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The following Bills which will be introduced in the National Assembly are published for general information.

F. A. NARAIN,  
Clerk of the National Assembly

No. 364

BILL NO. 23 OF 1969

THE LOCAL AUTHORITIES (ELECTIONS) BILL, 1969.

Arrangement of Sections.

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## A BILL

## Intituled

AN ACT to make provision for the election of members of Local Authorities, for the preparation of Electoral Registers for the purposes of such elections, for the determination of disputes in connection with such elections and of disputes in connection with elections to certain offices in Local Authorities and for matters incidental to and connected with the aforesaid purposes.

Enacted by the Parliament of Guyana:—

A.D. 1969

## PART I

## PRELIMINARY

1. This Act may be cited as the Local Authorities (Elections) Act, 1969, and shall come into force on such day as the Minister may, by order published in the *Gazette*, appoint. Short title and commencement.

2. (1) In this Act, unless the context otherwise requires Interpretation.

“assistant agent” means an assistant agent appointed by an election agent under section 56;

“carriage” includes a mechanically propelled vehicle;

“central register” means the register for the time being in which the names of persons appear by reason of their respective registration and pursuant to which an identification card is issued to each of them;

“certificate of employment” means a certificate issued under section 61;

“Chief Election Officer” means the person appointed as such for elections to the National Assembly;

“clerk of the local authority” means the officer of a local authority declared by the Act or the Ordinance under which it is constituted to be the clerk thereof for the purposes of this Act;

“costs” includes charges and expenses;

“councillor” means a councillor of a local authority;

“Court” means the High Court;

“election” means an election of councillors;

“election day” means the day appointed by order of the Minister under section 35 for the holding of an election;

“election officer” means —

- (a) a returning officer;
- (b) a deputy returning officer;
- (c) an election clerk;
- (d) a presiding officer;
- (e) an assistant presiding officer;
- (f) a poll clerk;

“group of candidates” means the candidates named in an official list of candidates;

“Judge” means a Judge of the Court;

“local authority” means any local authority which is declared by the Act or the Ordinance under which it is constituted to be a local authority to which this Act applies and to be a local authority within the meaning of this Act;

“local authority area” means the area administered by a local authority;

“identification card” means the document, or copy thereof, pertaining to the identity of a person and which is issued to him pursuant to the enactment for the time being in force regulating his registration;

“Minister” means the Minister for the time being charged with responsibility for elections to the National Assembly;

“payment” includes any pecuniary or other reward;

“personal expenses” when used in relation to the personal expenses of a candidate include his reasonable travelling expenses and the reasonable expenses of his living at hotels or elsewhere for the purpose of or in connection with an election;

“preliminary list” means a preliminary list of voters having residential qualifications prepared under section 11;

“presiding officer” includes an assistant presiding officer;

“qualifying date” means such date as may be appointed by the Minister with reference to which a register of voters shall be compiled;

“register of voters” means a register of voters for a local authority area compiled under this Act;

“registered voter” means a person whose name appears on a register of voters;

“Registrar” means the Registrar of the Court;

“registration officer” means—

(a) an electoral registrar;

(b) an assistant electoral registrar;

“registration order” means an order made by the Minister under section 8;

“returning officer” includes a deputy returning officer;

“signature” includes the mark of a person who is unable to read or write;

“supplementary list” means a supplementary list of voters registered as such and prepared under this Act.

(2) Where in this Act there is a reference to a Part, section or schedule by number only and not in conjunction with the title of an Act or an Ordinance, such reference shall be construed as a reference to the Part, section or schedule of that number contained in this Act.

(3) Where in any section of this Act there is a reference to a subsection or paragraph by number or letter only and not in conjunction with the number of any section of this or of another Act or of an Ordinance, such reference shall be construed as a reference to the subsection or paragraph of that number or letter contained in that section in which the reference appears.

## SUPERVISION OF ELECTIONS

Supervision  
of Elections  
by Minister.

