presence of the returning officer in such manner as he may, in his absolute discretion, determine.

Election of
members of
Provincial
Councils.
[22, 17 of 2017]

58A. (1) Upon the declaration under section 58, the additional members elected for all the electorates of the administrative district shall be apportioned in the manner hereinafter provided for in this section.

(2) The total number of valid votes received by all the candidates of each recognized political party and independent group in the administrative district shall be divided by the total number of members to be elected and returned to Provincial Council from such Administrative District. The number resulting from such division (any fraction not being taken into account) shall hereinafter in this section be referred to as 'the qualifying number'.

(3) The aggregate of the votes received by the candidates of each recognized political party and independent group in the respective electorates shall then be divided by the qualifying number, in order to ascertain the number of persons entitled to be elected and returned as members of the Provincial Council, from such administrative district. Where the number ascertained by this method is an integer and a fraction, the integer shall be deemed to be the number for the purpose of this subsection.

(4) Upon ascertaining the number of candidates entitled to be elected and returned from such administrative district, as members of that Provincial Council, by each recognized political party or independent group, as the case may be, in terms of subsection (3), if it is found that the number of members elected from such recognized political party or independent group from such administrative district for that Provincial Council-

(a) exceeds the number ascertained to be elected and returned as members under subsection (3), then such overhang shall be determined by the Commissioner of Elections; or

(b) falls short of the number ascertained to be elected and returned as members under subsection (3), then such additional number of members, shall be returned by the respective secretary of the recognized political party or leader of the independent group from the candidates on the Electorate List or the District List, other than the candidates who have been elected or are not qualified to be a member.

(5) Where at the conclusion of ascertaining the number of members to be returned by any recognized political party or independent group on the method specified in subsection (3), there remains a further number of members to be returned under the proportional representation system as determined under subsection (4), such remaining number shall be allocated on the basis of the highest fraction received by each recognized political party or independent group, as ascertained under subsection (3).

(6) The returning officer shall inform the secretary of the recognized political party or the leader of the independent group, as the case may be, which is entitled to return such number of members as ascertained under subsection (3) of this section, of the number of members including women members that such recognized political party or independent group, as the case may be, is entitled to be elected and returned from the candidates of the Electorate List or the District List other than the candidates who have been elected or are not qualified to be members. The Secretary or Independent Group Leader as the case may be shall accordingly nominate the names of persons who are to be returned as members under that subsection.

(7) The names of the candidates who are returned under this section shall thereafter be declared by the returning officer of the respective

administrative district.

(8) The Commissioner shall ensure that twenty-five per centum of the total number of members to be elected and returned from each administrative district within a Province shall be women members:

provided that, where the number constituting twenty-five per centum of the total number of members is an integer and fraction, the integer shall be deemed to be the number which shall constitute twenty-five per centum for the purpose of this section:

Provided further that a Provincial Council constituted in terms of this Act, shall not be deemed to be unlawful only by virtue of an inability to comply with the provisions of this subsection.

Number of
members to be
returned.
[22, 17 of 2017]

58B.

(1) Where the number of members elected from any recognized political party or independent group for an administrative district results in an overhang and thereby exceeds the number ascertained to be elected and returned as members under subsection (3) of section 58A, the provisions of subsections (3) and (4) of this section shall not apply to such recognized political party or independent group.

(2) Where any recognized political party or independent group has received less than twenty per centum of the total number of votes polled in an administrative district, then the provisions of subsections (3) and (4) of this section shall not apply to such recognized political party or independent group.

(3) The apportionment of women members to be elected and returned from each administrative district to each Provincial Council from the recognized political parties and independent groups other than the political parties and the independent groups referred to in subsections (1) and (2) of this section, shall be determined by the Elections Commission, taking into consideration the number of valid votes polled by the other recognized political parties and independent groups within such administrative district, and the method of apportionment set out in Article 99A of the Constitution of the Democratic Socialist Republic of Sri Lanka shall mutatis mutandis apply thereto.

(4) Where the number of women members elected for all electorates within an administrative district from any

recognized political party or independent group, is less than the number apportioned in terms of subsection (3) of this section, then the shortfall in the number of members shall be returned from among the women candidates in the Electorate List or the District List other than the women candidates who have been elected or are disqualified to be a member.

