

ORDINANCE No. 3 OF 1957.  
REPRESENTATION OF THE PEOPLE ORDINANCE, 1957.

I assent.

P. M. RENISON,

Governor.

21st February, 1957.

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FIRST SCHEDULE  
SECOND SCHEDULE

AN ORDINANCE to make provision for the election of members of the Legislative Council and for purposes connected therewith.

[23rd February, 1957]

Enacted by the Legislature of British Guiana:—

A.D. 1957

1. This Ordinance may be cited as the Representation of the People Ordinance, 1957. Short title

PART I

PRELIMINARY.

2. In this Ordinance —

Interpre-  
tation.

“election” means an election of a member to serve in the Legislative Council;

“election court” means the Supreme Court when trying an election petition;

“election officer” includes the Commissioner of Elections, the Chief Electoral Officer, every returning officer, election clerk, presiding officer, assistant presiding officer, poll clerk or other person having any duty to perform pursuant to this Ordinance, to the faithful performance of which duty he may be sworn;

“election petition” means a petition complaining of an undue return or undue election of a member of the Legislative Council;

“elector” means any person whose name is on the official list of electors;

“electoral district” means a district of the Colony constituted and defined as such in pursuance of any Order of Her Majesty in Council for the time being in force in the Colony;

“official list of electors” means the official list of electors for any polling division as prescribed by section 13;

“payment” includes any pecuniary or other reward;

“pecuniary reward” and “money” shall be deemed to include any office, place or employment, and any valuable security or other equivalent for money, and any valuable consideration; and expressions referring to money shall be construed accordingly;

“person” means a male or a female person, and, in relation to offences against this Ordinance, includes an association or body of persons, corporate or unincorporate; and, where any act is done by any such association or body, the members of such association or body who have taken part in the commission of such act shall be liable to any fine or punishment imposed;

“personal expenses” as used with respect to the expenditure of any candidate in relation to any election includes the

Form No. 22  
First schedule.

Cap. 61.

reasonable travelling expenses of such candidate, and the reasonable expenses of his living at hotels or elsewhere for the purposes of and in relation to such election;

“poll book” means the book in the form set out as Form No. 22 in the first schedule required to be kept by the poll clerk by section 36;

“polling division” means any polling division constituted in accordance with section 12;

“public holiday” means a public holiday within the Public Holidays Ordinance;

“public office” means any office of emolument in the public service;

“public service” means the service of the Crown in respect of the Government of the Colony;

“the Legislative Council” means the Legislative Council of British Guiana containing elected members constituted by any Order of Her Majesty in Council for the time being in force in the Colony.

## PART II

### ADMINISTRATIVE PROVISIONS.

Power and duties of Commissioner of Elections.

3. The Governor shall appoint a Commissioner of Elections who shall —
- (a) exercise general direction and supervision over the administrative conduct of elections and enforce on the part of all election officers fairness, impartiality and compliance with the provisions of this Ordinance; and
  - (b) issue to election officers such instructions as from time to time he may deem necessary to ensure effective execution of the provisions of this Ordinance.

Chief Electoral Officer.

4. (1) The Governor shall appoint a Chief Electoral Officer and such other officers as may be necessary to assist the Chief Electoral Officer in the discharge of his duties.

(2) The Chief Electoral Officer and all election officers shall in the execution and performance of the powers and duties imposed upon them under this Ordinance be responsible to the Commissioner of Elections.

Cap. 70.

(3) Forthwith upon their appointment the Commissioner of Elections and the Chief Electoral Officer shall take and subscribe the official oath as prescribed in the Promissory Oaths Ordinance.

Returning officers.

5. (1) The Governor may from time to time appoint a fit and proper person to be the returning officer of each electoral district and may at any time cancel any such appointment. Each such returning officer shall be a Commissioner of Oaths for all of the purposes of this Ordinance.

(2) The Governor may from time to time appoint fit and proper persons to be deputy returning officers for any electoral district and may at any time cancel any such appointment. Subject to the authority, directions and control of the returning officer of the electoral district, each deputy returning officer shall have all the powers and perform any

of the duties of that returning officer and be deemed to be included in the term returning officer in the provisions of this Ordinance.

(3) If any returning officer shall, by illness or other cause, be prevented from performing his duties, or shall refuse or neglect to do so at any election, the Governor may at any time appoint some fit and proper person to act in the place of such returning officer at such election.

(4) Forthwith upon his appointment each returning officer shall take and subscribe an oath in the form set out as Form No. 1 in the first schedule and shall transmit such oath to the Chief Electoral Officer.

Form No. 1  
First  
schedule.

(5) Every appointment or cancellation of appointment of a returning officer shall be notified in the Gazette.

(6) Forthwith upon taking the oath referred to in subsection (4) of this section, each returning officer shall establish an office in his electoral district and shall cause an advertisement to be inserted in a daily newspaper specifying the place at which he has established his office.

6. (1) The Chief Electoral Officer shall appoint an election clerk for each returning officer.

Election  
clerk.

(2) Forthwith upon his appointment the election clerk shall take an oath in the form set out as Form No. 2 in the first schedule and shall transmit such oath to the Chief Electoral Officer.

Form No. 2  
First  
schedule.

(3) If at any time between the issue of a writ for an election and the declaration of the result of that election, the returning officer dies or becomes incapable of performing his duties as such the election clerk shall forthwith report the fact to the Chief Electoral Officer and shall discharge all the duties and enjoy all the powers of the returning officer until some other returning officer is appointed or the returning officer ceases to be incapable of performing his duties, as the case may be.

(4) Forthwith upon commencing to discharge the duties of the returning officer in accordance with the provisions of subsection (3) of this section the election clerk shall appoint a substitute election clerk who, unless sooner removed by the Chief Electoral Officer, shall perform all the duties and exercise all the powers of the election clerk until such time as the election clerk ceases to perform the duties and to exercise the powers of the returning officer.

(5) Forthwith upon commencing to discharge the duties of the election clerk the substitute election clerk shall take the oath required by subsection (2) of this section to be taken by the election clerk.

7. (1) The returning officer of every electoral district shall, on the occasion of any contested election, and with the approval of the Commissioner of Elections, appoint a presiding officer and an assistant presiding officer for each polling-place in his district.

Presiding  
officers and  
assistant  
presiding  
officers.

(2) If any presiding officer dies or becomes incapable of performing his duties during the taking of the poll, the assistant presiding officer shall forthwith assume the office of presiding officer and shall appoint a poll clerk to act as assistant presiding officer.

(3) Forthwith upon his appointment each presiding officer and each assistant presiding officer shall take and subscribe an oath in the form set out as Form No. 3 and Form No. 4 respectively in the first schedule and shall transmit such oath to the returning officer.

Form No. 3  
First  
schedule.  
Form No. 4  
First  
schedule.

Poll clerks.

8. (1) The returning officer of every electoral district shall appoint such number of poll clerks as he may deem necessary for each polling-place in such district.

Form No. 5  
First  
schedule.

(2) Forthwith upon his appointment each poll clerk shall take and subscribe an oath in the form set out as Form No. 5 in the first schedule.

Oaths to be  
taken before  
Chief  
Electoral  
Officer or  
Justice of  
the Peace,  
returning  
officer, pre-  
siding  
officer,  
assistant  
presiding  
officer or  
poll clerk.

9. Every election officer and every person who is required by this Ordinance to take an oath may take such oath either before the Chief Electoral Officer or a Justice of the Peace or before any returning officer, presiding officer, assistant presiding officer or poll clerk and every such returning officer, presiding officer, assistant presiding officer and poll clerk is hereby authorised and empowered to administer any oaths required by this Ordinance to be made by any election officer or other person.

Remunera-  
tion of  
election  
officers.

10. Every election officer shall receive such remuneration and allowances if any as may be prescribed by the Governor in Council out of funds provided for that purpose by the Legislature.

General  
duties of  
returning  
officer.

11. (1) The proceedings at any election shall be conducted in accordance with the provisions of this Ordinance and any regulations made or instructions given hereunder.

(2) It shall be the general duty of the returning officer at an election to do all such acts and things as may be necessary for effectually conducting the election in the manner provided by this Ordinance.

(3) No election shall be declared invalid by reason of any act or omission by the returning officer or any other person in breach of his official duty in connection with the election or otherwise, if it appears to the tribunal having cognizance of the question that the election was so conducted as to be substantially in accordance with the law relating to the election that the act or omission did not affect its result.

Polling  
division  
and polling  
areas.

12. (1) There shall be constituted in each electoral district so many polling divisions, and in each polling division so many polling areas with such boundaries as the Chief Electoral Officer may appoint.

No. 9 of  
1956.

(2) Every registration area as defined in section 2 of the Special Revisal Ordinance, 1956, shall for all purposes be deemed to be a polling division constituted under subsection (1) of this section and comprised in the appropriate electoral district.

(3) Each polling division and each polling area shall bear such numerical and other designation as may be approved by the Chief Electoral Officer.

Official list  
of electors.

13. (1) Subject to the provisions of section 29, the official list of electors for any polling division shall be the finally revised list of qualified persons for the registration area corresponding to the said polling division contained in the register for the revisal district comprising such registration area prepared prior to the election in accordance with section 3 or section 19 as the case may be of the Special Revisal Ordinance, 1956.

No. 9 of  
1956.



(2) The preliminary list for any registration area certified in accordance with section 8 of the Special Revisal Ordinance, 1956 together with that portion of the supplementary register in respect of such registration area certified as such by the Registration Officer (as he is hereby authorised to do) shall be deemed to be the official list of electors referred to in subsection (1) of this section, notwithstanding any contravention or failure to comply with any of the provisions of the Special Revisal Ordinance, 1956.

No. 9 of  
1956.No. 9 of  
1956.

(3) For the purposes of this section the expressions "qualified persons", "registration area", "revisal district", "preliminary list", "supplementary register" and "Registration Officer" shall have the meanings assigned to them in the Special Revisal Ordinance, 1956.

No. 9 of  
1956.

### PART III Elections

#### WRIT OF ELECTION.

14. (1) The Governor shall, for the purpose of every general election of members of the Legislative Council and of the election of members to fill vacancies caused by death, resignation or otherwise, issue writs of election, under the public seal of the Colony, addressed to the returning officers of the respective electoral districts for which members are to be returned. Every such writ shall be forwarded to the Chief Electoral Officer for transmission to the returning officer.

Writs of  
election.

(2) A writ of election shall be in the form set out as Form No. 6 in the first schedule and shall specify —

Form No. 6  
First  
schedule.

- (a) the day and place on and at which the returning officer is to receive the nomination of any duly qualified candidate or candidates for the seat to be filled;
- (b) the day on which a poll shall be taken, if two or more candidates stand nominated; and
- (c) the day on which the writ shall be returnable to the Governor.

(3) All writs to be returned to the Governor shall be forwarded to the Chief Electoral Officer for transmission to the Governor.

(4) Subject to the provisions of subsection (5) of this section the day to be specified in the writ for the taking of a poll shall be the twenty-fifth day after the day specified in the writ for the receiving of nominations and in the determination of such twenty-fifth day public holidays shall be included:

Provided that where the twenty-fifth day as aforesaid is a public holiday, the day to be specified in the writ for the taking of the poll shall be the next following day not being itself a public holiday.

(5) Notwithstanding the provisions of subsection (4) of this section the day to be specified in the writ for the taking of the poll may, in relation to any electoral district specified by the Governor for the purposes of this subsection in regulations made under this Ordinance, be such further day after the day specified in the writ for the receiving of nominations as the Governor may determine, and, subject thereto in respect of the day specified for the receiving of nominations of candidates at a general election of members of the Legislative Council the day

specified in the writs of election for the receiving of nominations of candidates, or for the taking of a poll, shall be the same in all electoral districts.

(6) The Chief Secretary shall, forthwith on the issue by the Governor of a writ of election for any electoral district, give notice of the issue of the writ, of the day, hour and place on and at which the returning officer will attend and receive the nomination of any duly qualified candidate or candidates for the seat to be filled and of the day on which a poll will be taken if two or more candidates stand nominated for the seat to be filled.

Form No. 7  
First  
schedule.

(7) The notice required to be given under subsection (6) of this section shall be in the form set out as Form No. 7 in the first schedule and shall be given by publication at least seven clear days before the day specified for the receiving of nominations in the Gazette and two daily newspapers circulating in the Colony.

(8) nothing in subsection (5) of this section shall affect the provisions of section 24.

(9) Upon receipt of a writ of election the returning officer shall proceed to hold the election thereby directed.

Provided that information of the writ having been issued may be given by telecommunication to the returning officer by or on behalf of the Chief Electoral Officer in such cases as the Chief Electoral Officer may think fit, and any steps for holding the election which may be taken on or after the receipt of the writ may be taken on or after the receipt of such intimation of the writ having been issued.

### NOMINATION OF CANDIDATES.

Returning  
officer to  
give notice  
of day and  
place for  
nomination  
of candi-  
dates.

15. (1) The returning officer shall give at least seven clear days' notice in the manner hereinafter provided of the day and place specified in the writ of election for the receiving of nominations, and of the hours specified for the purpose in section 16. In such notice the returning officer shall specify the situation of his office and the time during which forms of nomination may be obtained.

Form No. 8  
First  
schedule

(2) Notice under this section shall be in the form set out as Form No. 8 in the first schedule and shall be given by causing placards to be affixed in a conspicuous position on such court-houses, post offices and police stations in the electoral district as the returning officer may deem necessary.

Attendance  
of returning  
officer to  
receive  
nomina-  
tions.

16. (1) On the day and at the place specified in the notice under section 15 the returning officer shall attend during the whole period between the hours of nine and eleven in the forenoon and receive the nominations of any duly qualified candidate or candidates for the seat to be filled.

(2) No nomination shall be received before the hour of nine or after the hour of eleven in the forenoon.

Nomination  
of candi-  
dates.

17. (1) A candidate shall be nominated in writing by a proposer and a seconder, and no candidate shall be nominated in respect of more than one electoral district.

(2) The proposer and the seconder shall be persons whose names appear in any of the official lists of electors for the polling divisions comprised in the electoral district.

(3) The nomination paper of a candidate, which shall be in the form set out as Form No. 9 in the first schedule shall be handed to the returning officer in the joint presence of the proposer and the seconder of the candidate by the candidate or the proposer or the seconder.

Form No. 9  
First  
schedule.

(4) At the hour of eleven in the forenoon on the day specified for receiving the nomination of candidates, the returning officer shall, subject to the provisions of subsection (2) of section 18, prepare a list of the names of the several candidates who have been duly nominated, and he shall deliver to every candidate or to the election agent of a candidate applying therefor a duly certified copy of the list as aforesaid.

18. (1) Every candidate nominated at an election shall, before the hour of eleven in the forenoon of the day on which the nominations are received, deliver or cause to be delivered to the returning officer either personally or to his clerk at his office a statutory declaration made and subscribed by such candidate of his qualification made before a Commissioner of Oaths, a Justice of the Peace or the returning officer in the form set out as Form No. 10 in the first schedule.