3. (1) The Minister shall —

- (a) exercise general direction and supervision over the registration of voters and over the administrative conduct of elections;
- (b) issue such instructions and take such action as appears to him necessary or expedient to ensure impartiality, fairness and compliance with Parts II and III on the part of registration and election officers and other persons exercising powers or performing duties connected with or relating to the registration of voters and the administrative conduct of elections;
- (c) exercise such other powers and discharge such other duties as he is required or empowered to exercise or discharge by or under this Act.

(2) The Minister shall have power, if he thinks it necessary or desirable so to do, to extend the time for doing anything required to be done by or under Parts II and III, and where by or under those Parts any act is required to be done not later than a specified number of days before election day he shall have power, if he thinks it necessary

or desirable so to do, to extend the time allowed by reducing the number of days so specified; and the following provisions shall have effect in relation to any power conferred by this subsection, that is to say—

- (a) the power may be exercised either generally or specially;
- (b) the power may be exercised so as to make valid anything already done after the expiration of the time allowed;
- (c) the Minister shall, as soon as practicable after any exercise of the power, publish in the *Gazette* a notification thereof, which shall include a brief statement of the reasons for, and the effect of, that exercise.

CHIEF ELECTION OFFICER AND REGISTRATION AND OTHER ELECTION OFFICERS

4. The Chief Election Officer shall have such staff as may be necessary or desirable to enable him to exercise his functions under this Act. Staff of Chief Election Officer.

5. (1) There shall be appointed for any local authority area for which a registration order is made an electoral registrar and such assistant electoral registrars and other staff as may be necessary or desirable for the preparation of the register of voters for that area, but an electoral registrar may be appointed for more than one local authority area. Appointment of registration and election officers.

(2) There shall be appointed for any local authority area in which an election is to be held a returning officer and an election clerk and for each polling place therein a presiding officer and a poll clerk; and there may further be appointed such deputy returning officers and assistant presiding officers and other staff as may be necessary or desirable for the conduct of the election.

(3) The electoral registrar and the returning officer shall forthwith after they have taken their respective oaths of office establish offices and shall publish notices specifying the addresses thereof.

6. All registration officers and all election officers shall in the exercise of the powers and discretions vested in them and of the duties required to be discharged by them be responsible to the Chief Election Officer. Responsibility of registration and election officers.

7. (1) The Chief Election Officer, every registration officer and every election officer shall, before performing any of the functions of their offices under this Act, take the appropriate oath for his office in the prescribed form. Oaths of Office.

(2) The Chief Election Officer shall take his oath of office before a justice of the peace; and registration officers and election officers shall take their oaths of office before a justice of the peace, the Chief Election Officer, another registration officer or another election officer.

(3) Every justice of the peace is hereby empowered to administer any oath required by this Act; and the Chief Election Officer and every registration officer and every election officer is empowered to administer any such oath other than the oath of office of the Chief Election Officer:

Provided that the Chief Election Officer and no registration officer and no election officer shall administer an oath until he has taken his oath of office.

PART II

REGISTRATION OF VOTERS

PREPARATION OF REGISTER OF VOTERS

8. (1) The Minister may by order require the preparation of a register of voters for any local authority area and may by such order require the preparation of a register for each of more than one such area. Registration Order.

- (2) An order made under this section may prescribe or provide for —
- (a) a qualifying date;
  - (b) the day not later than which the electoral registrar shall publish under section 12 the preliminary list;
  - (c) the days to be specified in the notice published under section 12 on which applications may be made for registration as voters;
  - (d) the days on which objections may be lodged against the inclusion of names in the preliminary lists and on which applications may be made by persons whose names appear in the preliminary list for correction of their particulars as shown in the list;
  - (e) the day not later than which the supplementary lists and all forms of objections and applications for correction of particulars shall be sent to the electoral registrar by the assistant registrar to the electoral registrar under section 19;
  - (f) the day not later than which the electoral registrar shall hear and determine under section 20 objections and applications for correction of particulars;
  - (g) the day not later than which the electoral registrar shall correct the preliminary and supplementary lists under section 22.