Special provinces relating to powers, duties or functions under section 58. 59. Any power, duty or function of a returning officer under section 58 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.

Publications of result in the Gazette. [23, 17 of 2017] 60. The returning officer shall forthwith, after the result has been declared by him, make a return, substantially in the form prescribed by law, to the Commissioner, who shall cause the names of the members elected to the Provincial Council from the administrative district to be published in the Gazette.

Disposal of ballot papers. 61. (1) The returning officer shall retain the packets and all documents forwarded to him under section 53 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) The Court of Appeal 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 Court may deem expedient, but shall not make such an order unless it is satisfied that such inspection, copying or production is required for the purpose of instituting or maintaining a prosecution or any other legal proceedings 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.

Bonus seats. 61A. (1) After all the members of a Provincial Council to be elected from the several administrative districts in the province have been declared elected at a general election held under this Act, the Commissioner shall, from the written statements prepared under subsection (7) of section 51 in respect of all the administrative districts in the province, add up and determine the number of votes given, for each recognized political party or independent group, in

the province.

(2) The recognized political party or independent group polling the highest number of votes in the province shall be entitled to have two more of its candidates declared elected as members of the Provincial Council. The Commissioner shall, after making his determination under subsection (1), call upon the secretary of the recognized political party or the group leader of the independent group polling the highest number of votes in the province to nominate two persons as members of the Provincial Council, from among the candidates nominated by that party or group for election to that Provincial Council and who have not been elected to such Council. Upon receipt of a nomination from such secretary or group leader, the Commissioner shall declare the persons named in the nomination elected as members of the Provincial Council and shall cause their names to be published in the Gazette.

PARTV FILLING OF VACANCIES

Vacation of
membership .

62. (1) Where any member of a Provincial Council is, by reason of the operation of any of the provisions of section 9 or of the provisions of the Provincial Councils Act, disqualified from sitting or voting as a member of such Council, his seat or office shall, ipso facto, become vacant.

(2) Where the seat or office of a member of a Provincial Council elected from an administrative district becomes vacant by reason of the operation of the provisions of subsection (1), the provisions of section 65 shall apply for the purpose of filling the vacant seat or office.

Vacation of office
on ceasing to be
member of
recognized political
party or
independent group.

63. (1) Where a member of a Provincial Council ceases, by resignation, expulsion or otherwise, to be a member of a recognized political party or independent group on whose nomination paper his name appeared at the time of his becoming such member, his seat shall become vacant upon the expiration of a period of one month from the date of his ceasing to be such member:

Provided that in the case of the expulsion of a member of a Provincial Council his seat shall not become vacant if prior to the expiration of the said period of one month he applies to the Court of Appeal by petition in writing and the Court of Appeal upon such application determines that such expulsion was invalid. Such petition shall be

inquired into by three Judges of the Court of Appeal who shall make their determination within two months of the filing of such petition. Where the Court of Appeal determines that the expulsion was valid the vacancy shall occur from the date of such determination.

(2) Where the seat of a member of a Provincial Council elected from an administrative district becomes vacant by the operation of subsection (1) or the provisions of the Provincial Councils Act, the provisions of section 65 shall apply to the filling of such vacancy.

Penalty for acting
as member after
office is vacated.
[8, 21 of 2023]

64. Every person who knowingly acts in the office of a member of any Provincial Council, after his seat or office becomes vacant under the provisions of section 62 or section 63, shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding fifty thousand rupees in respect of each day on which he so acts as a member.

Filling of
vacancies.
[24, 17 of 2017]

65.(1) Where the office of a member of a Provincial Council becomes vacant due to death, resignation or any other cause the Secretary of the Provincial Council shall inform the Commissioner the fact of the occurrence of vacancy. The Commissioner shall fill such vacancy the manner hereinafter provided.