Delivery by  
candidate of  
declaration  
of his  
qualifica-  
tion.

Form No. 10  
First  
Schedule.

(2) If any candidate is absent from the Colony on the day on which nominations are received, a statutory declaration of the qualifications of such candidate made and subscribed by his duly authorised agent in the form set out as Form No. 10A shall be delivered to the returning officer or his clerk by the agent in the manner prescribed in subsection (1) of this section.

Form No.  
10A.

(3) If such statutory declaration is not delivered as aforesaid, the nomination of the candidate shall be null and void.

(4) Where such statutory declaration has been delivered as aforesaid, no further statutory declaration shall be delivered by or on behalf of the same candidate to the returning officer of any other electoral district.

(5) After an election the returning officer shall forward to the Clerk of the Legislature the statutory declaration or declarations of the candidate or candidates.

(6) If any statutory declaration is delivered in contravention of the provisions of subsection (4) of this section, the candidate shall be deemed to have withdrawn as a candidate at that election, and any deposits made by or on behalf of such candidate shall be forfeited.

(7) Any person who is convicted of making a false declaration under this section shall not, for a period of seven years after the date of the conviction, be eligible to be elected as a member of the Legislative Council.

(8) Stamp duty shall not be chargeable on any statutory declaration made for the purposes of this section.

19. (1) Every candidate nominated at an election, or some person on his behalf, shall, at the time of the nomination, deposit or cause to be deposited with the returning officer the sum of two hundred and forty dollars.

Deposit by  
candidates.

(2) The deposit may be made by the deposit of any legal tender, or, with the consent of the returning officer, in any other manner.

(3) If a deposit as aforesaid is not made, the nomination of the candidate shall be deemed to be null and void.

When deposit forfeited, and when returned.

20. (1) If the number of votes polled by a candidate who is not elected does not exceed fifteen per centum of the total number of votes polled by all the candidates, then, subject to the provisions of subsection (3) of this section, the deposit made by or on behalf of the candidate under section 19 shall be forfeited and shall be paid by the returning officer to the Financial Secretary to the credit of the general revenue of the Colony.

(2) For the purposes of subsection (1) of this section the number of votes polled by a candidate shall be deemed to be the number of ballot papers counted for such candidate in accordance with the provisions of section 42.

(3) If a candidate dies before the poll has commenced the deposit, if made by him, shall be returned to his legal personal representative and, if not made by him, shall be returned to the person by whom the deposit was made

(4) The deposit shall be returned to the candidate or other person who made the deposit, as the case may be —

(a) where the candidate is elected, as soon as he has taken the oath as a member of the Legislative Council; and

(b) where the candidate is not elected and the deposit is not forfeited under subsection (1) of this section, as soon as practicable after the result of the election is declared.

Uncontested elections and appointment of election day in the case of a contest.

21. (1) If at the hour of eleven in the forenoon on the day specified for receiving the nomination of candidates only one candidate stands duly nominated in the electoral district, and such candidate has delivered his statutory declaration of his qualification under subsection (1) of section 18, the returning officer shall forthwith declare the candidate to have been duly elected.

(2) If at the hour of eleven in the forenoon of the day specified for receiving the nomination of candidates two or more candidates stand duly nominated in the electoral district, the returning officer shall thereupon appoint a day, being the day specified in the writ for the purpose of the taking of the poll, for the holding of the contested election.

Power to adjourn polling day in event of emergency.

22. (1) Where at any time between the issue of a writ under subsection (1) of section 14 and the day appointed by the writ for the taking of the poll at any election the Governor is satisfied that it is expedient so to do by reason of —

(a) Her Majesty's Government having become engaged or being likely to become engaged in any war; or

(b) the proclamation of any state of emergency in the Colony under any law for the time being in force; or

(c) the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence or outbreak of infectious disease or other calamity whether similar to the foregoing or not; or

(d) the likelihood that the final electoral lists for all electoral districts or for any particular electoral district will not be printed before the day appointed under section 14 for the taking of the poll or that any essential electoral supplies or materials will not be available in adequate quantities upon such day,

he may by proclamation adjourn the taking of the poll to some other day specified in such proclamation not being more than thirty days after the day specified in the writ issued under section 14.

(2) Any proclamation under subsection (1) of this section made pursuant to the provisions of paragraph (c) or (d) of subsection (1) of this section may be expressed to apply only to such electoral districts as are specified in such proclamation in which event the poll shall be taken in any electoral district not so specified upon the day appointed for the taking of the poll under section 14.

(3) Where any proclamation is made under this section the writs for all electoral districts to which such proclamation applies shall be deemed to have been amended by the substitution for the day specified in such writs as being the day for the holding of the poll of the day so specified in such proclamation.

(4) Where any proclamation under this section is made before the day which would have been nomination day if such proclamation had not been made, nomination day shall be deemed to have been adjourned to the twenty-fifth day or in the case of an electoral district mentioned in subsection (5) of section 14, such further day as the Governor may determine next before the day to which the holding of the poll is adjourned by such proclamation :

Provided that if such twenty-fifth or further day is a public holiday nomination day shall be deemed to be adjourned to the next following day not being itself a public holiday.

(5) Where any proclamation is made under this section after nomination day the adjournment by such proclamation of the day upon which the poll is taken shall in no way affect the validity of any nomination validly made upon nomination day and no other nomination shall be made.

23. (1) If any candidate duly nominated desires to withdraw from his candidature before the day appointed by the returning officer for the holding of the contested election, he may do so on filing with the returning officer a declaration in writing to that effect signed by himself and attested by the signatures of two registered electors in the electoral district.

Withdrawal  
of candidate  
before the  
polling day.

(2) When a candidate has withdrawn after nomination day the returning officer shall advise, by letter, telegraph or telephone, each presiding officer of his electoral district of the withdrawal, and, when time permits, shall deliver or cause to be delivered to each presiding officer a printed notice of the withdrawal.

(3) On polling day each presiding officer shall post up a copy of the printed notice of withdrawal in a conspicuous position in his polling-place, and if time does not permit of the printing and the delivery of such notice, the presiding officer, upon being advised by letter, telegram or telephone by the returning officer of the withdrawal of any candidate, shall himself prepare by hand a notice to that effect and post it up in a conspicuous position in his polling-place, and the presiding officer or the assistant presiding officer shall, when delivering a ballot paper to each elector, inform such elector of the withdrawal of the candidate.

(4) If on such withdrawal, only one candidate stands duly nominated in the electoral district, the returning officer shall thereupon, if

the candidate has complied or on his compliance with the provisions of section 18, declare such remaining candidate to have been duly elected.

Death of candidate before the day appointed for the holding of a contested election.

24. If any candidate nominated shall die before the day appointed for the holding of the election, the returning officer shall, upon being satisfied of the fact of such death, countermand the notice of the holding of the election, and all the proceedings with reference to the election shall be commenced afresh in all respects as if the writ had specified as the day for the receiving of nominations the tenth day after the day upon which proof was given to him of the death of the candidate, and in the determination of such tenth day public holidays shall be included:

Provided that where the tenth day as aforesaid is a public holiday, the day for the receiving of such nominations shall be the next following day not being itself a public holiday; and,

Provided, further, that no fresh nomination shall be necessary in the case of a candidate who stood nominated at the time of the countermand of the notice of the holding of the election.

### PLACE OF VOTING, TRANSFERS, PROXIES.

Establishment of polling places.

25. The returning officer shall establish for each polling division in an electoral district so many polling-places as the Chief Electoral Officer may direct, and shall appoint one of the polling-places to be head polling-place of the district.

Division of lists.

26. (1) Where more than one polling-place is established for any polling division, the returning officer shall divide the official list of electors for the polling division into so many separate lists as there are polling-places in the polling division.

(2) Where any list is divided in accordance with the provisions of subsection (1) of this section, there shall be displayed at the polling-place to which any such division of the list relates the names of electors upon such division of the list.

(3) Subject to the provisions of sections 28, 29 and 30 where any official list of electors is divided in accordance with the provisions of this section, every elector may vote only at the polling-place to which is allotted the division of the list upon which his name appears.

Electors to vote only in division upon list for which their names appear.

No. 9 of 1956.

27. (1) Subject to the provisions of this section and of sections 28, 29 and 30 no person shall be entitled to vote in any polling division unless his name appears upon the official list of electors for that polling division and he is on the date of the poll a British subject of the age of twenty-one years or upwards and not subject to any of the disqualifications set out in paragraphs (a), (b) and (c) of subsection (2) of section 4 of the Special Revisal Ordinance, 1956.

(2) Every qualified person whose name appears upon the official list of electors for any polling division shall be entitled to vote in that polling division, notwithstanding that he is not resident in that polling division upon the day of the election:

Provided, however, that no person shall vote in more than one electoral district or in more than one polling division in the same electoral district.

(3) Where there is contained in the official list of electors a name, address and occupation which correspond so closely with the name, address and occupation of a person by whom a ballot paper is demanded as to suggest that the entry in such official list of electors was intended to refer to him, such person shall upon taking the oath in the form set out as Form No. 11 in the first schedule and complying in all other respects with the provisions of this Ordinance, be entitled to receive a ballot paper and to vote. In any such case the name, location of residence, postal address and occupation of the elector shall be correctly entered in the poll book and the fact that the oath has been taken shall also be entered therein.

Form No. 11  
First  
schedule.

(4) An elector, if required by the presiding officer, the poll clerk, one of the candidates, or an agent of a candidate, or by an elector present, shall, before receiving his ballot paper, take an oath in the form set out as Form No. 12 in the first schedule and if he refuses to take the same, an entry to that effect shall be made in the poll book and crasing lines shall be drawn through his name on the list of electors.

Form No. 12  
First  
schedule.

28. (1) All persons voting at an election shall do so in person at the polling-place allotted to them under section 26, except in so far as this section makes exceptions for—

Place and  
manner of  
voting as  
elector.

- (i) those whose names appear on the official list of electors for any electoral district or for any polling division or group of polling divisions specified by the Governor for the purposes of this section in regulations made under this Ordinance;
- (ii) those unable or likely to be unable to go in person to the polling place for one of the following reasons—
  - (a) the particular circumstances of that person's employment at the date of the poll either as a member of the Police Force, Special Reserve Police Force, or Volunteer Force or as a rural constable or, for a purpose connected with the election, by the returning officer;
  - (b) at a general election, the fact that that person is acting as returning officer for some other electoral district;
  - (c) at a general election, the particular circumstances of that person's employment on the date of the poll by the returning officer for some other electoral district for a purpose connected with the election in that electoral district;
  - (d) at a general election, the fact that that person is a candidate for some other electoral district;
  - (e) the fact that that person is an employee of the Transport and Harbours Department engaged in running a train or vessel on polling day;
- (iii) those unable or likely to be unable by reason either of blindness or any other physical incapacity to go in person to the polling-place, or if able to go, to vote unaided.

(2) Any person whose name appears in the official list of electors for any electoral district specified by the Governor for the purposes of this section in regulations made under this Ordinance may vote at any polling-place in the electoral district in which that polling division is situate, and any person whose name appears in the official list of electors for any polling division or group of polling divisions specified

by the Governor as aforesaid may vote at any polling-place within that polling division or group of polling divisions as the case may be.

(3) A person if unable or likely to be unable to go in person to the polling-place for any of the reasons mentioned in subparagraphs (a) to (e) of paragraph (ii) of subsection (1) of this section may vote by proxy.

(4) A person if unable or likely to be unable to go in person to the polling-place by reason of blindness or physical incapacity may vote either by proxy or by any other method permitted to such a person under this Ordinance.

Transfer of  
electors in  
special  
cases.

29. (1) Any elector who is unable or is likely to be unable to go in person to the polling-place allotted to him for any of the reasons mentioned in subparagraphs (a) and (c) of paragraph (ii) of subsection (1) of section 28 but is able to vote in person at any other polling-place in the same electoral district may, in lieu of voting by proxy, give notice thereof to the returning officer in accordance with the provisions of subsection (2) of this section.

Form No. 13  
First  
schedule.

(2) The notice required to be given under subsection (1) of this section shall be in the form set out as Form No. 13 in the first schedule and shall state the name of the elector, the polling-place in the electoral district allotted to him and the polling-place at which he is able to vote and shall be signed by the elector and, in the case of a member of the Police Force, Special Reserve Police Force or Volunteer Force or of a rural constable shall be countersigned by the Commissioner of Police and in all other cases by the returning officer.

(3) On receiving any notice given under subsection (1) of this section the returning officer shall transfer the elector's name to the list for the polling-place at which he desires to cast his vote, and shall give notice to every candidate in his electoral district of any such transfer and to the presiding officer of the polling-place at which the person whose name is so transferred would have been entitled to vote but for the provisions of section 30.

Where  
transferred  
elector to  
vote.

30. (1) Every person whose name is transferred in accordance with the provisions of section 29 from any official list to any other official list, or from any division of any official list to any other division of such list may vote only at the polling-place on the list for which his name appears after such transfer is made.

(2) Every presiding officer or assistant presiding officer who issues to any person whose name has been transferred from any official list to any other official list, or from any division of any official list to any other division of such list any ballot paper at any polling-place other than that to which such person's name has been transferred, shall be guilty of an offence against this section and, on summary conviction thereof, shall be liable to a fine not exceeding twenty-four dollars or to imprisonment for a term not exceeding one month.

Proxies.

31. (1) A person shall not be entitled to have more than one person at a time appointed as proxy to vote for him at any election, nor shall a person be entitled to vote in person at any election where his application for a proxy paper has been allowed.

(2) A person shall not be capable of being appointed to vote or voting, as proxy at any election unless he is a British subject of full age



and not subject to any legal incapacity to vote thereat as an elector, and a person shall not be entitled to vote as proxy at the same election in any electoral district on behalf of more than two electors of whom that person is not the husband, wife, parent, grand-parent, brother, sister, child or grandchild.

(3) Subject to the foregoing provisions of this section, any person shall be capable of being appointed proxy to vote at an election and may vote in pursuance of the appointment.

(4) The appointment shall be made by the returning officer by means of a proxy paper issued by him on the application of the elector, in the form set out as Form No. 14 in the first schedule and it shall be the duty of the returning officer to issue a proxy paper in the form set out as Form No. 15 in the first schedule in pursuance of any application duly made to him if he is satisfied—

Form No. 14  
First  
schedule.

Form No. 15  
First  
schedule.

(a) that the applicant's name appears on the official list of electors for the polling division in respect of which the application is made and that he is entitled in respect thereof to have a proxy appointed; and

(b) that the proxy is capable of being and willing to be appointed.

(5) The appointment may be cancelled by the elector by giving notice to the returning officer in the form set out as Form No. 16 in the first schedule and shall cease to be in force on the issue of a proxy paper appointing a different person to vote for him.