(3) An order made under this section shall be published in the *Gazette* and a copy thereof published by the local authority to which it relates.

Manner of compilation of register of voters.

9. The register of voters for each local authority area shall be compiled in accordance with the provisions of this Part.

Qualifications for registration.

10. (1) A person shall be qualified to be registered as a voter for a local authority area if, and shall not be so qualified unless, on the qualifying date he is qualified to be registered as an elector for elections to the National Assembly and the local authority area.

(2) The following rules shall apply to the interpretation of the expression "ordinarily resident" with reference to the qualification of a person to be registered as a voter —

- (a) subject to the provisions of this subsection, the question whether a person is or was ordinarily resident at any material time or during any material period shall be determined by reference to all the facts of the case;
- (b) the place of ordinary residence of a person is generally that place which he has always been, or which he has adopted as, the place of his habitation or home to which place, when away therefrom, he intends to return; and in particular, when a person normally sleeps in one place and has his meals or is employed in another place, his place of residence is where he sleeps;
- (c) in general, a person's place of residence is where his family is; if he is living apart from his family with intent to remain apart in another place, his place of residence is such other place;
- (d) temporary absence from a place does not cause a loss or change of residence; but where a person is, by reason of his employment, absent on the date of his application to be registered as a voter from the place where he is ordinarily resident, he shall be deemed, if he so elects, to be ordinarily resident, at the place of his employment instead of at his place of residence.

Compilation of preliminary list.

11. (1) The electoral registrar shall compile the preliminary list of voters for the local authority area by extracting from the central register the names and other particulars therein given of persons whose

addresses are recorded in such register as within the area; and the electoral registrar shall certify the preliminary list in the prescribed form.

(2) Any person whose name appears in the preliminary list as certified under subsection (1) may give notice, within the period specified in a registration order and in the manner hereinafter mentioned, objecting to the inclusion in the preliminary list of any person.

12. (1) The electoral registrar shall, not later than such day as may be prescribed by the registration order, publish a copy of the preliminary list, together with a notice in the prescribed form inviting—

- Notice inviting application for registration.
- (a) every person, whose name does not appear in the preliminary list, who believes himself to be qualified to be registered as a voter for the local authority area, to apply to an assistant electoral registrar to be so registered;
  - (b) any person whose name appears in the preliminary list to —
    - (i) lodge an objection in writing in the prescribed form with an assistant electoral registrar to the inclusion in the preliminary list of any person, on the ground that by reason of the facts stated in the objection such person is not qualified to be registered, by reason that he is not a person qualified to be registered by virtue of a residential qualification as a voter for the local authority area; and
    - (ii) forward by registered post a copy of his objection to the person to whose inclusion in the preliminary list objection is made;
  - (c) any person whose name appears in the preliminary list whose particulars are incorrectly stated in the preliminary list to lodge an application in writing in the prescribed form with an assistant electoral registrar for the appropriate corrections to be made.

(2) Every objection made under this section shall be submitted with a deposit of three dollars.

(3) The electoral registrar shall send copies of the preliminary list to the Chief Election Officer and to the Registrar of births and deaths.

(4) The notice required to be published under subsection (1) shall specify the days on which (which shall be the days prescribed by the registration order) and the hours between which and the place or places where application may be made or objections lodged.

(5) Not later than three days after the latest day allowed for the lodging of objections to the inclusion of any person in the preliminary list, the assistant electoral registrar shall affix at the place or places appointed for the lodging of objections a list of objections which shall state —

- (a) the name, occupation, place of residence and postal address of any person to whose inclusion in the preliminary list objection has been made;
- (b) the name, occupation, place of residence and postal address of the person making the objection;
- (c) the grounds of each objection.

13. An assistant electoral registrar shall attend on the days and between the hours and at the place or places specified in the notice given under section 12 to receive applications made and objections lodged pursuant to that notice.

Assistant electoral registrar to receive applications.