(2) If the office of a member falls vacant due to death, resignation or for any other cause, the Commissioner shall all upon the secretary of the recognized political party or the group leader of the independent group to which the member vacating office belonged, to nominate within a period to be specified by the Commissioner, any other candidate of the Electorate List or the District List other than the candidates who have been elected or are not qualified to be a member of that Provincial Council, to fill such vacancy. If such secretary or group leader nominates within the specific period an eligible person to fill such vacancy and such nomination is accompanied by an oath or affirmation, as the case may be, in the form set out in the Seventh Schedule to the Constitution, taken and subscribed or made and subscribed, as the case may be, by the person nominated to fill such vacancy, the Commissioner shall declare such person elected as a member of that Provincial Council from the administrative district in respect of which the vacancy occurred. If on the other hand, such secretary or group leader fails to make a nomination within the specified period, the Commissioner shall declare elected as member, from the the candidate next in the District List other than a candidate

who has been elected or is not qualified to be a member. The Commissioner shall cause the name of the member as declared elected to be published in the Gazette.

(3) Where a vacancy occurs in the case of a woman member of a Provincial Council under subsection (1) or (2) such vacancy shall be filled only by the nomination of a woman candidate from the relevant Electorate List or the District List other than the women candidates who have been elected or are not qualified to be a member.

PART VI OFFENCES

Offences related to **66.** Every person who-

nomination papers,
ballot papers,
official poll cards,
& c.

- (a) forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to the returning officer any nomination paper knowing the same; to be forged ; or
- (b) forges or counterfeits or fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper
; or
- (c) without due authority supplies any ballot paper to any person;
or
- (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
- (ee) wilfully displays a marked ballot paper inside a polling station;
- (f) puts into any ballot box 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 or 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 purposes 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) wilfully makes a false statement in any application to be treated as a postal voter, under this Act or in any declaration of identity sent to him under the Postal Voters' Regulations set out in the Second Schedule to this Act,; or

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

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

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

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

(p) votes at an election knowing that he is legally incapable of, or disqualified from, so voting,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a term not exceeding two years and 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 Act, or of being elected as a member of a Provincial Council, and if at that date he has been elected as a member of a Provincial Council, his election shall be vacated from that date of such conviction.

Certain persons not qualified to vote. [8, 21 of 2023]

qualified to vote.
[8, 21 of 2023]

(a) a person who is subject to the disqualifications set out in the Local Authorities (Imposition of Civic Disabilities) (No. 1) Law, No. 38 of 1978, or in the Local Authorities (Imposition of Civic Disabilities) (No. 2) Law, No. 39 of 1978 ;

(b) 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 four hundred thousand rupees or to imprisonment of either description for a term not exceeding six months, or to both such fine and imprisonment,

Certain acts prohibited on polling day. [8, 21 of 2023]

68.(1) No person shall, on any date on which a poll is taken at a polling station, under this Act do any of the following acts within the precincts, or a distance of 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 recognized political party or independent group ;

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

(e) distributing or exhibiting any handbill, placard, poster, drawing, photograph or notice relating to the election (other than any official handbill, placard, poster or notice) or any symbol allotted under section 20 to any recognized political party or independent group.

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

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

(a) use or operate, within or at the entrance of a polling station or

in any public or private place in the neighbourhood thereof, any megaphone or 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 neighbourhood thereof,

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

Restriction on
procession.
[8, 21 of 2023]

69.No person-

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

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

Restriction on
public meetings.
[8, 21 of 2023]

70.No public meeting shall be held in any administrative district during the period commencing forty-eight hours before the date of the poll and ending one week after the members of Provincial Council from, that administrative district have been declared elected by the returning officer.

Every person who contravenes any of the preceding provisions shall be guilty of an offence and shall, on conviction after summary trial

before a Magistrate, be liable to a fine not exceeding four hundred thousand rupees or to imprisonment of either description for a term not exceeding one month, or to both such fine and imprisonment.

General provisions relating to offences. **71.**(1) 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.

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

(4) A prosecution for the 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.

Printing &c. of election publications by persons.
[8, 21 of 2023]

72.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 two hundred thousand 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 posters 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.

Restriction on number of election offices.
[8, 21 of 2023]

73.(1) A person who is an authorized agent or a group leader at an election in any administrative district or is the agent of such authorized agent or group leader, shall not have

(a) during the period commencing from the first day of the nomination period at such election and ending on the day immediately preceding the date on which a poll is taken at such

election, an;? election office, other than one notified central election office in the administrative district and one notified branch election office in each polling district;

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

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

(3) Every person who contravenes the provisions of 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 fifty thousand 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 administrative district in which that office is situated, before such office is established.