Form No. 16  
First  
schedule.

(6) On receiving a notice of cancellation under subsection (5) of this section the returning officer shall forthwith notify the person whose appointment is thereby cancelled of such cancellation.

(7) Stamp duty shall not be chargeable on any instrument appointing a proxy under this section.

(8) The returning officer shall keep a record (to be known as the list of proxies) of electors for whom proxies have been appointed and of the names and addresses of the persons appointed.

32. (1) A person voting as proxy for an elector shall do so in person at the elector's polling-place.

(2) No person shall be permitted to vote as proxy for any other person unless he first surrenders to the presiding officer his instrument of appointment as proxy to vote on behalf of that person.

Place and  
manner of  
voting as  
proxy.

### THE POLL.

33. (1) The poll shall be taken in each polling-place by secret ballot in accordance with the provisions of section 34 or of section 35 between the hours of six in the forenoon and six in the afternoon on election day:

Taking of  
poll and  
the ballot.

Provided that if at the hour of closing of the poll there are any electors inside the polling-place who are qualified to vote and have not been able to do so since their arrival at the polling-place, the poll shall be kept open for a sufficient time to enable them to vote, but no one not actually present within the polling-place at the hour of closing shall be allowed to vote.

(2) The ballot of each elector shall be a printed paper, in this Ordinance called a ballot paper, on which the names, addresses and occupations of the candidates alphabetically arranged in the order of their sur-

names, and, if there are two or more of them with the same surname, of their other names, and numbered accordingly shall be printed exactly as they are set out in the nomination paper. Opposite the name of each candidate there shall be a prescribed symbol.

Form No. 17  
First  
schedule.

(3) Each ballot paper shall have a number printed on the back and shall have attached to it a counterfoil with the same number printed on the face and there shall be a line of perforations between the ballot paper and the counterfoil, the whole as in the form set out as Form No. 17 in the first schedule.

General  
mode of  
taking  
ballot.

34. (1) The presiding officer shall, subject to the provisions of this Ordinance, on the application of any elector deliver to such elector a ballot paper on the back of which such officer has previously put his initials and on the counterfoil of which he has placed the number of the elector on the official list of electors and shall thereupon place a mark in the said official list against the number of the elector to denote that a ballot paper has been received but without showing the particular ballot paper which has been received.

(2) The presiding officer shall instruct the elector how and where to affix his mark, and shall properly fold the elector's ballot paper, directing him to return with it, when marked, folded as shown, but without inquiring or seeing for whom the elector intends to vote, except when the elector is unable to vote in the manner prescribed by this Ordinance on account of blindness or other physical incapacity and requests the assistance of the presiding officer under subsection (3) of section 35.

(3) The elector on receiving the ballot paper shall forthwith enter one of the polling compartments and there mark his ballot paper by making a cross within the space opposite the name and symbol of the candidate for whom he intends to vote, and he shall then fold the ballot paper as directed so as to conceal his vote, and show it to the presiding officer, so as to disclose the initials and numbers appearing on the back thereof, and put the ballot paper so folded up into the ballot box in the presence of the presiding officer.

(4) An elector who has inadvertently so dealt with the ballot paper delivered to him that it cannot conveniently be used shall restore it to the presiding officer who shall so deface it as to render it a spoiled ballot. The presiding officer shall then deliver another ballot paper to the elector.

(5) Every elector shall vote without undue delay and shall leave the polling-place as soon as he has put his ballot paper into the ballot box.

(6) Whenever in the opinion of the presiding officer an elector does not understand the language spoken by him he may appoint and swear an interpreter who shall be the means of communication between him and the elector with reference to all matters required to enable such elector to vote.

Mode of  
taking ballot  
in special  
cases.

35. (1) Subject to all other provisions of this Ordinance as to proof or qualification as an elector and as to the administration of oaths, if a person representing himself to be a particular elector applies for a ballot paper after another person has voted as such person, he shall be entitled subject to the provisions of subsection (2) of this section to mark a ballot paper (hereinafter referred to as "a tendered ballot paper") after taking

the oath of identity, in the form set out as Form No. 18 in the first schedule, and otherwise establishing his identity to the satisfaction of the presiding officer.

Form No. 18  
First  
schedule.

(2) A tendered ballot paper shall be of a colour differing from the other ballot papers, and instead of being put into the ballot box shall be given to the presiding officer and endorsed by him with the name of the elector and his number on the official list of electors, and set aside in a separate packet, and shall not be counted by the returning officer. The poll clerk shall enter in the poll book the name of every elector to whom a tendered ballot paper is given and a note of his having marked such a ballot paper.

(3) The presiding officer, on the application of any elector who is incapacitated by blindness or other physical cause from voting in the manner prescribed by this Ordinance, shall require the elector making such application to make oath in the form set out as Form No. 19 or Form No. 20 as the case may be in the first schedule of his incapacity to vote without assistance, and subject to subsection (4) of this section shall thereafter assist such elector by marking his ballot paper in the manner directed by such elector in the presence of the elector alone, no other person being within hearing.

Form No. 19  
Form No. 20  
First  
schedule.

(4) Notwithstanding the provisions of subsection (3) of this section, the presiding officer may, at the request of any elector specified in that subsection who has taken the appropriate oath therein prescribed and is accompanied by a friend, permit such friend to accompany the elector into the voting compartment and mark the elector's ballot for him. No person shall at any election be allowed to act as the friend of more than one such elector.

(5) Any friend who is permitted to mark the ballot of an elector specified in subsection (4) of this section shall first be required to take an oath in the form set out as Form No. 21 in the first schedule, that he will keep secret the name of the candidate for whom the ballot of such elector is marked by him, and that he has not already acted as the friend of an elector incapacitated from voting by blindness or other physical cause for the purpose of marking his ballot paper at the pending election.

Form No. 21  
First  
schedule.

(6) Whenever any elector has had his ballot paper marked as provided in subsections (3) or (4) of this section, the poll clerk shall enter in the poll book opposite the elector's name, the fact that his ballot paper was so marked and the reason therefor.

36. (1) At the hour fixed for opening the poll the presiding officer and the poll clerk shall, in the presence of such of the candidates or their agents and such of the electors as are present, open the ballot box and ascertain that there are no ballot papers or other papers therein, after which the box shall be locked, and the presiding officer shall keep the key thereof; the box shall be placed on a table in full view of all present and shall be maintained there until the close of the poll.

Proceedings  
at poll.

(2) Immediately after the ballot box is so locked, the presiding officer shall call upon the electors to vote.

(3) The presiding officer shall secure the admittance of every elector into the polling-place, and shall see that they are not impeded or molested at or about the polling-place.

(4) The presiding officer may, if he deems it advisable, direct that not more than one elector for each compartment shall, at any time, enter

the room where the poll is held; and each elector, upon so entering, shall declare his name, residence and occupation. The poll clerk shall then ascertain if the name of the elector appears on the official list of electors used at the polling station. When it has been ascertained that the applicant elector is qualified to vote at the polling-place, his name, address and occupation and his number on the official list of electors shall be called out and the elector shall be immediately allowed to vote, unless an election officer or any agent of a candidate present at the polling-place desires that he be first sworn.

(5) The poll clerk shall—

- (a) make such entries in the poll book as the presiding officer pursuant to any provision of this Ordinance directs; and
- b) enter in the poll book the word "Sworn" or "Affirmed" opposite the name of each elector to whom any oath or affirmation has been administered, indicating the nature of the oath or affirmation; and
- (c) enter in the poll book the words "Refused to be sworn" or "Refused to affirm" or "Refused to answer," opposite the name of each elector who has refused to take an oath or to affirm, when he has been legally required so to do, or has refused to answer questions which he has been legally required to answer.

Mainten-  
ance of  
secrecy at  
polling-  
place.

37. (1) Every election officer and every candidate or agent attending at the polling-place shall maintain and aid in maintaining the secrecy of voting and shall not, except, for some purpose authorised by law, communicate to any person before the poll is closed any information as to—

- (i) the name of any elector or proxy who has or has not applied for a ballot paper or voted at a polling-place;
- (ii) the number on the list of electors of any elector who, or whose proxy, has or has not applied for a ballot paper or voted at a polling place; or
- (iii) the official mark.

(2) Every person attending at any counting of votes shall maintain and aid in maintaining the secrecy of voting and shall not—

- (a) ascertain or attempt to ascertain at the counting of the votes the number on any ballot paper; or
- (b) communicate any information obtained at the counting of the votes as to the candidate for whom any vote is given.

(3) No person whosoever shall—

- (a) interfere with or attempt to interfere with an elector when casting his vote;
- (b) otherwise obtain or attempt to obtain in a polling-place information as to the candidate for whom an elector in that polling-place is about to vote or has voted;
- (c) communicate at any time to any person any information obtained in a polling-place as to the candidate for whom the elector in that polling-place is about to vote or has voted, or as to the number on the ballot paper given to an elector at that polling-place;

(d) directly or indirectly induce an elector to display his bal-

lot paper after he has marked it, so as to make known to any person the name of the candidate for whom he has or has not voted.

(4) No person having undertaken to assist a blind elector to vote shall communicate at any time to any person any information as to the candidate for whom that elector intends to vote or has voted, or as to the number on the ballot paper given for the use of that elector.

(5) Any person who acts in contravention of this section shall be liable on summary conviction thereof to imprisonment with or without hard labour for any term not exceeding six months, or to a fine not exceeding one thousand dollars or to both such imprisonment and fine.

38. (1) No person shall annoy, molest or otherwise interfere with or attempt to annoy, molest or otherwise interfere with an elector within two hundred yards of a polling-place or within that distance attempt to obtain any information as to the candidate for whom any elector in such polling-place is about to vote or has voted, or as to the number on the ballot paper given to any elector at such polling place.

Preservation of order.

(2) It shall be the duty of the presiding officer to keep order at his polling-place and if any person misconducts himself therein, or fails to obey the lawful orders of the presiding officer, he may immediately, by order of the presiding officer or of the returning officer, be removed from the polling-place by a member of the police force or by any other person authorised in writing by the returning officer to remove him, and the person so removed shall not, without the permission of the presiding officer, again enter the polling station during the day.

(3) Any person so removed may if charged with the commission in the polling-place of an offence be dealt with as a person taken into custody by a member of the police force for an offence without a warrant.

(4) The powers conferred by this section shall not be exercised so as to prevent an elector who is otherwise entitled to vote at a polling-place from having an opportunity of voting at that polling-place.

(5) The returning officer or the presiding officer may at any time summon within the polling-place for the purpose of preserving order, any member of the police force.

39. (1) Where the proceedings at any polling-place are interrupted or obstructed by riot, open violence, fire, flood or other calamity whether similar to the foregoing or not the presiding officer shall adjourn the proceedings to the following day and shall forthwith give notice to the returning officer.

Adjournment of poll in certain cases.

(2) Where the poll is adjourned at any polling-place the hours of polling on the day to which it is adjourned shall be the same as for the original day and references in this Ordinance to the close of the poll shall be construed accordingly.

40. (1) All premises to which spirit shop licences, off-licences and railway station or stelling liquor licences have been issued under the Intoxicating Liquor Licensing Ordinance shall be closed and shall be kept closed on polling day.

Closing of spirit shops, liquor stores and taverns on polling day.

(2) No intoxicating liquor shall be sold, offered for sale, or given away, at any premises to which a licence issued under the Intoxicating Liquor Licensing Ordinance applies, at any time between the opening and the closing of the poll on polling day.

Cap. 316.

Cap. 321.

(3) No intoxicating liquor shall be supplied to any person at any premises to which a licence issued under the Registration of Clubs Ordinance applies at any time between the opening and closing of the poll on polling day.

(4) Any person who contravenes any of the provisions of any of the three last preceding subsections shall be liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both such imprisonment and fine.

Cap. 321.

(5) In this section, "intoxicating liquor" has the same meaning as is assigned to the expression in the Registration of Clubs Ordinance.

Employers  
to allow  
employees  
reasonable  
period for  
voting.

41. (1) Every employer shall, on polling day, permit every elector in his employ to be absent from his work on polling day for a reasonable time in addition to the normal midday meal hour for voting, and no employer shall make any deduction from the pay or other remuneration of any such elector or impose upon or exact from him any penalty by reason of his absence during such period.

(2) This section shall extend to the employees of the Transport and Harbours Department except such as are actually engaged in running the trains and vessels and to whom such time cannot be allowed without interfering with the manning of the trains and vessels and the General Manager of the Transport and Harbours Department shall be deemed to be the employer of such employees.

(3) Any employer who, directly or indirectly, refuses, or by intimidation, undue influence, or in any other way, interferes with the granting to any elector in his employ, of the prescribed period for voting as in this section provided, shall on summary conviction be liable to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months.

### COUNTING OF THE VOTES.

Proceedings  
after poll.

42. (1) After the close of the poll the ballot boxes shall be sealed by the presiding officer so as to prevent the introduction of additional ballot papers and shall so soon as is practicable thereafter be taken charge of by the returning officer, who shall, in the presence of the candidates or of such agents, if any, of the candidates as may be in attendance, open the ballot boxes and ascertain the result of the poll by counting the votes given to each candidate, and shall subject to section 43 forthwith declare to be elected the candidate to whom the majority of the votes has been given.

(2) In counting the votes the returning officer shall subject to the provisions of subsection (3) of this section reject all ballot papers —

- (a) which have not been supplied by a presiding officer; or
- (b) which have not been marked for any candidate; or
- (c) on which votes have been given for more than one candidate; or
- (d) upon which there is any writing or mark by which the elector could be identified, other than the numbering by the presiding officer in the cases hereinbefore referred to, but no ballot paper shall be rejected on account of any writing, number or mark placed thereon by any presiding officer,

and any ballot paper so rejected shall be void and not counted.

(3) A ballot paper on which the vote is marked —

- (a) elsewhere than in the proper place; or
- (b) otherwise than by means of a cross; or
- (c) by more than one mark,

shall not by reason thereof be rejected if an intention that the vote shall be for one or other of the candidates clearly appears, and the way the paper is marked does not of itself identify the elector and it is not shown that he can be identified thereby.

(4) The decision of the returning officer as to any question arising in respect of any ballot paper shall be final, but shall be subject to reversal on petition questioning the election or return.

43. (1) A candidate or his agent may, if present when the counting or any re-count of the votes is completed, require the returning officer to have the votes re-counted or again re-counted but the returning officer may refuse to do so if in his opinion the request is unreasonable, and no step shall be taken on the completion of the counting or any re-count of votes until the candidates and agents present at the completion thereof have been given a reasonable opportunity to exercise the right conferred by this subsection.

Recount and decision by lot in the event of a tie.