14. Every application for registration as a voter for the local authority area, made pursuant to subsection (1) of section 12 shall be made personally and in the manner hereinafter provided to an assistant electoral registrar at a place and on a day, and at an hour on such day, specified in the notice given under section 12.

Applications to be made personally.

Applications  
for registra-  
tion.

15. (1) Every applicant for registration as a voter in so far as the following requirements may be applicable in relation to him, shall —

- (a) furnish in writing in the prescribed form the following particulars namely —
  - (i) his surname and other names;
  - (ii) the address at which he is ordinarily resident;
  - (iii) his occupation
  - (iv) his nationality;
  - (v) the place and date of his birth;
  - (vi) the country of his domicile;
  - (vii) whether his name is included in the preliminary list or in the central register and if the latter the place of registration;
  - (viii) the serial number of his identification card (if any);
  - (ix) such further particulars as the assistant electoral registrar may, in any particular case, reasonably consider necessary for the purpose of enabling him to determine the application;
- (b) produce a birth or baptismal certificate, if so required by the assistant electoral registrar;
- (c) furnish such documentary or other proof of any of the particulars specified in paragraph (a) of this subsection as the assistant electoral registrar may in any particular case reasonably consider necessary to satisfy himself of the truth thereof;
- (d) comply with such requirements of the assistant electoral registrar as may be reasonably necessary for the measurement and recording of his height;
- (e) comply with such requirements of the assistant electoral registrar as may be reasonably necessary for the taking and recording of his left thumbprint, or if this is not possible, of some other single fingerprint;
- (f) answer any questions which the assistant electoral registrar may, in any particular case, reasonably consider necessary to ask for the purpose of enabling him to decide whether the applicant is qualified to be registered as a voter.

(2) Every application under this section shall —

- (a) be completed in the presence of the assistant electoral registrar;
- (b) be signed by the applicant.

(3) No application shall be entertained under this section, unless the applicant produces his identification card to the assistant electoral registrar, or the assistant electoral registrar is otherwise satisfied as to the identity of the applicant.

(4) An applicant for registration under this section as a voter in the local authority area shall, if he is registered as a voter in another local authority area or if his name appears in a preliminary list of another such area, at the time of his application under this section for registration as a voter, request the assistant electoral registrar to cause his name to be deleted from the register of voters or the preliminary list, as the case may require, for the other local authority area; and thereupon the assistant electoral registrar shall complete the prescribed form at the direction of the applicant and forward it duly completed to the electoral registrar of that other local authority area, who shall delete the applicant's name from the register of voters or the preliminary list therefor, as the case may be.

Allowance of  
application for  
registration.

16. If the assistant electoral registrar is satisfied that an applicant for registration as a voter, who has complied with the requirements of sections 14 and 15, is qualified to be registered as a voter for the local authority area, he shall allow his application.

17. (1) The assistant electoral registrar shall disallow the application to him of any person for registration as a voter for the local authority area who — <sup>Disallowance of application for registration.</sup>

- (a) is not entitled to apply to him under sections 14 and 15;
- (b) being entitled so to apply has not complied with the provisions of those sections or has not satisfied him that he is qualified to be registered as such a voter.

(2) The assistant electoral registrar shall prepare in duplicate, and shall deliver to a person whose application for registration as a voter for the local authority area has been disallowed by him the original of a notice of disallowance which shall

- (a) be in the prescribed form;
- (b) specify the grounds upon which the application has been disallowed;
- (c) be signed by the assistant electoral registrar.

(3) The assistant electoral registrar shall deliver the duplicate of every notice of disallowance to the electoral registrar.

18. (1) An assistant electoral registrar may, for the purpose of maintaining order at a place appointed for applying for registration as a voter — <sup>Preservation of order.</sup>

- (a) regulate the admission of applicants;
- (b) exclude all other persons except —
  - (i) the Minister;
  - (ii) the Chief Election Officer;
  - (iii) registration officers;
  - (iv) members of the Police Force on duty;
  - (v) such other persons who, in his opinion, have good reason to be admitted;
- (c) issue such directions as may reasonably be necessary for such purposes.