Provisions relating to displayed handbills, poster, & c.

[8, 21 of 2023]

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

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

(b) any handbill, placard poster, drawing, notice, photograph of a candidate, symbol or sign on any place to which the public have

a right of, or are granted, access except in or any premises on any day on which an election meeting is due to be held in that premises ; or

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

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

(2) Every person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding fifty thousand 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, and may seize and remove any handbill, placard, poster, notice, drawing, symbol, photograph of a candidate, sign flag or banner used in such contravention.

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

(6) Where any flag, banner, handbill, placard, poster, drawing, notice, photograph, symbol or sign is displayed on contravention of the provisions of subsection (1), any candidate at such election, secretary of a recognized political party contesting such election or other interested party may apply to the Magistrate's Court within the jurisdiction of which such contravention has occurred, for an order requiring the owner of any premises or vehicle used in such contravention or a police officer, to forthwith remove the flag, banner, handbill, placard, poster, drawing, notice, photograph symbol or sign displayed in contravention of subsection (1).

Candidate not to 75. (1) Any candidate or a member or the family of a candidate, who, at

visit residence for
canvassing & c.
[8, 21 of 2023]

any time during the period commencing on the last day of the nomination period and ending on the day immediately following the day of the poll, visits the residence of any elector for the purpose of

- (a) soliciting or canvassing the vote of such elector; or
- (b) persuading such elector not to vote for a particular recognized political party or independent group; or
- (c) persuading such elector not to vote at such election; or
- (d) distributing or exhibiting any handbill, placard, poster, drawing, notice, photograph of a candidate, symbol or sign,

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

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

Certain persons not
to canvass or act as
an agent & c.
[8, 21 of 2023]

76. (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) a person who is subject to the disqualifications set out in the Local Authorities (Imposition of Civic Disabilities) (No. 1) Law, No. 33 of 1978, or the Local Authorities (Imposition of Civic Disabilities) (No. 2) Law, No. 39 of 1978, or who, under any other law for the time being in force, is disqualified from voting at an election of members to any Municipal Council or Urban Council;
- (b) 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 specified in such resolution had not expired.

(2) No candidate shall engage a person as his canvasser or agent, or to speak on his behalf knowing that such person is

- (a) a person who is subject to the disqualification set out in the Local Authorities (Imposition of Civic Disabilities) (No. 1) Law, No. 38 of 1978, or the Local Authorities (Imposition of Civic Disabilities) (No. 2) Law, No. 39 of 1978, or who under any other law for the time being in force, is disqualified from voting

at an election of members to any Municipal Council or Urban Council;

(b) 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 specified in such resolution had not expired.

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

Maintenance of
secrecy in elections.
[8, 21 of 2023]
[15, 28 of 2011]

77.(1) Every officer, clerk, candidate, and agent authorized 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 form L 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 authorized 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 whatsoever shall attempt to obtain in the polling station information as to the recognized political party or independent group for which any voter in such station is about to vote or has voted, or communicate at any time to any person any such information obtained in a polling station as to the recognized political party or independent group for which any voter in such station is about to vote or has voted, or as to the number on the reverse of the ballot paper given to any voter at such station.

(4) Every officer, clerk, candidate, and agent in attendance at the counting of the votes shall maintain, and aid in maintaining, the

secrecy of the voting, and shall not attempt to ascertain at such counting the number on the reverse of any ballot paper or communicate any information obtained at such counting as to the recognized political party or independent group for which any vote is given by any particular ballot paper.

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

(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.

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

(6) Every person who acts in contravention of the provisions of this section shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding two hundred thousand 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 such 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

Personation.

78. (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.

79. Every person who, corruptly, by himself or by any other person, either before, during or after an election, under this Act, 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 or 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.

Undue influence.

80. (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 first day of the nomination period at any election under this Act 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 a 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 Act or to support or refrain from supporting any political party or independent group at such election, or on account of such member or adherent having voted or refrained from voting for a recognized political party or independent group at such 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 Act 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.

81. The following persons shall be deemed to be guilty if 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 Act;

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

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

(d) every person who upon or in consequence of any such gift,

loan, offer, promise, procurement, or agreement procures or engages, promises or endeavours to procure, the return of any person as a member of a Provincial Council, 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 recognized political party or independent group at an election under this Act, 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 Act 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.