(2) Where, after the counting of the votes by the returning officer (including re-count) is completed, an equality of votes is found to exist between any candidates at an election in any electoral district, and the addition of a vote would entitle any of those candidates to be declared elected, the returning officer shall not be entitled to a casting vote but shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

(3) Where, on an election petition, it appears that there is an equality of votes between any candidates at any election, and that the addition of a vote would entitle any of those candidates to be declared elected, then —

- (a) any decision under the foregoing subsection shall, in so far as it determines the question between those candidates, be effective also for the purposes of the petition; and
- (b) in so far as that question is not determined by such a decision, the court shall decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote.

## FINAL PROCEEDINGS

44. (1) After an election the returning officer shall certify by endorsement on the writ the return of the member elected, and shall forward to the Chief Electoral Officer for return to the Governor the writ so endorsed, within the time for that purpose specified therein or in the case of an election under section 24 or section 39 forthwith after the result of the election has been declared.

Endorsement on writ of election of the return of the member elected.

(2) The returning officer shall forward to each of the candidates a duplicate or copy of the return to the writ made by him.

(3) The Chief Electoral Officer shall, on receiving the return of any member elected to serve in the Legislative Council enter it, in the order in which such return is received by him, in a book to be kept by

him for such purpose and thereupon immediately give notice in the Gazette of the name of the candidate so elected and in the order in which it was received.

(4) The Chief Electoral Officer shall, immediately after each general election, cause to be printed a general report on the election, including inter alia, by polling-places, the number of votes polled for each candidate, the number of rejected ballots, the number of names on the lists of electors, together with any other information that he may deem fit to include; and shall also at the end of each year, cause to be printed a similar report on the by-elections held during the said year.

Penalty for delay, neglect or refusal of returning officer to return elected candidate.

45. If any returning officer wilfully delays, neglects or refuses to return duly any person who ought to be returned to serve in the Legislative Council for any electoral district, and if it has been determined on the hearing of an election petition respecting the election for such district that such person was entitled to have been returned, the returning officer who has so wilfully delayed, neglected or refused to make duly such return of his election shall forfeit to the person aggrieved the sum of two thousand five hundred dollars and costs in addition to all damages sustained.

Custody of ballot papers, etc.

46. (1) Each returning officer shall, as soon as may be after any election, make up into one parcel the different parcels of ballot papers, counterfoils, marked copies of the official list of electors, and other papers used at the polling-places and in his possession, and seal up the same so that the parcel cannot be opened without breaking the seals, and send it to the Commissioner of Elections who shall keep the same in safe custody and allow no person to have access thereto:

Provided that —

- (a) when an election petition has been presented questioning the validity of any election or returns, the Commissioner of Elections shall, on an order of the Supreme Court, deliver to the proper officer of that Court the papers relating to the election that is in dispute; and
- (b) after the expiration of twelve months from the date of any election the Commissioner of Elections shall burn the papers used at that election.

(2) Forthwith upon making the return to the writ in accordance with the provisions of section 44, the returning officer shall cause the ballot boxes used thereat, with their locks and keys to be deposited in the custody of the member of the police force in charge of a police station in the electoral district. Upon delivery to him of such ballot boxes, locks and keys the custodian shall issue his receipt and shall at the next ensuing election, upon request, deliver the said ballot boxes, locks, and keys to the returning officer to whom the writ is directed, taking such returning officer's receipt.

PART IV

ELECTION EXPENSES, ILLEGAL AND CORRUPT PRACTICES AND OTHER ELECTION OFFENCES

Election agent of candidate.

47. (1) On or before the day of nomination, each candidate at an election shall give notice in writing to the returning officer appointing either himself or some other person as his election agent and specifying



an address within the electoral district to which all claims, notices, writs, summonses and documents may be sent.

(2) If the candidate is absent from the Colony, the notice prescribed in subsection (1) of this section may be delivered by his election agent to the returning officer.

(3) A candidate shall not have more than one election agent at one and the same time.

(4) A candidate may at any time give notice in writing to the returning officer revoking the appointment of his election agent.

(5) In the event of such revocation or of the death of the election agent, whether such event is before on or after the polling day, another election agent shall forthwith be appointed, and notice of the appointment shall be given to the returning officer in the manner provided in subsection (1) of this section.

(6) The returning officer shall, forthwith after receiving notice of the appointment of an election agent, give public notice of the name and address as aforesaid of the election agent.

(7) Any claim, notice, writ, summons or other document delivered at such address and addressed to the election agent shall be deemed to be duly served upon him.

(8) Every election agent may, in respect of any matter connected with the election in which he is acting, be sued in any court having jurisdiction over the place where such address is situate.

48. (1) An election agent of a candidate may appoint one deputy (hereinafter referred to as a sub-agent) in respect of each polling division to act as such within the polling division.

Sub-agents.

(2) Every election agent appointed under subsection (1) or subsection (4) of section 47 may act, in relation to any matter required to be done in any polling division, by a sub-agent, and anything done for the purposes of this Ordinance by or to a sub-agent in his polling division shall be deemed to be done by or to the election agent, and any act or default of a sub-agent, which, if he were the election agent, would be an illegal practice or other offence against this Ordinance, shall be an illegal practice and offence against this Ordinance committed by the sub-agent, and the sub-agent shall be liable to punishment accordingly, and the candidate shall suffer the like incapacity as if the said act or default had been the act or default of the election agent.

(3) The election agent shall, not later than three clear days before the taking of the poll, declare in writing to the returning officer the name and address of each of his sub-agents.

(4) The appointment of a sub-agent shall not be vacated by reason only of the election agent who appointed him ceasing to be election agent, but it may be revoked by the election agent for the time being of the candidate.

(5) In the event of any revocation under subsection (4) of this section or of the death of a sub-agent, another sub-agent may be appointed and his name and address shall be forthwith declared in writing to the returning officer.

(6) When the name and address of a sub-agent are declared to him under subsection (3) or subsection (5) of this section the returning officer shall forthwith give public notice of the same.

Effect of  
default in  
appointment  
of election  
agent.

49. (1) If no person's name and address are given as required by section 47 as the election agent of a candidate, the candidate shall be deemed at the time mentioned in that section to have named himself as election agent and to have revoked any appointment of another person as his election agent.

(2) If the person whose name and address have been so given as those of the candidate's election agent (not being the candidate himself) dies and a new appointment is not made on the day of the death or on the following day, the candidate shall be deemed to have appointed himself as from the time of the death.

(3) If the appointment of a candidate's election agent is revoked without a new appointment being made, the candidate himself shall be deemed to have been appointed (or re-appointed) election agent.

(4) Notwithstanding the provisions of subsection (1) of section 47, where a candidate is by virtue of this section to be treated as his own election agent, he shall be deemed to have his office at his address as given in his nomination paper, even if that address is not within the electoral district.

(5) The returning officer on being satisfied that a candidate is by virtue of this section to be treated as his own election agent, shall forthwith proceed to publish the like notice as if the name and address of the candidate had been duly given to him under subsection (1) of section 47.

Making of  
contracts  
through  
election  
agent.

50. (1) The election agent of a candidate shall appoint every polling agent, clerk and messenger employed for payment on behalf of the candidate at an election, and hire every committee room hired on behalf of the candidate.

(2) A contract whereby any expenses are incurred on account of or in respect of the conduct or management of an election shall not be enforceable against a candidate at the election unless made by the candidate himself or by his election agent, either by himself or by his sub-agent:

Provided that the inability under this section to enforce such contract against the candidate shall not relieve the candidate from the consequences of any corrupt or illegal practice having been committed by his agent.

Payment of  
expenses  
through  
election  
agent.

51. (1) Except as permitted by or in pursuance of this Ordinance, no payment and no advance or deposit shall be made by a candidate at an election, or by any agent on behalf of the candidate, or by any other person at any time, whether before, during or after the election, in respect of any expenses incurred on account of or in respect of the conduct or management of such election, otherwise than by or through the election agent of the candidate whether acting in person or by a sub-agent.

(2) All money provided by any person other than the candidate for any expenses incurred on account of or in respect of the conduct or management of the election, whether as gift, loan, advance or deposit, shall be paid to the candidate or his election agent and not otherwise.

(3) The provisions of this section shall not be deemed to apply to any sum disbursed by any person out of his own money for any small expense legally incurred by himself if such sum is not repaid to him.

(4) A person who makes any payment, advance or deposit in contravention of this section, or pays in contravention of this section any money so provided as aforesaid, shall be guilty of an illegal practice.

### ELECTION EXPENSES.

52. (1) The candidate at an election may pay any personal expenses incurred by him on account of or in connection with or incidental to such election to an amount not exceeding five hundred dollars, but any further personal expenses so incurred by him shall be paid by his election agent. The provisions of this subsection shall not apply to any deposit made in accordance with section 19.

Personal expenses of candidate and petty expenses.

(2) The candidate shall send to the election agent within the time limited by this Ordinance for sending in claims a written statement of the amount of personal expenses paid as aforesaid by such candidate.

(3) Any person may, if so authorised in writing by the election agent of the candidate, pay any necessary expenses for stationery, postage, telegrams and other petty expenses, to a total amount not exceeding that named in the authority, but any excess above the total amount so named shall be paid by the election agent.

(4) A statement of the particulars of payments made by any person so authorised shall be sent to the election agent within the time limited by this Ordinance for the sending in of claims, and shall be vouched for by a bill containing the receipt of that person.

53. (1) Subject to such exceptions as may be allowed in pursuance of this Ordinance, no sum shall be paid, and no expense shall be incurred, by a candidate at an election or by his election agent, whether before, during or after an election, on account of or in respect of the conduct or management of such election, in excess of the amount of one thousand five hundred dollars or for purposes other than those in that behalf specified in the second schedule.

Maximum expenses allowed.

Second schedule.

(2) In determining the total expenditure incurred in relation to the candidature of any person at an election, regard shall not be had to the deposit required to be made by or on behalf of the candidate under section 19 or to any amount not exceeding five hundred dollars paid by a candidate in respect of personal expenses under subsection (1) of section 52.

(3) Any candidate or election agent who knowingly acts in contravention of this section shall be guilty of an illegal practice.

54. So far as circumstances admit, this Part of this Ordinance shall apply to a claim for his remuneration by an election agent and to the payment thereof in like manner as if he were any other creditor, and if any difference arises respecting the amount of such claim, the claim shall be a disputed claim within the meaning of this Part of this Ordinance and be dealt with accordingly.

Remuneration of election agent.

55. (1) Within thirty-five days after the day on which the candidate returned at an election is declared elected, the election agents of all candidates at that election shall transmit to the returning officer true returns (hereinafter referred to as election expenses returns), containing —

Return and declaration respecting election expenses.

- (a) a statement of all payments made by the election agent, together with all the bills and receipts;
- (b) a statement of the amount of personal expenses, if any, paid by the candidate;
- (c) a statement of all disputed claims of which the election agent is aware;

- (d) a statement of all the unpaid claims, if any, of which the election agent is aware, in respect of which application has been or is about to be made to the Supreme Court;
- (e) a statement of all money, securities and equivalent of money received by the election agent from the candidate or any other person for the purpose of expenses incurred or to be incurred on account of or in respect of the conduct or management of the election, with a statement of the name of every person from whom the same may have been received;
- (f) a statement of any duly authorised expenses incurred for any purpose referred to in subsection (1) of section 62.

(2) Every payment made by an election agent, whether by himself or a sub-agent, in respect of any expenses incurred on account of or in respect of the conduct or management of an election, shall, except where less than five dollars, be vouched for by a bill stating the particulars and by a receipt.

(3) The election expenses return shall be accompanied by a declaration made by the election agent before a Justice of the Peace (hereinafter referred to as an election expenses declaration).

(4) Where the candidate has named himself as his election agent, a statement of all money, securities and equivalent of money paid by the candidate shall be substituted in the return required by this section to be transmitted by the election agent for the like statement of money, securities, and equivalent of money received by the election agent from the candidate; and the election expenses declaration by an election agent shall be modified accordingly.

(5) At the same time that the agent transmits the election expenses return, or within seven days afterwards, the candidate shall transmit or cause to be transmitted to the returning officer a declaration made by him before a Justice of the Peace (which declaration is hereinafter included in the expression election expenses declaration).

(6) If the election expenses return and declarations are not transmitted before the expiration of the time limited for that purpose, the candidate shall not, after the expiration of such time, sit or vote in the Legislative Council until either such return and declarations have been transmitted, or until the date of the allowance of one of the excuses mentioned in subsection (1) of section 57 (hereinafter referred to as an "authorised excuse") for the failure to transmit the same; and if he sits or votes in contravention of this subsection he shall, on summary conviction thereof, be liable to a fine not exceeding five hundred dollars for every day on which he so sits or votes.

(7) If without an authorised excuse either a candidate or an election agent fails to comply with the requirements of this section, he shall be guilty of an illegal practice.

(8) When a candidate is out of the colony at the time when the election expenses return is transmitted to the returning officer, the declaration required by this section to be made by him shall be made by him within fourteen days after his return to the Colony, and in that case shall be forthwith transmitted to the returning officer, but the extension of time hereby authorised shall not exonerate the election agent from

complying with the provisions of this Ordinance relating to the election expenses return and to the declaration required to be made by himself.

(9) Where, after the date on which the election expenses return is transmitted, leave is given by the Supreme Court for any claims to be paid, the candidate or his election agent shall within seven days after the payment thereof, transmit to the returning officer a return of the sums paid in pursuance of such leave accompanied by a copy of the order of the court giving the leave, and in default he shall be deemed to have failed to comply with the requirements of this section without such authorised excuse as in this Ordinance mentioned.

56. (1) The returning officer at an election shall, within ten days after he receives from the election agent of a candidate an election expenses return, publish a summary of the return in not less than two daily newspapers published in the Colony, accompanied by a notice of the time and place at which the return and declarations (including the accompanying documents) can be inspected.

Publication of summary of return of election expenses.

(2) The return and declarations (including the accompanying documents) sent to the returning officer by an election agent shall be forwarded by the returning officer to the Chief Electoral Officer and shall at reasonable times during two years after they are received by the Chief Electoral Officer be open to inspection by any person on payment of a fee of twenty-four cents, and the Chief Electoral Officer shall on demand furnish copies thereof or any part thereof at the price of twelve cents for every one hundred and twenty words or part thereof.

(3) After the expiration of the said two years the Chief Electoral Officer may cause the said return and declarations (including the accompanying documents) to be destroyed, or, if the candidate or his election agent so requires, shall return the same to the candidate.

57. (1) Where the return and declarations respecting election expenses of a candidate at an election have not been transmitted as required by this Ordinance, or being transmitted contain some error or false statement, then —

Authorised excuse for non-compliance with provisions as to return and declaration respecting election expenses.