(2) If any person (whether entitled to enter or not) misconducts himself at a place appointed for applying for registration as a voter or fails to obey the lawful directions of the assistant electoral registrar, he may immediately, by order of the assistant electoral registrar, be removed therefrom by a member of the Police Force or by any other person authorised in writing by the assistant electoral registrar to remove him, and the person so removed shall not, without the permission of the assistant electoral registrar, again enter the place during that day.

(3) Any person removed from a place appointed for applying for registration as a voter may if charged with the commission of an offence at that place be dealt with as a person taken into custody by a member of the Police Force for an offence without warrant.

19. Not later than such day as may be prescribed by the registration order, each assistant electoral registrar shall send to the electoral registrar — <sup>Submission of supplementary lists.</sup>

- (a) a supplementary list of persons registered as voters by him in which he shall set out the name, the address, the occupation and the serial number of the identification card of every person whose application to be registered as a voter for the local authority area he has allowed under section 16 together with —
  - (i) all application forms to be registered as a voter for the area;
  - (ii) the duplicates of all notices of disallowance issued under section 17;



- (b) all forms of objection received by him pursuant to section 12 together with all relevant documents;
- (c) all applications for corrections of particulars in the preliminary list received by him pursuant to section 12.

Hearing of objections by electoral registrar.

20. (1) The electoral registrar shall not later than such day as may be prescribed by the registration order, hear and determine objections and applications for corrections of particulars duly lodged under section 12.

(2) The electoral registrar shall —

- (a) publish a notice of the place at which, the day on and hours between which he will hear objections, applications for corrections of particulars in the preliminary list and the names of the persons and the reasons involved in such objections and applications;
- (b) send by registered post a notice of hearing in the prescribed form to the parties to each objection and application to be heard thereat.

(3) At the hearing of the objection or application for correction of particulars, the objector, the applicant, any person on behalf of whom the objection or application is made, and any person whose registration as a voter for the local authority area is complained of shall have a right to appear and to be heard either in person or by his legal representative or by any other person authorised by him in writing:

Provided that the electoral registrar may proceed to determine the objection or application in the absence of any such person.

(4) The electoral registrar may regulate the procedure at any hearing under this section.

(5) The electoral registrar shall have, for the purposes of hearing and determining an objection all the powers of an assistant electoral registrar under sections 15 to 17.

(6) If an objection to the registration of a person, whose name is included in the preliminary list issued under section 11, is allowed by the electoral registrar, the latter shall delete the entry of such name from that list.

(7) If the electoral registrar quashes a decision of an assistant electoral registrar allowing the application of a person to be registered as a voter for the local authority area, he shall endorse to that effect the application of such person to be so registered.

(8) The electoral registrar may, if he is of opinion that an objection was made without reasonable cause, order the deposit accompanying the objection to be forfeited to the council; but if no such order is made the deposit shall be refunded.

Registrar General to supply information as to births and deaths.

21. The Registrar General of births and deaths upon the request of a registration officer made under this section, shall furnish to free of charge to such registration officer —

- (a) information whether the birth of any applicant for registration as a voter for the local authority area has been registered under the Registration of Births and Deaths Ordinance;
- (b) particulars of any entries pertaining to any such applicant in any register of births or certified copy thereof kept by him under that Ordinance.

Cap. 162.

Correction of lists.

22. (1) Not later than such day as may be prescribed by the registration order the electoral registrar shall correct the preliminary list —

- (a) by deleting therefrom the names of persons so as to give effect to his determination under section 20 of objections, and the names of persons who have, on application to be registered as voters for another local authority area, applied under sub-section (4) of section 15 to have their names deleted;

- (b) by making such corrections thereto so as to give effect to his determination under section 20 of applications for corrections of particulars therein and by way of rectification of clerical errors, removal of duplicate entries, insertion of names accidentally omitted, amendment of particulars of entries or otherwise as are necessary to ensure that the preliminary list is complete and accurate.