Punishment and incapacities for corrupt practice. [8, 21 of 2023]

82.(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 under this Act, 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 Act, 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 two hundred thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment

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

83.(1) Where a corrupt practice is committed in connection with an

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

[8, 21 of 2023]

election under this Act by any candidate who was not elected as a member at the election or with his knowledge or consent or by any of his agents, such candidate shall on conviction by 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 two hundred thousand 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, by conviction become incapable for a period of seven years from the date of his conviction of being registered as an elector or of voting at an election under this Act or of being elected as a member of a Provincial Council, and if at that date he has been so elected, his election shall be vacated from the date of such conviction.
- (3) A prosecution for a corrupt practice under this section shall not be instituted against any candidate at an election (under this Act who was not elected as a member at such election except with the sanction of the Attorney- General.
- (4) Nothing in the preceding provisions of this section shall be deemed or construed to preclude or prevent a candidate who was not elected as a member at an election under this Act from being prosecuted for a corrupt practice in connection with such election under section 82.

Certain expenditure to be illegal practice.

- 84.** (1) No payment or contract for payment shall, 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, hide, 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 administrative district 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 the conveyance of himself to or from the poll of, any public transport service provided by the Sri Lanka Central Transport Board, or any Regional Transport Board or the Sri Lanka Government Railway, shall be deemed not be an illegal practice within the meaning of this section

(d) where the returning officer for any administrative district is satisfied. Upon written application in that behalf made to him by any person, or on behalf of such person by any other person not being a candidate, so as to reach such officer seven days before the day on which a poll is to be taken at an election in that 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 administrative 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 police station and detain it until the conclusion of the

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

False reports in newspapers.

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

(a) the Utterances or activities at an election under this Act, 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 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.

Certain employment to be illegal.

86.(1) No person shall, for the purpose of promoting 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) 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 49 for each counting centre;

(b) a reasonable number of clerks and messengers having regard to the extent of the administrative district 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 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.

Printing & c. of election publications.

87. 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.

Punishment on conviction for illegal practices. [8, 21 of 2023]

88.(1) Every person who commits an illegal practice shall on conviction by a Magistrate be liable to a fine not exceeding one hundred thousand 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 Provincial Council, and if at that date he has been elected as a member of a Provincial Council, 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. [8, 21 of 2023]

89.(1) Where an illegal practice is committed in connection with an election under this Act by any candidate who was not elected as a member at the election or with his knowledge or consent or by any of his agents, such candidate shall on conviction by a Magistrate be liable to a fine not exceeding one hundred thousand 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 and the illegal practice which is the subject-matter of the prosecution was committed contrary to the orders and without the sanction or connivance of such candidate; and

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

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

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

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

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

(4) Nothing in the preceding provisions of this section shall be deemed or construed to preclude or prevent a candidate who was not elected as a member at an election under this Act from being prosecuted for an illegal practice in connection with such election under section 88.

Additional penalty for certain offences. **90.** Any person who is convicted of an offence specified in sections 66 to 89 (both inclusive) 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 Provincial Council.

PARTVII ELECTION PETITIONS

Avoidance by conviction of candidate. **91.** (1) The election of a candidate as a Member is avoided by his conviction for any corrupt or illegal practice.
(2) Where the election of a person as a member of a Provincial Council is declared void, he shall be disqualified from sitting or voting in such Provincial Council.

Avoidance of
election on election
petition.

92.(1) The election in respect of any administrative district shall be declared to be 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 thereby materially affected the result of the election.

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

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

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

(b) that the candidate personally engaged a person as a canvasser or agent or to speak on his behalf knowing that such person had within seven years previous to such engagement been found guilty of a corrupt practice under the law relating to the election of the President or the law relating to Referenda or under the Ceylon (Parliamentary Elections) Order in Council, 1940, or under this Act, by a court of competent jurisdiction or by the-a 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 elections person disqualified for election as a Member.

Court of Appeal to try election petitions. **93.** The Court of Appeal shall have and exercise jurisdiction to try election petition in respect of elections held under this Act. The jurisdiction of the Court of Appeal in respect of its powers under this section shall be exercised by the President of the Court or a Judge of that Court nominated by such President, and references in this Act to 'Election Judge' shall be construed accordingly.