- (a) if the candidate applies to the Supreme Court, and shows that the failure to transmit such return and declarations, or any of them, or any part thereof, or any error or false statement therein, has arisen by reason of his illness, or of the absence, death, illness or misconduct of his election agent or sub-agent or of any clerk or officer of such agent, or by reason of inadvertence or of any reasonable cause of a like nature, and not by reason of any want of good faith on the part of the applicant; or
- (b) if the election agent of the candidate applies to the Supreme Court and shows that the failure to transmit the return and declarations which he was required to transmit, or any part thereof, or any error or false statement therein, arose by reason of his illness or of the death or illness of any prior election agent of the candidate, or of the absence, death, illness or misconduct of any sub-agent, clerk or officer of an election agent of the candidate, or by reason of inadvertence or of any reasonable cause of a like nature.

and not by reason of any want of good faith on the part of the applicant —

the court may, on being satisfied that notice of the application was published in two daily newspapers circulating in the Colony, and on production of such evidence of the grounds stated in the application, and of the good faith of the application, and otherwise, as to the court seems fit, make such order for allowing an authorised excuse for the failure to transmit such return and declarations, or for an error or false statement in such return or declarations, as to the court seems just.

(2) Where it appears to the court that any person being or having been an election agent or sub-agent has refused or failed to make such return or supply such particulars as will enable the candidate and his election agent respectively to comply with the provisions of this Ordinance as to the return and declaration respecting election expenses, the court before making an order allowing the excuse as in this section mentioned shall order such person to attend before the court, and on his attendance shall, unless he shows cause to the contrary, order him to make the return and declaration, or to deliver a statement of the particulars required to be contained in the return, as to the court seems just, and to make or to deliver the same within such time and to such person and in such manner as the court may direct, or may order him to be examined with respect to such particulars, and may, in default of compliance with any such order, order him to pay a fine not exceeding five hundred dollars.

(3) The order may make the allowance conditional upon the making of the return and declaration in a modified form or within an extended time, and upon the compliance with such other terms as to the court seems best calculated for carrying into effect the objects of this Ordinance, and an order allowing an authorised excuse shall relieve the applicant for the order from any liability or consequences under this Ordinance in respect of the matter excused by the order.

(4) Where it is proved by the candidate to the court that any act or omission of the election agent in relation to the return and the declaration respecting election expenses was without the sanction or connivance of the candidate, and that the candidate took all reasonable means for preventing such act or omission, the court shall relieve the candidate from the consequences of such act or omission on the part of his election agent.

(5) The date of the order, or if conditions and terms are to be complied with, the date on which the applicant fully complies with them, is in this Ordinance referred to as the date of the allowance of the excuse.

58. (1) Every claim against a candidate at an election or his election agent in respect of any expenses incurred on account of or in respect of the conduct or management of the election which is not sent in to the election agent within twenty-eight days after the day on which the candidate is declared elected shall be barred and shall not be paid; and, subject to such exception as may be allowed in pursuance of this Ordinance, an election agent who pays a claim in contravention of this section, shall be guilty of an illegal practice.

(2) All expenses incurred by or on behalf of a candidate at an election, which are incurred on account of or in respect of the conduct or management of the election, shall be paid within twenty-eight days after the day on which the candidate is declared elected and not other-

Period for sending in claims and making payments for election expenses.

wise; and subject to such exception as may be allowed in pursuance of this Ordinance, an election agent who makes a payment in contravention of this provision shall be guilty of an illegal practice.

(3) Where the election court reports that it has been proved to the court by a candidate that any payment made by an election agent in contravention of this section was made without the sanction or connivance of the candidate, the election of the candidate shall not be void, nor shall the candidate be subject to any incapacity under this Ordinance by reason only of such payment having been made in contravention of this section.

(4) If the election agent in the case of any claim sent in to him within the time limited by this section disputes it, or refuses or fails to pay it within the period of twenty-eight days, such claim shall be deemed to be a disputed claim.

(5) The claimant may, if he thinks fit, bring an action for a disputed claim in any competent court; and any sum paid by the candidate or his agent in pursuance of the judgment or order of such court shall be deemed to be paid within the time limited by this section, and to be an exception from the provisions of this Ordinance requiring claims to be paid by the election agent.

(6) On cause shown to the satisfaction of the Supreme Court, such court on application by the claimant or by the candidate or his election agent may by order give leave for the payment by a candidate or his election agent of a disputed claim, or of a claim for any such expenses as aforesaid, although sent in after the time in this section mentioned for sending in claims, or although the same was sent in to the candidate and not to the election agent.

(7) Any sum specified in any order under this section may be paid by the candidate or his election agent, and when paid in pursuance of such order shall be deemed to be paid within the time limited by this section.

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

- (a) that any act or omission of a candidate at any election, or of his election agent or of any other agent or person, would, by reason of being a payment, engagement, employment, or contract in contravention of this Part of this Ordinance, or being the payment of a sum or the incurring of expense in excess of the maximum allowed by this Part of this Ordinance, or of otherwise being in contravention of any of the provisions of this Part of this Ordinance, be but for this section an illegal practice, payment, employment or hiring; and
- (b) that such act or omission arose from inadvertence or from accidental miscalculation or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith; and
- (c) that notice of the application has been published in two daily newspapers circulating in the Colony,

and in the circumstances it seems to the court to be just that the candidate and the said election and other agent and person, or any of them, should

Power of  
Supreme  
Court to  
exempt act  
done in  
good faith  
from being  
illegal  
practice.

not be subject to any of the consequences under this Ordinance of the said act or omission, the court may make an order allowing such act or omission to be an exception from the provisions of this Part of this Ordinance 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 Ordinance, of the said act or omission.

Saving for  
creditors.

60. The provisions of this Ordinance prohibiting certain payments and contracts for payments, and the payment of any sum, and the incurring of any expense in excess of the maximum, shall not affect the right of any creditor, who, when the contract was made or the expense was incurred, was ignorant of the same being in contravention of this Ordinance.

Public notice  
by returning  
officer.

61. Where a returning officer is required or authorised by this Part of this Ordinance to give any public notice, he shall do so by advertisements, placards, handbills or such other means as he thinks best calculated to afford information to the electors.

Prohibition  
of expenses  
not author-  
ised by  
election  
agent.

62. (1) No expenses shall, with a view to promoting or procuring the election of a candidate at an election, be incurred by any person other than the election agent of a candidate or a person authorised in writing by the election agent on account —

- (a) of holding public meetings or organising any public display; or
- (b) of issuing advertisements, circulars or publications; or
- (c) of otherwise presenting to the electors the candidate or his views or the extent or nature of his backing or of disparaging another candidate:

Provided that paragraph (c) of this subsection shall not —

- (i) restrict the publication of any matter relating to the election in a newspaper or other periodical; or
  - (ii) apply to any expenses not exceeding in the aggregate the sum of two dollars which may be incurred by an individual and are not incurred in pursuance of a plan suggested by or concerted with others, or to expenses incurred by any person in travelling or in living away from home or similar personal expenses.
- (2) Any person who contravenes any of the provisions of subsection (1) of this section shall be guilty of a corrupt practice.

(3) Where the person guilty of an offence against this section is a body of persons, corporate or unincorporate, every director or officer of the body shall, unless he proves that the act constituting the offence was committed without his knowledge or consent, be guilty of the like offence.

(4) Any expenses incurred on account of any purpose referred to in subsection (1) of this section and duly authorised by the election agent of the candidate shall be returned as part of the candidate's election expenses.

Making false  
declaration  
as to elec-  
tion ex-  
penses to be  
a corrupt  
practice.

63. Any candidate or election agent who makes a declaration required by section 55 containing any statement false in fact, which he knows or believes to be false or does not believe to be true, shall be guilty of a corrupt practice.



**ILLEGAL PAYMENT, EMPLOYMENT, HIRING**

64. Subject to such exception as may be allowed in pursuance of this Ordinance, any person who knowingly provides money —

Penalty for providing money for unlawful payments.

(a) for any payment which is contrary to the provisions of this Ordinance; or

(b) for any expenses incurred in excess of the maximum amount allowed by this Ordinance; or

(c) to replace any money expended in any such payment or expenses,

shall be guilty of illegal payment.

65. Any person who corruptly induces or procures any other person to withdraw from being a candidate at an election, in consideration of any payment or promise of payment, shall be guilty of illegal payment, and any person withdrawing, in pursuance of such inducement or procurement, shall also be guilty of illegal payment.

Corrupt withdrawal from a candidature.

66 (1) No person shall, for the purpose of promoting or procuring the election of a candidate at any election be engaged or employed for payment or promise of payment for any purpose or in any capacity whatever, except for any purposes or capacities mentioned in the second schedule.

Certain forms of employment prohibited. Second schedule.

(2) Subject to such exceptions as may be allowed in pursuance of this Ordinance, if any person is engaged or employed in contravention of this section the person engaging or employing him shall be guilty of illegal employment, and the person so engaged or employed shall also be guilty of illegal employment if he knew that he was so engaged or employed contrary to law.

67. (1) A person shall not let, lend or employ for the purpose of the conveyance of electors or their proxies to or from the poll, any public stage or hackney carriage, or any horse or other animal kept or used for drawing the same, or any carriage, horse or other animal which he keeps or uses for the purpose of letting out for hire.

Illegal hiring etc., of vehicles and animals prohibited.

(2) If any person lets, lends or employs such carriage, horse or other animal, knowing that it is intended to be used for the purpose of the conveyance of electors or their proxies to or from the poll, he shall be guilty of an illegal hiring.

(3) A person shall not hire, borrow or use for the purpose of the conveyance of electors or their proxies to or from the poll any carriage, horse or other animal which he knows the owner thereof is prohibited by this section to let, lend or employ for that purpose, and if he does so, he shall be guilty of an illegal hiring.

(4) In this section the expression "carriage" includes a mechanically propelled vehicle.

(5) Nothing in this Ordinance shall prevent a carriage, horse or other animal being let to or hired, employed or used by an elector or several electors at their joint cost, for the purpose of being conveyed to or from the poll.

68. (1) (a) Any premises wherein the sale by wholesale or retail of any intoxicating liquor is authorised by any licence, whether such licence authorises the sale for consumption on or off the premises; or

Use of certain premises as committee room prohibited.

- (b) any premises where any intoxicating liquor is sold or is supplied to members of a club, society or association other than a permanent political club; or
- (c) any premises wherein refreshment of any kind, whether food or drink, is ordinarily sold for consumption in the premises,

shall not be used as a committee room for the purpose of promoting or procuring the election of a candidate at an election.

(2) If any person hires or uses any such premises or any part thereof for a committee room, he shall be guilty of illegal hiring, and the person letting such premises or part, or permitting the same to be used if he knew it was intended to use the same as a committee room, shall also be guilty of illegal hiring.

(3) Nothing in this section shall apply to any part of such premises which is ordinarily let for the purpose of chambers or offices or the holding of public meetings or of arbitrations, if such part has a separate entrance and no direct communication with any part of the premises on which any intoxicating liquor or refreshment is sold or supplied as aforesaid.

Penalty on conviction for illegal payment, employment or hiring.

69. (1) A person guilty of an offence of illegal payment, employment or hiring shall, on summary conviction thereof, be liable to a fine not exceeding five hundred dollars.

(2) A candidate or an election agent of a candidate who is personally guilty of an offence of illegal payment, employment or hiring shall be guilty of an illegal practice.

### ILLEGAL PRACTICES

Certain expenditure to be illegal practice.

70. (1) No payment or contract shall, for the purpose of promoting or procuring the election of a candidate at any election, be made—

- (a) on account of the conveyance of electors or their proxies to or from the poll, whether for the hiring of horses or carriages (animal drawn or mechanically propelled) or for railway fares, water or air transport fares or otherwise; or
- (b) to 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:

Provided that 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; or

- (c) on account of more than one committee room.

(2) For the purpose of this Ordinance the expression "committee room" shall not include any house or room occupied by a candidate at an election as a dwelling, by reason only of the candidate there transacting general business with his agents in relation to such election; nor shall any room or building be deemed to be a committee room for the purposes of this Ordinance by reason only of the candidate or any agent of the candidate addressing therein electors, committee men or others.

(3) Subject to such exceptions as may be allowed in pursuance of this Ordinance, if any payment or contract for payment is knowingly made in contravention of this section either before, during or after an election, the person making such payment or contract for payment 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 Ordinance, shall also be guilty of an illegal practice.

71. (1) Every person who, at a lawful public political meeting held in an electoral district between the date of the issue of a writ of election for the return of a member of the Legislative Council for the electoral district and the date on which a return to such writ is to be made, acts in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together, shall be guilty of an illegal practice.

Disorderly behaviour at public political election meeting to be illegal practice.

(2) Every person who incites any other person to commit an offence under this section shall be guilty of a like offence.

72. (1) Any person, or the directors of any body or association corporate, who, before or during any election, shall, for the purpose of affecting the return of any candidate at the election, make or publish any false statement of fact in relation to the personal character or conduct of such candidate shall be guilty of an illegal practice.

Making or publishing certain false statements concerning a candidate at an election to be illegal practice.

(2) No person shall be deemed to be guilty of illegal practice under this section if he can show that he had reasonable grounds for believing, and did believe, the statement made by him to be true.

(3) A candidate shall not be liable, nor shall he be subject to any incapacity, nor shall his election be avoided, for any illegal practice under this section committed by his agent other than his election agent, unless it can be shown that the candidate or his election agent has authorised or consented to the committing of such illegal practice by such other agent, or has paid for the circulation of the false statement constituting the illegal practice, or unless upon the hearing of an election petition the election court shall find and report that the election of such candidate was procured or materially assisted in consequence of the making or publishing of such false statements.

(4) A person making or publishing any false statement of fact as aforesaid may be restrained by interim or perpetual injunction by the Supreme Court from any repetition of that false statement or of a false statement of a similar character in relation to the candidate and, for the purpose of granting an interim injunction, prima facie proof of the falsity of the statement shall be sufficient.

73. (1) A person shall not—

- (a) print or publish, or cause to be printed or published any bill, placard or poster having reference to an election or any printed document distributed for the purpose of promoting or procuring the election of a candidate; or
- (b) post or cause to be posted any such bill, placard or poster as aforesaid; or
- (c) distribute or cause to be distributed any printed document for the said purpose,

Name and address of printer on election publications.

unless the bill, placard, poster or document bears upon the face thereof

the name and address of the printer and publisher.

(2) For the purposes of this section any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printing and the expression "printer" shall be construed accordingly.

(3) A candidate or election agent acting in contravention of this section shall be guilty of an illegal practice, and any other person so acting, shall on summary conviction be liable to a fine not exceeding five hundred dollars.

Certain acts  
to be illegal  
practices.

74. Any person who—

- (a) votes in person whether as an elector or as proxy, or induces or procures any person to vote whether as an elector or as proxy, at any election, knowing that he or such other person is prohibited by this or any other Ordinance, from voting at such election; or
- (b) applies for the appointment of a proxy to vote for him at any election knowing that he or the person to be appointed is prohibited by this or any other Ordinance, from voting at such election; or
- (c) votes as proxy for some other person at any election knowing that such other person is prohibited by this or any other Ordinance, from voting at such election; or
- (d) before or during an election knowingly publishes a false statement of the withdrawal of a candidate at such election for the purpose of promoting or procuring the election of another candidate,—

shall be guilty of an illegal practice:

Provided that a candidate shall not be liable, nor shall his election be avoided, for any illegal practice under this section committed by his agent other than his election agent.