(2) No later than such day as may be prescribed by the registration order the electoral registrar shall correct the supplementary lists by way of rectification of clerical errors, removal of duplicate entries, insertion of names accidentally omitted, amendment of particulars of entries or otherwise to ensure that the supplementary lists are complete and accurate.

23. (1) Upon completion of the correction of the preliminary list and of the supplementary lists the electoral registrar shall certify them in the prescribed form and shall publish a copy thereof so certified and shall send to the Chief Election Officer a copy thereof so certified.

(2) At the time of the publication pursuant to subsection (1), the electoral registrar shall likewise publish a notice setting out the names of persons deleted from the preliminary and supplementary lists.

(3) When certified under subsection (1) the preliminary list and the supplementary lists shall together constitute the register of voters for the local authority area.

(4) The register of voters for the local authority area shall come into force at such time as shall be prescribed by the Chief Election Officer by notice published in the *Gazette* and shall be open for inspection at all reasonable times at the offices of the local authority, and copies thereof shall be printed.

24. If at any time after the register of voters for the local authority area has come into force under section 23 the Chief Election Officer is satisfied that the name of any person whose name was included in the preliminary list or a supplementary list prior to correction by the electoral registrar under section 22 has through inadvertence been omitted from that register of voters, the Chief Election Officer shall insert in the register the name and other particulars of the person concerned, initial the correction and notify the person of the insertion.

#### MISCELLANEOUS REGISTRATION OFFENCES

25. Any registration officer who —

- (a) wilfully omits from a preliminary or supplementary list or from a register of voters the name of any person entitled to have his name entered therein;
- (b) wilfully enters in a preliminary or supplementary list of voters or in a register of voters the name of any person who is not entitled to have his name entered therein, or
- (c) when performing his functions under this Part, attempts to ascertain the manner in which any person intends to vote at an election or to influence any person as to the manner of exercise of his vote,

shall be guilty of an offence.

26. Any person who without lawful authority destroys, mutilates, defaces or removes, or makes any alteration in, a preliminary or supplementary list or register of voters, or an identification card, notice of disallowance or other document made or issued in connection with the registration of voters shall be guilty of an offence.

27. Any person who applies to be registered as a voter upon grounds which he knows to be false or does not believe to be true, shall be guilty of an offence.

Certification  
of lists.

Insertion in  
register of  
names omitted  
through inad-  
vertence.

Offences by  
registration  
officers.

Destroying or  
altering  
documents.

False  
applica-  
tions.

False statements.

28. Any person who makes to a registration officer, when performing his functions under this Part, any oral or written statement which he knows to be false or does not believe to be true shall be guilty of an offence.

Obstruction.

29. Any person who assaults, resists, obstructs or wilfully delays a registration officer in the performance of his duties under this Part shall be guilty of an offence.

#### GENERAL

Supply of forms.

30. It shall be the duty of the electoral registrar to ensure that such of the prescribed forms as may be required by the public in the local authority area for the purposes of or incidental to their registration as voters for that area are readily available, free of charge.

Mode of cons. sending documents to electoral registrar.

31. Any notice or other document which under this Part, is to be sent to the assistant electoral registrar or the electoral registrar shall be sent to him by registered post at his office or delivered by hand.

Publication of notices by registration offi-

32. Where any notice or other document is required by any provision of this Part to be published by a registration officer, he shall cause the same to be affixed to the offices of the local authority and of the electoral registrar and may cause such further publication of the document as he may think desirable to bring its contents to the attention of persons residing in the local authority area.

Assistance to incapacitated persons.

33. A registration officer shall, at the request of any applicant for registration as a voter who is unable by reason of illiteracy or physical defect, to complete a prescribed form, assist such person and shall make an endorsement thereon to the effect that he has so assisted him at his request.

Expenses of registration.

34. The expenses of the registration of voters (including the payment of emoluments of registration officers and their staffs) shall be paid out of funds provided by the local authority of the area for which the registration is ordered.