Place of trial of an election petition. **94.** The place of the trial of an election petition shall be in or as near as practicable to the administrative district to which that petition relates.

Who may present petition. **95.** An election petition may be presented to the Court of Appeal by any one or more of the following persons, namely:
(a) some person claiming to have had a right to be returned or elected at such election;
(b) some person alleging himself to have been a candidate at such election.

Relief which may be claimed. **96.** All or any of the following reliefs to which the petitioner may be entitled may be claimed in an election petition, namely :-
(a) a declaration that the election in respect of any administrative district is void ;
(b) a declaration that the return of any person elected was undue ;
(c) a declaration that any candidate was duly elected and ought to have been returned.

Parties to a petition. **97.** (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 farther 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 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 determined.

Contents of the petitioner.

98. An election petition

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

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

Special provision relating to the procedure before an Election Judge.

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

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

conclusion of the trial of such petition.

Determination of Election Judge. **100.** 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 my other and what person, was duly returned or elected, or whether the election was void, and shall certify such determination in writing.

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

Report of Judges as to corrupt or illegal practice. **101.** 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, if reported by an Election Judge under this section, the Election Judge shall give such person an opportunity of being heard and of giving and calling evidence to show why he should not be so reported.

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

Appeal on question of law against determination under section 100 and any other decision or order of Election Judge. **102.** (1) An appeal to the Supreme Court shall lie against

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

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

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

(3) Notice of the filing of a petition of appeal, accompanied by a copy of the petition, shall, within ten days of the filing thereof, be served by the appellant on the other party or each of the other parties

to the election petition and on the Attorney-General. Such service on a party may be effected in any manner prescribed by rules made under this section, the service of the notice and copy of an election petition.

(4) Every appeal preferred under this section shall, for the purposes of the application of the Stamp Duty Act, No. 43 of 1982, deemed to be an appeal in a civil action of the value of ten thousand rupees.

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

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

Security by appellants & c. of appeal.

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

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

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

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

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

(6) Money so deposited shall, if and when the same is no longer needed for securing the payment of the costs, charges and expenses

payable by the appellant, be returned or otherwise disposed of as justice may require by order of the Chief Justice.

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

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

Power of the
Supreme Court in
appeal.

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

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

(3) The Supreme Court may, in the case of any appeal under section 10 order that the election petition to which the appeal relates shall be tried anew in its entirety or in regard to any matter specified by that Court and give such directions in relation thereto as that Court may think fit.

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

105.(1) Where no appeal is preferred against the determination of an Election Judge under section 100 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 101.

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

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

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

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

Effect of
Certificate.

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

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

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

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

Effect of Report. **107.(1)**

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

(b)

(i) Where the report referred to in paragraph (a) is to the effect that a corrupt or illegal practice has been committed by any person, that person shall be subject to the same incapacities as if at the date of the said report 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 election.

Time for
presentation.
[9, 21 of 2023]

108.(1) Every election petition under this Act shall be presented within forty-two 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.

109.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.

110.(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 administrative district;

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

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

(2) The vote of a registered elector shall not, except in the case specified in paragraph (e) of subsection (1), be struck off at a scrutiny by reason only of the vote 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.

Procedure and practice on election petitions.

111. 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.

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

Report Exonerating candidate in certain cases of corrupt or illegal practices

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

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

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

and

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

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

Power at Court to
except innocent act
from being illegal.

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

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

(b) that any such act or omission arose from inadvertence or from accidental miscalculations or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith, and in the circumstances it seems to the Judge, after giving the candidates, the returning officer, and any elector within the electoral district an opportunity of being heard, to be just that the candidate in question and his agent or other person, or any of them should not be subject to any of the consequences under this Act of the said act or omission, the Judge may make an order allowing such act or omission to be an exception from the provisions of this Act which would otherwise make the same an illegal practice, payment, employment, or hiring, and thereupon such candidate, agent or person shall not be subject to any of the consequences under this Act of the said act or omission.

PARTVIII GENERAL

Failure to comply
with.

115. No election held under this Act 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.

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

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

Use of schools as polling station.

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

(2) A returning officer shall make good any damage done to, and defray any 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.

Secretary of a recognized political party or group leader may act as his own agent or assist his agent.