Plural  
voting  
prohibited.

75. (1) Any person who—

- (a) votes as an elector otherwise than by proxy, either—
  - (i) more than once in the same electoral district at any election; or
  - (ii) in more than one electoral district at a general election; or
  - (iii) in any electoral district at a general election, when there is in force an appointment of a person to vote as his proxy at the election in some other electoral district; or
- (b) applies for a person to be appointed as his proxy to vote for him at any election without applying for the cancellation of a previous appointment of a third person then in force or without withdrawing a pending application for such an appointment;
- (c) votes as a proxy for the same elector either—
  - (i) more than once in the same electoral district at any election; or
  - (ii) in more than one electoral district at a general election,

shall be guilty of an illegal practice.

(2) A person shall also be guilty of an illegal practice if he votes at an election in any electoral district as proxy for more than two persons of whom he is not the husband, wife, parent, grandparent, brother, sister, child or grandchild.

76. (1) A person guilty of an illegal practice under this Ordinance shall, on summary conviction, be liable to a fine not exceeding five hundred dollars and, subject to the provisions of this section, shall be incapable during a period of five years from the date of his conviction of being registered as an elector, or voting, at an election of a member of the Legislative Council or of a person to any public office in the electoral district in which the illegal practice was committed.

Penalty and disqualification on conviction of illegal practice.

(2) The election of a member of the Legislative Council shall become void on his being convicted of any illegal practice.

(3) In case of any conviction under section 75, the court may, if it deems it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by this section.

### CORRUPT PRACTICES

77. The following persons shall be deemed guilty of the corrupt practice of treating—

Treating defined.

- (a) every person who corruptly, by himself or by any other person, either before during or after an election, directly or indirectly, gives or provides or pays wholly or in part the expense of giving or providing any food, drink, entertainment or provision to or for any person for the purpose of corruptly influencing that person, or any other person, to vote or to refrain from voting, at the election, or on account of such person, or any other person, having voted or refrained from voting, or being about to vote or refrain from voting, at the election;
- (b) every elector who corruptly accepts or takes any such food, drink, entertainment or provision.

78. The following persons shall be deemed guilty of the corrupt practice of using undue influence—

Undue influence defined.

- (a) every person who directly or indirectly by himself or by any other person on his behalf—
  - (i) makes use of, or threatens to make use of, any force, violence or restraint; or
  - (ii) 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 any election; or
- (b) every person who by abduction, duress or any fraudulent contrivance, impedes or prevents the free exercise of the franchise of any elector, or thereby compels, induces or prevails upon any elector either to vote or to refrain from voting at any election.

Bribery  
defined.

79. The following persons shall be deemed guilty of the corrupt practice of bribery —

- (a) every person who, directly or indirectly, by himself or any other person on his behalf —
  - (i) gives or agrees to give; or
  - (ii) lends or agrees to lend; or
  - (iii) offers or promises; or
  - (iv) promises to procure or promises to endeavour to procure —
 

any money or valuable consideration to or for any elector or to or for any person on behalf of any elector, or to or for any other person, in order to induce any elector to vote or to refrain from voting;
- (b) every person who, directly or indirectly, by himself or by any other person on his behalf, corruptly —
  - (i) gives or agrees to give; or
  - (ii) lends or agrees to lend; or
  - (iii) offers or promises; or
  - (iv) promises to procure or promises to endeavour to procure —
 

any money or valuable consideration to or for any elector, or to or for any person on behalf of any elector, or to or for any other person, on account of such elector having voted or refrained from voting at any election;
- (c) every person who, directly or indirectly, by himself or by any other person on his behalf —
  - (i) gives or agrees to give; or
  - (ii) procures or agrees to procure; or
  - (iii) offers or promises; or
  - (iv) promises to procure or promises 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;
- (d) every person who, directly or indirectly, by himself or by any other person on his behalf, corruptly —
  - (i) gives or agrees to give; or
  - (ii) procures or agrees to procure; or
  - (iii) offers or promises; or
  - (iv) promises to procure or promises 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, on account of any elector having voted or refrained from voting at any election;
- (e) 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 the return of any person as an elected member of the Legislative Council, or the vote of any elector at any election;

- (f) 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 an elected member of the Legislative Council, or the vote of any elector at any election;
- (g) every person who —
  - (i) 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 any election; or
  - (ii) 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 any election;
- (h) every elector who, before or during any election, 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 any election;
- (i) every person who, after any election, 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 refrain from voting at any election.

80. (1) A person shall be deemed to be guilty of the corrupt practice of personation at an election if he—

Personation defined.

- (a) votes in person as some other person whether as an elector or as proxy, and whether that other person is living or dead or is a fictitious person; or
- (b) votes in person as proxy —
  - (i) for a person whom he knows or has reasonable grounds for supposing to be dead or to be a fictitious person; or
  - (ii) when he knows or has reasonable grounds for supposing that his appointment as proxy is no longer in force.

(2) For the purpose of this section, a person who has applied for a ballot paper for the purpose of voting in person shall be deemed to have voted.

81. Every person who is guilty of a corrupt practice other than personation and aiding, abetting, counselling or procuring the commission of the offence of personation, shall, on conviction thereof on indictment, be liable to be imprisoned with or without hard labour for a term not exceeding one year, or to be fined any sum not exceeding one thousand dollars.

Penalty for corrupt practice other than personation.

82. Every person who is guilty of personation or of aiding, abetting, counselling or procuring the commission of the offence of personation

Penalty for personation.

shall, on conviction thereof on indictment, be liable to be imprisoned with or without hard labour for a term not exceeding two years.

Disqualifying effect of conviction for corrupt practice.

83. (1) Subject to the provisions of this section, every person who is convicted of a corrupt practice shall, in addition to any other punishment, be incapable during a period of seven years from the date of conviction —

- (a) of being registered as an elector or of voting at any election of a member of the Legislative Council;
- (b) of being elected a member of the Legislative Council or, if elected before his conviction, of retaining his seat as such member;
- (c) of holding any public or judicial office, and if he holds any such office, the office shall be vacated.

(2) In the case of any conviction under section 62, the court may, if it deems it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by this section.

(3) In this section the expression “judicial office” includes the offices of Justice of the Peace, Chief Electoral Officer and returning officer.

### MISCELLANEOUS ELECTION OFFENCES

No marks of distinction to be given or provided at elections.

84. (1) No candidate before, during or after an election shall, in regard to the election, by himself or agent, directly or indirectly, give or provide to or for any person having a vote at the election or to or for any inhabitant in the electoral district in which the election is held, any cockade, ribbon, or other mark of distinction, or any banner.

(2) Every person so giving or providing shall be guilty of an offence, and, on summary conviction thereof, shall be liable to a fine of ten dollars for every such offence.

Bands at election meetings and in processions prohibited.

85. (1) No person shall play any instrument in a band at any meeting or in any procession held for the purpose of promoting or procuring the election of any candidate.

(2) Every person so playing shall be guilty of an offence, and, on summary conviction thereof, shall be liable to a fine not exceeding twenty-five dollars or to imprisonment with or without hard labour for any term not exceeding thirty days.

(3) No person shall, for the purpose of promoting or procuring the election of any candidate, —

- (a) hire any band; or
- (b) use or permit to be used in or upon any vehicle any instrument for the purpose of reproducing or amplifying any music.

(4) Every person who contravenes the provisions of subsection (3) of this section shall be guilty of an offence and, on summary conviction thereof, shall be liable to a fine not exceeding one hundred and twenty dollars or to imprisonment for a term not exceeding three months.

Agreement or understanding to withdraw an election petition to be a misdemeanour in certain cases.

86. If any person makes any agreement or terms or enters into any undertaking, in relation to or for the withdrawal of an election petition, in consideration of any payment, or in consideration that the seat shall at any time be vacated or in consideration of the withdrawal of any other election petition, he shall be guilty of a misdemeanour and shall be liable on conviction on indictment to imprisonment for a term not exceeding twelve months and to a fine not exceeding one thousand dollars.



87. (1) Every person who —
- (a) forges or counterfeits or fraudulently defaces, or destroys, any ballot paper or the official mark thereon; or
  - (b) without due authority supplies a ballot paper to any person; or
  - (c) fraudulently puts into any ballot box any paper other than the lawful ballot paper; or
  - (d) fraudulently takes out of the polling-place any ballot paper; or
  - (e) without due authority destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of any election,

Offences in respect of ballot papers and ballot boxes.

shall be guilty of a misdemeanour, and be liable on conviction —

- (i) if he is an election officer employed at a polling-place, to imprisonment for any term not exceeding two years with or without hard labour or to a fine not exceeding one thousand dollars;
- (ii) if he is not a person specified in the preceding paragraph to imprisonment for any term not exceeding six months with or without hard labour or to a fine not exceeding two hundred and fifty dollars.

(2) Any person who attempts to commit an offence under this section shall be deemed to be guilty of an offence under the section.

88. (1) Every person who —

- (a) not being registered as an elector in an electoral district, votes at the election of a member of the Legislative Council for that electoral district; or
- (b) induces or procures any person whose name does not appear in the list of electors for an electoral district to vote at the election of a member of the Legislative Council for that electoral district,

Other election offences.

shall be guilty of an offence, and, on summary conviction thereof, shall be liable to imprisonment with or without hard labour for any term not exceeding six months or to a fine not exceeding two hundred and fifty dollars.

(2) Every person who wilfully mutilates, tears down, destroys, obscures, or makes any alteration in any list or notice published in accordance with the provisions of this Ordinance, shall be guilty of an offence, and, on summary conviction thereof, shall be liable to imprisonment with or without hard labour for any term not exceeding three months or to a fine not exceeding one hundred dollars.

### GENERAL PROVISIONS

89. In any indictment, information or complaint for an offence in relation to ballot boxes, ballot papers, and other things in use at an election, the property in them may be stated to be in the returning officer at such election.

Laying property in ballot boxes and ballot papers.

90. In any prosecution under this Ordinance, whether on indictment or summarily, the certificate of the returning officer at an election that such election was duly held, and that the person therein named was a candidate at such election, shall be sufficient evidence of the facts therein stated.

Certificate of returning officer to be sufficient evidence for certain purposes of

Limitation of time for commencing prosecution for offences.

91. A complaint or information against a person in respect of any offence under this Ordinance shall be made or filed within one year after the offence was committed.

Special provisions as to convictions.

92. (1) Any person charged with illegal payment, employment or hiring may, notwithstanding that the act constituting the offence amounted to a corrupt or illegal practice, be found guilty of illegal payment, employment or hiring, as the case may be, if the circumstances warrant such finding.

(2) Any person charged with an illegal practice or other offence not being a corrupt practice, may, notwithstanding that the act constituting the offence amounted to a corrupt practice, be found guilty of an illegal practice or other offence, as the case may be, if the circumstances warrant such finding.

(3) Any person charged with a corrupt practice may, if the circumstances warrant such finding, be found guilty of an illegal practice, and for that purpose the offence of illegal practice shall be an indictable offence.

Power to make Rules of court.

93. Rules of Court may from time to time be made for the purposes of this Part of this Ordinance.

## PART V.

### ELECTION PETITIONS.

Persons who may present an election petition.

94. An election petition may be presented to the Supreme Court by any one or more of the following persons, that is to say —

- (a) some person who voted or had a right to vote at the election to which the petition relates;
- (b) some person claiming to have had a right to be returned or elected at such election;
- (c) some person alleging himself to have been a candidate at such election.

Procedure in election petitions.

95. (1) Every election petition shall be tried before the Supreme Court in the same manner as an action commenced by writ of summons.

(2) At the trial of an election petition the election court shall, subject to the provisions of this Ordinance and Rules of Court made under subsection (1) of section 107 have the same powers, jurisdiction and authority as if an election petition were an action within the jurisdiction of the Supreme Court; and witnesses shall be summoned and sworn in the same manner as in the trial of such an action, and shall be subject to the same penalties for perjury.

(3) The trial of an election petition shall continue notwithstanding that the person declared elected has resigned his seat in the Legislative Council.

Avoidance of election on election petition.

96. (1) The election of a candidate as a member of the Legislative Council shall be declared to be void on an election petition if anyone of the following grounds be proved —

- (a) that by reason of general bribery, general treating, or general intimidation, or other misconduct, or other circumstances, whether similar to those before enumerated or not, the majority of electors were or may have been pre-ferred in selecting the candidate whom they preferred.

- (b) if it appears that the election was not conducted in accordance with the principles laid down in this Ordinance and that such non-compliance affected the result of the election;
- (c) 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;
- (d) that the candidate was at the time of his election a person not qualified, or a person disqualified, for election as a member of the Legislative Council.

(2) For the purposes of paragraph (c) of subsection (1) of this section an agent of a candidate means a person acting under the general or special authority of the candidate with reference to the election.

97. No elector who has voted at any election shall, in any proceeding on an election petition, be required to state for whom he voted.

Elector not to be asked for whom he voted.

98. (1) On the trial of an election petition the election court may, by order, compel the attendance of any person as a witness who appears to the court to have been concerned in the election to which the petition relates.

Power of election court to summon and examine witnesses.

(2) Any person refusing to obey such order shall be guilty of contempt of court.

(3) The election court may examine any person so compelled to attend, or any person in court, although such person is not called and examined by any party to the petition.

(4) After the examination as aforesaid by the election court, the witness may be cross-examined by or on behalf of the petitioner or respondent or either of them.

99. (1) A person who is called as a witness respecting an election before an election court shall not be excused from answering any question relating to any offence at or connected with the election, on the ground that the answer thereto may incriminate or tend to incriminate himself or on the ground of privilege:

Obligation of witness to answer.

Provided that—

- (a) a witness who answers truly all questions which he is required by the election court to answer shall be entitled to receive a certificate of indemnity under the hand of the election court stating that the witness has so answered; and
- (b) an answer by a person to a question put by or before any election court shall not, except in the case of any criminal proceeding for perjury in respect of such evidence, be in any proceeding, civil or criminal, admissible in evidence against him.

(2) Where a person has received a certificate of indemnity under this section and any legal proceedings are at any time instituted against him for any offence set out in the certificate, the court having cognizance of the case shall, on proof of the certificate, stay the proceeding, and may in its discretion award to the said person such costs as he may have been put to in the proceeding.

(3) Nothing in this section shall be taken to relieve a person receiving a certificate of indemnity from any incapacity under this Ordinance or from any proceeding, other than a criminal prosecution, to enforce such incapacity.

Votes to be struck off at a scrutiny.