#### PART III

#### ELECTIONS

#### DAY FOR HOLDING OF ELECTION AND ELECTORAL SYSTEM

Election day.

35. (1) An election shall be held on such day as the Minister may by order appoint.

(2) An order under this section shall be published in the *Gazette* and a copy thereof published by the local authority to which it relates.

Postponement of election day.

36. (1) If the Minister is satisfied that the holding of an election on election day would be attended by danger or serious hardship he may by order postpone the election to a day specified in such order, which day shall then, for the purposes of this Part, be election day.

(2) An order made under this section shall be published in the *Gazette* and a copy thereof published by the local authority to which it relates.

Election to be by secret ballot.

37. An election shall be conducted by secret ballot.

Electoral system.

38. (1) The area of the local authority to which the councillors are to be elected shall form one electoral area for determining the result of the election; and votes shall be cast in favour of lists of candidates published in accordance with section 51.

(2) Notwithstanding the provisions of subsection (1) the Minister may, by order divide the area of a local authority into such number of electoral areas as he shall therein specify and voters resident in any such electoral area may vote for a list of candidates for such electoral area, and the Minister shall in such order, notwithstanding the provisions of any other law to the contrary, prescribe the number of registered voters for any such electoral area who may submit a list of candidates for such area and the provisions of sections 41 to 54 (except section 43) shall, in so far as they are not inapplicable thereto, apply to such lists of candidates; and the Minister shall, in such order, subject to the provisions of the Municipal and District Councils Act, 1969, further prescribe the number of councillors who shall be elected for every such electoral area, and the provisions of this Act shall, in so far as they are not inapplicable thereto, apply to such electoral area as they apply to the area of a local authority which forms one electoral area.

39. There shall be for the local authority area such polling places as the returning officer, subject to the approval of the Chief Election Officer, may appoint; and each polling place shall bear such numerical or other designation as may be approved by the Chief Election Officer.

#### QUALIFICATIONS OF COUNCILLORS

40. (1) Subject to the provisions of subsection (2) a person shall be qualified to be elected as a councillor if, and shall not be so qualified unless, he is a registered voter for the local authority area to which he seeks election.

(2) No person shall be qualified to be elected as a councillor, or if so elected to hold or continue in office as a councillor if he —

- (a) is the holder of or is acting in an office specified in Schedule 1;
- (b) has been adjudged insolvent or has made a composition or arrangement with his creditors;
- (c) has within twelve months before election day or since his election received any assistance under the Poor Relief Ordinance;
- (d) has within five years before election day or since his election been surcharged to an amount exceeding one thousand dollars;
- (e) is, on the qualifying date or at the time when he is elected a councillor, serving a sentence of imprisonment of not less than three months for any offence or has since the election been convicted of any offence and sentenced to any such term of imprisonment;
- (f) has been disqualified from holding office as a councillor pursuant to any law;
- (g) has within five years before election day or since the election been convicted of, or reported in the certificate of the Court in connection with, a corrupt or illegal practice;
- (h) is unable to read or write the English Language;
- (i) is a councillor of another local authority or consents to the inclusion of his name in a list of candidates at an election to another local authority;

Provided that —

- (i) the disqualification attaching to a person by reason of his having been adjudged insolvent shall cease —
  - (a) if the insolvency is annulled either on the ground that he ought not to have been adjudged insolvent, or that his debts have been paid in full, on the date of the annulment; or

- (b) if he is discharged with a certificate that the insolvency was caused by misfortune without any misconduct on his part, on the date of his discharge; or
- (c) in any other case, on the expiration of five years from the date of his discharge;
  - (ii) the disqualification attaching to a person by reason of his having made a composition or arrangement with his creditors shall cease —
- (a) if he pays his debt in full, on the date on which the payment is completed; or
- (b) in any other case, on the expiration of five years from the date on which the terms of the deed of composition or arrangement are fulfilled.
- (iii) for the purpose of paragraphs (d), (e), (f) and (g) the ordinary date on which the period allowed for making an appeal or application with respect to the surcharge or conviction expires or, if such an appeal or application is made, the date on which the appeal or application is finally disposed of or abandoned or fails by reason of the non-prosecution thereof, shall be deemed to be the date of the surcharge or conviction as the case may be.