118.The Secretary of a recognized political party which has nominated candidates for election at any election under this Act or its authorized agent, or a group leader may himself do any act or thing which a polling agent or counting agent or other agent of such political party or independent group, if appointed, would have been required or authorized to do, or may assist such agent in doing any such act or thing, but before acting under this section the secretary of the recognized political party or its authorized agent or a group leader shall make a declaration under section 77, required to be made by such agent.

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

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

Prohibition of

120.No person who has voted at an election under this Act shall, in any

disclosure of vote. legal proceeding to question the election be required to state for which recognized political party or independent group he has voted or the candidate for whom he has Indicated a preference.

Inaccurate description of places and persons. **121.**No misnames or inaccurate description of any person or place named or described in any register, notice or other document whatsoever prepared or issued under or for the purposes of this Act shall in any way affect the operation of this Act as respects the person or place if that person or place is so designated in such register, notice or document as to be identifiable.

Publication of notices, &c. **122.**(1) Where any notice is required by this Act to be published and, if in the opinion of the authority who is required to publish such notice, the prescribed mode of publication does not give sufficient publicity to the notice, he may, in addition to publishing the notice as required by this Act, exhibit copies of the notice in conspicuous places within the administrative district 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.

Duty of employers to grant leave to enable employees to vote. [8, 21 of 2023] **123.**(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, 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.

(2) Any person who contravenes or fails to comply with 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 two hundred thousand rupees, or to imprisonment of either description for a term not exceeding one month, or to both such fine and imprisonment.

Requisition of premises for use as **124.**(1) Where the Commissioner considers that any premises, other than any school referred to in section 117, are required for the purpose of

polling stations.

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 sub section (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.

Compensation for requisitioning premises.

125.(1) Where any premises are requisitioned under section 124 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 sub-section (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.

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

125A. (1) Notwithstanding the provisions of any other law, any registered elector who is compelled by conditions prevailing in the area within which his polling station is situate to reside outside such area, and who reasonably fears that he would be unable to cast his vote at such polling station may make an application to the Commissioner of Election within one week of the notice of nomination, requesting that he may be allowed to cast his vote at

[3, 7 of 1993]

another polling station determined by the, Commissioner, in his absolute discretion.

Powers at
Commissioner.

126.The Commissioner shall-

- (a) exercise general direction and supervision over the administrative conduct of elections under this Act;
- (b) have power to issue to Deputy and Assistant Commissioners of Elections, returning officers, presiding officers and other election officers such directions as he may deem necessary to ensure active execution of the provisions of this Act;
- (c) execute and perform all other powers and duties which are conferred and imposed upon him by or under this Act.

Removal of
difficulties.

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

National identity
card.

128.No candidate at an election held under this act or a polling agent, counting agent or any other agent, appointed for the purposes of such election, shall be admitted to, or allowed to remain in, the place of nomination, a polling station, counting centre or a centre for the declaration of results unless he wears on his person, his National identity Card.

Special provision
applicable to first
elections under this
Act.

128A. Notwithstanding anything in the preceding provisions for this Act, the provisions of this Act shall apply to the first elections to Provincial Councils to be held under this Act subject to the following modifications:

(a) as if for subsection (3) of section 15, there were substituted the following:

'(3) Where none of the candidates nominated by an independent group for an administrative district are elected to the Provincial Council from that administrative district, the deposit made in respect of the candidates of such group shall be declared forfeit and shall be transferred by the returning officer from the

deposit account to the Consolidated Fund, and in every other case, the deposit shall be returned to the person who made the deposit, as soon as may be after the result of the election is declared.'; and

(b) as if for section 58 there were substituted the following section:

'58. (1) (a) 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 of the counting centre or centres where postal ballot papers were counted) add up and determine the number of votes given for each recognized political party and independent group in such administrative district and the number of preferences indicated for each candidate nominated by each such party or group. The returning officer shall, before he opens a sealed packet referred to in paragraph (h) of section 53, upon a request made by an agent appointed under section 56, permit such agent to inspect the seals on such packet.

(b) The total number of votes polled at the election is hereinafter referred to as the 'relevant number of votes'.

(c) The relevant number of votes shall be divided by the number of members to be elected from the administrative district. The whole number resulting from such division (any balance votes not being taken into account) is hereinafter referred to as the 'resulting number'.