100. On a scrutiny at the trial of an election petition the following votes shall be struck off, namely —

- (a) any vote given on a ballot paper in contravention of the provisions of sub-section (2) of section 42;
- (b) subject to the provisions of any regulation which may be made under this Ordinance, the vote of any person whose name was not on the official list of electors for the electoral district or on that part thereof relating to the polling place at which the vote was recorded, as the case may be, or who was not entitled to vote at the election;
- (c) the vote of any person whose vote was procured by bribery, treating or undue influence;
- (d) the vote of any person who committed or procured the commission of personation at the election;
- (e) where the election was a general election, the vote of any person proved to have voted at the general election in more than one electoral district; or
- (f) the vote of any person who, by reason of a conviction of a corrupt or illegal practice or by reason of the report of an election court, was incapable of voting at an election.

Matters to be determined by an election court.

101. (1) At the conclusion of the hearing the election court shall determine —

- (a) whether the member of the Legislative Council whose return or election is complained of, or any and what other person, was duly returned or elected; or
- (b) whether the election was void, and shall certify such determination to the Speaker of the Legislative Council who shall forthwith submit such certificate to the Governor.

(2) Upon such certificate being given, the determination shall be final; and the return shall be confirmed or altered, or a writ for a new election shall be issued, as the case may require, in accordance with such determination.

(3) The election court may at the same time make a special report to the Speaker for submission to the Governor as to matters arising in the course of the trial on account of which in the judgment of the court ought to be submitted to the Governor.

Report of election court to the Governor.

102. Where a charge is made in an election petition of a corrupt practice or an illegal practice having been committed at the election to which the petition relates, the election court shall, when certifying its determination under section 101, report in writing to the Speaker of the Legislative Council who shall forthwith submit such report to the Governor —

- (a) whether any corrupt practice or illegal practice has or has not been proved to have been committed by or with the knowledge and consent of any candidate at the election,

- and the nature of the corrupt practice or illegal practice;
- (b) whether any candidate at the election has been guilty by his agents of any corrupt or illegal practice in reference to the election;
  - (c) the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt practice or illegal practice;
  - (d) whether corrupt practices or illegal practices have, or whether there is reason to believe that corrupt practices or illegal practices have, extensively prevailed at the election to which the petition relates; and
  - (e) if any persons are reported to have been guilty of any corrupt practice or of any illegal practice, whether those persons have or have not been furnished with certificates of indemnity.

103. (1) Before a person, not being a party to an election petition or a candidate on behalf of whom the seat is claimed by an election petition, is reported by an election court to have been guilty, at an election, of any corrupt or illegal practice, the court shall cause notice to be given to such person.

(2) If the person appears in pursuance of the notice, the election court shall give him an opportunity of being heard by himself and of calling evidence in his defence to show why he should not be so reported.

Right of person to be heard before he is reported guilty of corrupt or illegal practice.

104. Every person who is reported by an election court to have been guilty of any corrupt or illegal practice at an election shall, whether he obtained a certificate of indemnity or not, be subject to the same incapacity as he would be subject to, if he had at the date of such election been convicted of the offence of which he is reported to have been guilty.

Incapacity of person reported by election court to be guilty of illegal or corrupt practice.

105. (1) Where upon the trial of an election petition the election court, by the report made to the Speaker in pursuance of section 102 reports that any corrupt practice has been proved to have been committed in reference to the election by or with the knowledge and consent of a candidate at the election, the candidate shall be incapable of ever being elected a member of the Legislative Council for the electoral district in which he was a candidate at the election; and he shall further be subject to the same incapacities as if at the date of the said report he had been convicted of such corrupt practice.

Disqualification of candidates for corrupt or illegal practices.

(2) Where upon the trial of an election petition the election court reports in writing to the Speaker under section 102 that a candidate at the election has been guilty by his agent of any corrupt practice in reference to the election, the candidate shall be incapable, during a period of seven years after the date of the report, of being elected a member of the Legislative Council for the electoral district in which he was a candidate at the election.

(3) Where upon the trial of an election petition the election court reports in writing to the Speaker under section 102 that any illegal practice has been proved to have been committed in reference to the election by or with the knowledge and consent of a candidate at the

election, the candidate shall be incapable of being elected a member of the Legislative Council for five years next after the date of the report; and he shall further be subject to the same incapacities as if at the date of the report he had been convicted of such illegal practice.

(4) Where upon the trial of an election petition the election court reports in writing to the Speaker under section 102 that a candidate at the election has been guilty by his agent of any illegal practice in reference to the election, the candidate shall be incapable, during the life of the Legislative Council then in existence, of being elected as a member of the Legislative Council for the electoral district in which he was a candidate at the election.

Service of  
notices.

106. (1) Where any summons, notice or document is required to be served on any person with reference to any proceeding respecting an election, whether for the purpose of causing him to appear before the Supreme Court or for the purpose of giving him an opportunity of making a statement, or showing cause, or being heard by himself before any court for any purpose of this Ordinance, the summons, notice or document may be served either by delivering the same to the person, or by leaving the same at, or sending the same by post by a registered letter to, his last known place of abode in the electoral district, or in such other manner as the court may direct.

(2) In proving such service by post it shall be sufficient to prove that the letter was prepaid, properly addressed, and duly registered.

Rules of  
Court.

107. (1) Rules of Court may be made providing —

(a) for the deposit or giving by a petitioner of security to an amount not exceeding one thousand dollars for the payment of all costs, charges and expenses that may become payable by the petitioner;

(b) for the regulation of the practice procedure and costs of election petitions and the trial thereof, and the certifying and reporting thereon.

(2) Rules of Court made under the authority of subsection (1) of this section shall have effect as if they were enacted in this Ordinance.

(3) If any matter of procedure or practice on an election petition shall arise which is not provided for by this Ordinance or by Rules of Court made under this section, the procedure or practice followed in England in such matter shall, so far as it is not inconsistent with this Ordinance or any such Rules, be followed.

## PART VI.

### GENERAL

Power of the  
Supreme  
Court to  
decide right  
of any per-  
son to  
remain an  
elected  
member.

108. (1) All questions which may arise as to the right of any person to remain an elected member of the Legislative Council or of any elected member to take part in the proceedings of the Legislative Council shall be referred to and decided by the Supreme Court.

(2) Rules of Court may be made providing for the regulation of the practice procedure and costs of the determination of such questions and the trial thereof, and the certifying and reporting thereon.

109. Any person who is convicted, or who is reported by an election court to be guilty, of a corrupt or illegal practice or of illegal employment, payment or hiring at an election shall be deprived of his vote at that election, and his vote is hereby declared to be void.

Persons guilty of corrupt or illegal practices, etc. at an election prohibited from voting at that election

110. Every person who, in consequence of conviction or of the report of any election court, has become incapable of voting at any election, is hereby prohibited from voting at any such election, and, if he votes, his vote shall be void.

Prohibition of disqualified persons from voting

111. Where a person becomes subject to any incapacity under this Ordinance by reason of any conviction, or of a report of any election court, and any witness who gave evidence against such incapacitated person upon the proceeding for such conviction or report is subsequently convicted of perjury in respect of that evidence, the incapacitated person may apply to the Supreme Court, and the Court, if satisfied that the conviction or report regarding such person was based upon perjury may order that such incapacity shall thenceforth cease, and the same shall cease accordingly.

Power of Supreme Court to determine incapacity where decision was based on perjury.

112. The Governor in Council may make regulations generally for giving effect to the provisions of this Ordinance and without prejudice to such general power may make regulations —

Regulations.

- (a) prescribing the remuneration and travelling allowances to be paid to any election officer;
- (b) prescribing the duties of election officers and the procedure to be followed in the performances of those duties;
- (c) prescribing the returns to be made by returning officers to the Chief Electoral Officer;
- (d) prescribing the symbols to be used on every ballot paper and the mode of allocation of such symbols to candidates;
- (e) varying the forms set out in the first schedule and prescribing additional forms;
- (f) prescribing the period during which every employer shall permit his employees to be absent from work for the purpose of recording their votes;
- (g) prescribing penalties for the breach of any of the regulations made hereunder.

113. (1) All regulations made by the Governor in Council under this Ordinance shall be laid before the Legislative Council within fourteen days next after they are made if the Council is sitting on the last day as aforesaid, and if the Council is not then sitting or constituted within fourteen days after the commencement of the next ensuing sitting.

Regulations to be laid before Legislative Council.

(2) If, within twenty-one days after the regulations are laid before the Legislative Council, a resolution is passed by the Legislative Council that the regulations or any part of them be annulled, they shall thereby be annulled to the extent set forth in the resolution, and the regulations, or part thereof, so annulled shall thenceforth become void

and of no effect but without prejudice to the validity of any action in the meantime taken under the regulations, or part thereof, as the case may be.

(3) Any regulations, or any part thereof, which have not, within the period of twenty-one days after they are laid before the Legislative Council, been annulled by resolution of the Legislative Council, shall have effect as if enacted in this Ordinance.

Repeal.  
No. 13 of  
1945.  
Cap. 66.  
No. 13 of  
1945.

114. (2) The Legislative Council (Elections) Ordinance, 1945, and the Representation of the People Ordinance, are hereby repealed.

(2) Notwithstanding the provisions of subsection (1) of this section until such time as Rules of Court are made under this Ordinance the Rules of Court made on the 12th November, 1948, in exercise of the powers conferred by section 61 and section 93 of the Legislative Council (Elections) Ordinance, 1945, shall, *mutatis mutandis*, apply to matters arising under this Ordinance.

**FIRST SCHEDULE**

FORM No. 1

(Section 5 (4))

**THE REPRESENTATION OF THE PEOPLE ORDINANCE, 1957.**

**Oath of Returning Officer**

I, .....having been appointed returning officer for the electoral district of .....do swear (or solemnly affirm) that I will faithfully perform all the duties of such returning officer in accordance with the provisions of the Representation of the People Ordinance, 1957, and of any regulations made thereunder to the best of my ability.

SO HELP ME GOD

.....  
Returning Officer.

Sworn (or affirmed) before me at .....  
this ..... day of ..... 19....

.....  
Justice of the Peace.  
(or as the case may be).



FORM No. 2

(Section 6 (2))

**THE REPRESENTATION OF THE PEOPLE ORDINANCE, 1957.**

**Oath of Election Clerk.**

I, ..... having been appointed election clerk for the electoral district of ..... do swear (or solemnly affirm) that I will faithfully perform all the duties of such election clerk in accordance with the provisions of the Representation of the People Ordinance, 1957, and of any regulations made thereunder to the best of my ability.

SO HELP ME GOD

.....  
Election Clerk.

Sworn (or affirmed) before me at .....  
this ..... day of ..... 19....

.....  
Justice of the Peace.  
(or as the case may be).

FORM No. 3

(Section 7 (3))

**THE REPRESENTATION OF THE PEOPLE ORDINANCE, 1957.**

**Oath of Presiding Officer.**

I, ..... the undersigned, appointed presiding officer for polling-place No. .... of the electoral district of ..... swear (or solemnly affirm) that I will act faithfully in my said capacity of presiding officer, according to law, without partiality, fear, favour or affection, and that I will keep secret the names of the candidates for whom any of the electors in the abovementioned polling-place marks his ballot paper in my presence at this election.

SO HELP ME GOD.

.....  
Presiding Officer.

Sworn (or affirmed) before me at .....  
this ..... day of ..... 19....

.....  
Returning Officer.  
(or as the case may be).

FORM No. 4

(Section 7 (3) )

THE REPRESENTATION OF THE PEOPLE ORDINANCE, 1957.

Oath of Assistant Presiding Officer.

I, ..... the undersigned, appointed assistant presiding officer for polling-place No. .... of the electoral district of ..... swear (or solemnly affirm) that I will act faithfully in my capacity of assistant presiding officer, and also in that of presiding officer if required to act as such, according to law, without partiality, fear, favour or affection, and that I will keep secret the names of the candidates for whom any of the electors in the abovementioned polling-place marks his ballot paper in my presence at this election.

SO HELP ME GOD

.....  
Assistant Presiding Officer.

Sworn (or affirmed) before me at .....  
this ..... day of ..... 19....

.....  
Returning Officer.  
(or as the case may be).

FORM No. 5

(Section 8 (2) )

THE REPRESENTATION OF THE PEOPLE ORDINANCE, 1957.

Oath of a Poll Clerk.

I, ..... the undersigned, appointed as poll clerk for polling-place No. .... of the electoral district of ..... swear (or solemnly affirm) that I will act faithfully in my capacity of poll clerk and also in that of assistant presiding officer, if required to act as such, according to law, without partiality, fear, favour or affection, and that I will keep secret the names of the candidates for whom any of the electors in the abovementioned polling-place marks his ballot paper in my presence at this election.

SO HELP ME GOD

.....  
Poll Clerk.

Sworn (or affirmed) before me at .....  
this ..... day of ..... 19....

.....  
Presiding Officer.  
(or as the case may be).

FORM No. 6

(Section 14 (2) ).

THE REPRESENTATION OF THE PEOPLE ORDINANCE, 1957.

Writ of Election.

By His Excellency
Governor and Commander-in-Chief in and
over the Colony of British Guiana, Vice-
Admiral of the same,
etc., etc., etc.

Governor.

To THE RETURNING OFFICER
OF THE ELECTORAL DISTRICT OF

Whereas by subsection (1) of section 14 of the Representation of the People Ordinance, 1957, it is provided that for the purposes of every general election of members of the Legislative Council, and for the purposes of the election of members to fill vacancies caused by death, resignation, or otherwise, the Governor shall issue writs under the Public Seal of the Colony, addressed to the returning officers of the respective electoral districts for which members are to be returned:

\*And Whereas I think it expedient that writs should be issued for the election of members to serve in the Legislative Council:

†And Whereas the seat of the elected member for the Electoral District of
has become vacant in consequence of

Now, therefore, I, Governor as aforesaid, do hereby require that, notice of the time and place fixed for the nomination of candidates having been first duly given as required by law, you do on the day of at in the said Electoral District, cause election to be made according to law of a member to serve in the Legislative Council of the Colony for the said Electoral District and that, if necessary, you do cause, a poll to be taken on the day of 19..., and that you do cause the name of such member when so elected to be certified to me not later than the

Given under my Hand and the Public Seal of the Colony, at Government House, British Guiana, this day of, and in the year of Her Majesty's Reign.

By His Excellency's Command,

Governor's Secretary.

\*To be included in a writ for a general election.

†To be included in a writ for a bye-election.

FORM No. 7

(Section 14 (7) )

THE REPRESENTATION OF THE PEOPLE ORDINANCE, 1957.
Notice of Issue of Writ of Election of a Member of the Legislative Council for the Electoral District of .....

CHIEF SECRETARY'S OFFICE,
Georgetown, British Guiana,
..... 19....

Electoral District of .....

I hereby give notice that the Governor has issued His Writ for the election of a member of the Legislative Council for the Electoral District of .....