(d) The number of votes polled by each recognised political party and independent group beginning with the party or group which received the highest number of votes, shall be divided by the resulting number and the returning officer shall declare elected from each such party or group, in accordance with the number of preferences secured by each of the candidates nominated by such party or group (the candidates securing the highest number of preferences being declared elected first, the candidate securing the next highest number of preferences being declared next and so on), such number

of members as is equivalent to the whole number resulting from the division by the resulting number of the votes polled by such party or group. The remainder of the votes, if any, after such division, shall be dealt with, if necessary, under paragraph (e).

(e) Where after the declaration of the election of members as provided in paragraph (d) there are one or more members still to be declared elected, such member or number of members shall be declared elected on the remainder of the votes referred to in paragraph (d) to the credit of such party or group after the declaration made under that paragraph and the votes polled by any party or group not having any of its candidates elected under paragraph (d), the candidate nominated by the party or group having the highest of such votes, who has secured the highest and next highest number of preferences being declared a member and so on until all the members to be elected are declared elected.

(2) Where the number of votes polled by each recognized political party or independent group contesting an election is less than the resulting number referred to in paragraph (c) of subsection (1), the party or group which has polled the highest number of votes shall be entitled to have the candidate from that party or group who has secured the highest number of preferences declared elected and if there are one or more members yet to be declared elected, the party or group having the next highest number of votes polled shall be entitled to have the candidate from that party or group who has secured the highest number of preferences declared elected and so on until all the members to be elected for the Provincial Council from the administrative district are declared elected under the provisions of this subsection.

(3) Where under subsection (1) or subsection (2) an equality of votes is found to exist between the votes polled by two or more recognized political parties or two or more independent groups or any combination of them and the addition of a vote would entitle the candidates of one such recognized political party or independent group to be elected, the determination of the party or group to which such additional vote shall be deemed to have been given shall be made by lot drawn in the presence of the returning officer in such manner as he may, in his absolute discretion, determine.

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

(5) Where a recognized political party or independent group is entitled, under the preceding provisions of this section, to have one of the candidates nominated by it declared elected as a member but none of the candidates nominated by it or none of the candidates remaining on the nomination paper submitted by it, have secured any preferences, the returning officer shall call upon the secretary of such political party or the group leader of such group to decide within a period to be specified by the returning officer, which of the candidates nominated by such party or group or which of the candidates remaining on the nomination paper submitted by it shall be declared elected as member. If such secretary or group leader communicates his decision to the returning officer within the period specified by the returning officer, the returning officer shall declare elected as member, the candidate specified in such decision. If on the other hand, such secretary or group leader fails to communicate his decision to the returning officer within the period specified by the returning officer, the returning officer shall declare elected as member, the candidate whose name appears next in the nomination paper submitted by such party or group.

(6) For the purposes of this section and section 65, where two or more candidates nominated for election to a Provincial Council from an administrative district, by a recognized political party or an independent group, have secured an equal number of preferences at such election and the addition of a preference shall entitle one such candidate to be elected as a member of such Provincial Council, the determination of the candidate to whom such additional preference shall be deemed to have been given shall be made by lot drawn in the presence of the returning officer in such manner as he may, in his absolute discretion, determine.

Interpretation.
[26, 17 of 2017]

129.In this Act unless the context otherwise requires'

'approved symbol' means a symbol approved by the Commissioner under the Parliamentary Elections Act, No. 1 of 1981;

'candidate' means a person who is nominated as a candidate at an election held under this Act by a recognized political party or an independent group;

'Commissioner' means the Commissioner of Elections appointed

under Article 103 of the Constitution;

'election' means an election held in an administrative district of a Province for the purpose of electing members to the Provincial Council established for that province;

'members' means a member of a Provincial Council; 'Provincial Council' means a Provincial Council established under Chapter XVII A of the Constitution;

'overhang' means, the number of candidates elected from an administrative district to a Provincial Council from any recognized political party or independent group in excess of the number such recognized political party or independent group is entitled to have elected in terms of paragraph (a) of subsection (4) of section 58A of this Act;

'register of electors' means a register of electors certified under the Registration of Electors Act, No. 44 of 1980; and

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