The Governor has fixed ....., the ..... day of ..... 19...., as the day, and ..... as the place, on and at which the Returning Officer of the said electoral district shall, between the hours of 9 and 11 a.m., attend and receive the nomination of any duly qualified candidate or candidates for the seat to be filled.

If at the hour of 11 a.m. aforesaid two or more candidates stand nominated, a poll will be taken on ....., the ..... day of ..... 19...., at the polling-places in the said electoral district between the hours of 6 a.m. and 6 p.m.

CHIEF SECRETARY.

FORM No. 8

(Section 15 (2) )

THE REPRESENTATION OF THE PEOPLE ORDINANCE, 1957.
Notice of Date, Time and Place for Nomination of Candidates for the election of a Member of the Legislative Council for the Electoral District of .....

I HEREBY give notice that the Governor has issued and I have received the writ for the election of a member of the Legislative Council for the electoral district number .....

The Governor has fixed ....., the ..... day of ..... 19...., as the day and ..... as the place of election.

I shall attend on the day and at the place aforesaid, and I shall between the hours of 9 a.m. and 11 a.m. receive nomination of any duly qualified candidate or candidates for the seat to be filled. Forms of nomination may be obtained at the office of ....., at ....., between the hours of ..... and ..... daily except on Saturday, when the office is closed at ..... p.m., and on Sunday.

If at the hour of 11 a.m. aforesaid more than one candidate is nominated the election will be held on ....., the ..... day of ....., 19...., on which day the poll will be taken at the polling-places in the district between the hours of 6 a.m. and 6 p.m.

Returning Officer.
..... Electoral District.

Place of Office:

Date: .....

FORM No. 9

(Section 17 (3) )

**THE REPRESENTATION OF THE PEOPLE ORDINANCE, 1957.**

**Nomination Paper.**

I, ..... the undersigned, of .....  
 ..... in the county of ..... whose name appears  
 in the official list of electors for polling division ..... of the electoral  
 district of ..... do hereby propose the following person as a  
 proper person to serve as member for the said district in the Legislative Council.

Surname	Other Name	Abode	Rank, Profession or Occupation.

(Signed) .....

I, ..... the undersigned of .....  
 ..... in the county of ..... whose name  
 appears in the official list of electors for polling division ..... of the electoral  
 district of ..... do hereby second the nomination of the above-  
 mentioned ..... as a proper person to serve  
 for the said district in the Legislative Council.

(Signed) .....

FORM No. 10

(Section 18 (1) )

**THE REPRESENTATION OF THE PEOPLE ORDINANCE, 1957.**

**Statutory Declaration of a person nominated as a Candidate for election  
 as a Member of the Legislative Council.**

Qualification of .....  
 of .....  
 in the county of .....  
 nominated as a candidate for election as a member of the Legislative Council for the  
 electoral district of .....

I, .....  
 of .....  
 in the county of .....  
 do solemnly and sincerely declare as follows—

That I am duly qualified to be elected as a member of the Legislative Council for this electoral district, and that—

1. I am a British subject of the full age of twenty-one.
2. I have resided in the Colony for a period of at least two years immediately prior to the date of my nomination for election.
3. I am domiciled in the Colony and was resident in the Colony at the date of my nomination for election.
4. I am able to speak and read the English language.
5. I am able to speak the English language, but am incapacitated by .....  
.....(blindness) (or other physical cause) ..... from being able to read it.
6. I am not by any act on my part under any acknowledgement of allegiance obedience or adherence to a foreign Power or State.
7. I am not the holder of nor acting in an office of emolument under the Crown.
8. I am not a party to, or a partner in any firm, nor a director nor manager of any company, which is a party to, any contract with the Government of the Colony for or on account of the public service.
9. I am a (party to) (partner in ..... ) (director of .....  
.....) (manager of .....), which is a party to (a contract) (contracts) with the Government of the Colony for or on account of the public service and I have on the ..... day of ..... published in the English language in the *Gazette* and in .....  
.....(here state name of a newspaper circulating in the electoral district for which the declarant is a candidate) a notice setting out the nature of such (contract) (contracts), and (my interest) (the interest of .....  
.....) therein.
10. I am not an undischarged bankrupt.
11. I am not within any of the classes of persons who lack qualification or are disqualified by reason of crime or mental incapacity.
12. I am not disqualified for membership of the Legislative Council under any law in force in the Colony relating to offences connected with elections.

I make this declaration conscientiously believing the same to be true and according to the Statutory Declarations Ordinance.

Signed .....  
(Declarant).

Declared before me .....  
at .....  
This ..... day of ..... 19....

Signed .....

Note:—Paragraph 3 of the above statutory declaration is alternative to paragraph 2 paragraph 5 is alternative to paragraph 4 and paragraph 9 is alternative to paragraph 8.

FORM NO. 10 A. (Section 18 (2))

THE REPRESENTATION OF THE PEOPLE ORDINANCE, 1957.

Statutory Declaration of agent of a person nominated as a Candidate for election as a Member of the Legislative Council.

Qualification of ..... of ..... in the county of ..... nominated as a candidate for election as a member of the Legislative Council for the electoral district of .....

I, ..... of ..... in the county of ..... do solemnly and sincerely declare as follows —

That ..... is duly qualified to be elected as a member of the Legislative Council for this electoral district, and that —

- 1. He is a British subject of the full age of twenty-one.
2. He has resided in the Colony for a period of at least two years immediately prior to the date of his nomination for election.
3. He is domiciled in the Colony and was resident in the Colony at the date of his nomination for election.
4. He is able to speak and read the English language.
5. He is able to speak the English language, but is incapacitated by ..... (blindness) (or other physical cause) ..... from being able to read it.
6. He is not by any act on his part under any acknowledgement of allegiance, obedience or adherence to a foreign Power or State.
7. He is not the holder of nor acting in an office of emolument under the Crown.
8. He is not a party to, or a partner in any firm, nor a director nor manager of any company, which is a party to, any contract with the Government of the Colony for or on account of the public service.
9. He is a (party to) (partner in ..... ) (director of..... ) (manager of..... ), which is a party to (a contract) (contracts) with the Government of the Colony for or on account of the public service and he has on the..... day of ..... published in the English language in the Gazette and in..... (here state name of a newspaper circulating in the electoral district) a notice setting out the nature of such (contract) (contracts), and (his interest) (the interest of..... ) therein.
10. He is not an undischarged bankrupt.
11. He is not within any of the classes of persons who lack qualification or are disqualified by reason of crime or mental incapacity.
12. He is not disqualified for membership of the Legislative Council under any law in force in the Colony relating to offences connected with elections.

I make this declaration conscientiously believing the same to be true and according to the Statutory Declarations Ordinance. Signed ..... (Declarant).

Declared before me..... at .....

This ..... day of ..... 19..... Signed .....

NOTE:—Paragraph 3 of the above statutory declaration is alternative to paragraph 2, paragraph 5 is alternative to paragraph 4 and paragraph 9 is alternative to paragraph 8.

FORM No. 11

(Section 27 (3) )

**THE RERESENTATION OF THE PEOPLE ORDINANCE, 1957.**

**Oath that the Elector is the person intended to be referred to in the Official List of Electors.**

You swear (or affirm) that you are qualified to vote at this election of a member to serve in the Legislative Council and are not disqualified from voting thereat and that you verily believe that you are the person intended to be referred to by the entry, in the official list of electors used at this polling-place, of the name .....

.....  
whose occupation is given as .....  
and whose address is given as .....

SO HELP YOU GOD.

FORM No. 12

(Section 27 (4) )

**THE REPRESENTATION OF THE PEOPLE ORDINANCE, 1957.**

**Oath of Qualification.**

- (1) You swear (or affirm) that you are a British subject of the full age of twenty-one years;
- (2) that you are not within any of the classes of persons who lack qualification or are disqualified by reason of crime, mental capacity or by any law in force in the Colony relating to offences in connection with elections;
- (3) that you have not received anything nor has anything been promised to you directly or indirectly in order to induce you to vote or refrain from voting at this election; and
- (4) that you have not already voted at this election or been guilty of any corrupt or illegal practice in relation thereto.

SO HELP YOU GOD.



FORM No. 13

(Section 29 (1) )

THE REPRESENTATION OF THE PEOPLE ORDINANCE, 1957.

Transfer of Electors in Special Cases.

The Returning Officer,

Electoral District No. ....

Take notice that in accordance with Section 29 (1) of the Representation of the People Ordinance, 1957, I, the undersigned, whose name and particulars are set out in the official list for polling division ..... as follows:

..... am entitled to vote in person at polling-place ..... of the said polling division, but am precluded from doing so by reason of the particular circumstances of my employment at the date of the poll in the following capacity (strike out words that are not applicable):

- A member of the Police Force or Special Reserve Police Force or Volunteer Force;
- A Rural Constable
- A person employed by the returning officer for a purpose connected with the election.

I therefore ask that my name be transferred to the polling-place at ..... where I am able to vote.

.....  
Elector.

.....  
(Returning Officer or Commissioner of Police as the case may be).

FORM No. 14

(Section 31 (4) )

THE REPRESENTATION OF THE PEOPLE ORDINANCE, 1957.

Application for Appointment of Proxy.

To the Returning Officer for the electoral district of .....

I (Surname) .....  
(block letters)

(other names) .....  
being entitled to vote by proxy by virtue of service as .....  
..... on polling day hereby apply for the issue of a proxy paper appointing the following person as proxy to vote for me:—

- Full names .....
- Occupation .....
- Place of Residence .....
- Relationship if any to elector .....

Signature ..... Date .....

Note 1—Unless you give notice to the returning officer cancelling the appointment, a proxy appointed in consequence of this application will be entitled to vote for you so long as your application continues in force.

Note 2—A person to be proxy must be a British subject and not subject to any legal incapacity.

A person cannot vote as proxy at an election in any electoral district for more than two electors of whom he or she is not the husband, wife, parent, grandparent brother, sister, child or grandchild.

FORM No. 15

(Section 31 (4) )

**THE REPRESENTATION OF THE PEOPLE ORDINANCE, 1957.**

**Proxy Paper.**

Electoral District .....

Polling-place .....

(Name of proxy) .....

(Address) .....

is hereby appointed as proxy for

(Name of elector) .....

(No. on official list) .....

to vote for him/her at the election for the above electoral district.

.....  
Returning Officer.

(Address) .....

Date .....

FORM No. 16

(Section 31 (5) )

**THE REPRESENTATION OF THE PEOPLE ORDINANCE, 1957.**

**Form of Cancellation of Proxy Paper.**

To the Returning Officer for the electoral district of .....

.....

I, .....

hereby cancel the appointment of .....

of ..... as proxy to vote for me at the election

for the above electoral district.

(Signed) .....

(Address).....

Date .....

FORM No. 17 (Sections 33(2) & 34(1)

THE REPRESENTATION OF THE PEOPLE ORDINANCE, 1957.

Ballot Paper

Form of Front of Ballot paper

Counterfoil No.  The counterfoil is to have a number to correspond with that on the back of the Ballot Paper.	<b>1</b>	<b>BROWN</b> (JOHN EDWARD Brown, of 52, Water Road, Georgetown, merchant.)	Symbol
	<b>2</b>	<b>BROWN</b> (THOMAS WILLIAM Brown, of 136, Stonedam, Georgetown, salesman.)	Symbol
	<b>3</b>	<b>JONES</b> (William David Jones, of 16, Camp Avenue, Georgetown, engineer.)	Symbol
	<b>4</b>	<b>SMITH</b> (Mary Smith, of 72, D'Urban Road, Georgetown, married woman.)	Symbol

Form of Back of Ballot Paper.

No. \_\_\_\_\_ Election for the \_\_\_\_\_ electoral  
 district \_\_\_\_\_ day of \_\_\_\_\_ 19

FORM No. 18

(Section 35 (1)

THE REPRESENTATION OF THE PEOPLE ORDINANCE, 1957.

Oath of Identity of an Elector receiving a ballot paper after another has voted in his name.

You swear (or affirm) that you are .....  
 (Name as on list of electors)

of .....  
 (Address as on list of electors whose name is entered on the list of electors now shown you).

SO HELP YOU GOD.

FORM No. 19

(Section 35 (3) )

**THE REPRESENTATION OF THE PEOPLE ORDINANCE, 1957.****Oath of Incapacitated Elector (Other than Blind Elector)**

You swear (or affirm) that you are incapable of voting without assistance by reason of physical incapacity.

SO HELP YOU GOD.

FORM No. 20

(Section 35 (3) )

**THE REPRESENTATION OF THE PEOPLE ORDINANCE, 1957.****Oath of Blind Elector.**

You ..... of .....  
swear (or affirm) that you are incapable of voting without assistance by reason of your inability to see.

SO HELP YOU GOD.

FORM No. 21

(Section 35 (5) )

**THE REPRESENTATION OF THE PEOPLE ORDINANCE, 1957.****Oath of Friend of Incapacitated Elector.**

- (1) You swear (or affirm) that you will keep secret the name of the candidate for whom you mark the ballot paper of the incapacitated elector on whose behalf you act.
- (2) That you have not already voted as the friend of an elector incapacitated from voting by blindness or other physical cause for the purpose of marking his ballot paper at this election.

SO HELP YOU GOD.

THE REPRESENTATION OF THE PEOPLE ORDINANCE, 1957.

**Poll Book.**

Particulars of Electors				Particulars of Oaths		Record that Elector has marked ballot paper (b)	Particulars of voting of blind or physically incapacitated electors		Objections if any made on behalf of any Candidates	Remarks
Name of Elector	Occupation	Post Office address	Number of Elector on official list	Form numbers of Oaths if any Elector is required to swear	Record that Oath sworn or refused (a)		Record that Elector's ballot has been marked by friend or presiding officer (c)	Reason for marking of ballot by friend or presiding officer		

- a) If sworn insert "sworn", if refused insert "refused to be sworn".
- b) If tendered ballot marked insert "marked".
- c) If marked by friend insert "friend", if by Presiding Officer, insert "P.O."

**SECOND SCHEDULE****(Sections  
53 (1) & 66 (1))****PART I.****Persons Legally Employed for Payment.**

- (a) One election agent.
- (b) One sub-agent in each polling division.
- (c) One polling agent in each polling-place.
- (d) Two clerks and two messengers for the committee room.

**PART II.****Legal expenses in addition to expenses under Part I.**

- (a) The personal expenses of the candidate.
- (b) The expenses of printing, advertising, publishing, issuing and distributing addresses and notices.
- (c) The expense of stationery, messages, postages and telegrams.
- (d) The expense of holding public meetings.
- (e) The expense of one committee room.

**PART III.****Miscellaneous Matters.**

Subject to the provisions of this Ordinance expenses in respect of matters not specified in Parts I and II of this schedule which, together with the expenses incurred under the said Parts, do not exceed one thousand five hundred dollars.