#### LISTS OF CANDIDATES

- Notice of day for submission of lists.
41. (1) The Chief Election Officer shall by notice appoint the day being a day not later than the 21st day before election day, on which lists of candidates may be submitted to the returning officer, and there shall be included in the notice particulars of the hours between which and the place at which the returning officer will attend to receive the lists.
- (2) A notice given under this section shall be published in the *Gazette* and a copy thereof published by the returning officer.
- Returning officer to receive lists.
42. The returning officer shall attend in accordance with the notice given under section 41 to receive the lists of candidates; and no list shall be received at any other time or place.
- Lists to be submitted by registered voters.
43. A list of candidates may be submitted by the following numbers of registered voters for the local authority area namely — the number set out in the Act or the Ordinance under which the local authority is constituted.
- Requirements of lists.
44. (1) A list of candidates shall be handed, together with one copy thereof, to the returning officer by the representative or the deputy representative of the list or by two of the persons named as candidates on the list at the time and place appointed; and the returning officer shall forthwith cause the copy of the list to be posted in a conspicuous place outside his office.
- (2) A list of candidates shall be in the prescribed form; and the submission shall bear the signature of each person submitting the same together with his name and the serial number of his identification card:
- Provided that if any such person is unable to sign his name, his mark, made against his name written by a justice of the peace, shall be deemed to be his signature for the purposes of this subsection but not for the purposes of section 45.
- (3) A list of candidates shall set out the names, one below the other in the alphabetical order of the surnames, of persons equal in number to the number of persons to be elected as councillors, being persons who are qualified to be so elected and who have consented to the inclusion of their names in the list as candidates for election, together with the address and occupation of each such person.

(4) Each list of candidates shall be accompanied by a statutory declaration, in the prescribed form, by each person named therein as a candidate of his qualifications and consent, made before a justice of the peace, a commissioner of oaths or other person authorised by law to administer an oath in the place where the declaration is made.

(5) Each list of candidates shall bear a title selected by the persons by whom it is submitted.

(6) No person shall be a candidate on more than one list of candidates and no person shall be a signatory to more than one list.

(7) For the avoidance of doubt it is declared that a person may be a signatory to a list of candidates notwithstanding that he is named therein as a candidate.

45. The persons submitting a list of candidates may nominate any registered voter as representative of the list and another as <sup>Representatives of</sup> deputy representative and —

- (a) where neither a representative nor a deputy representative is so nominated, the persons whose signatures appear first and second in the submission shall be deemed to have been nominated as representative and deputy representative, respectively;
- (b) where a representative is not so nominated, the person nominated as deputy representative shall be deemed to have been nominated as representative and the person (other than the person nominated as deputy representative) whose signature appears first in the submission shall be deemed to have been nominated as deputy representative; and
- (c) where a deputy representative is not so nominated, the person (other than the person nominated as representative) whose signature appears first in the submission shall be deemed to have been nominated as deputy representative.

46. (1) On receipt of the lists of candidates the returning officer <sup>Defective</sup> shall examine them for the purpose of ascertaining whether they have <sup>lists.</sup> been submitted in accordance with the provisions of section 44 and if it appears to him that a list of candidates is defective, that is to say, that the list or its submission does not comply in all respects with the requirements of subsections (1), (2), (3), (4) and (5) of section 44 or bears a misleading title, he shall, not later than the 21st day before election day, so inform the representative and the deputy representative of the list, specifying the defects:

Provided that if the list does not bear a title the returning officer may, if it seems to him just and proper to do so, instead of treating the list as defective, allocate a title thereto.

(2) If the name of any person appears as a candidate on two or more lists of candidates the returning officer shall —

- (a) not later than the 21st day before election day inform the representatives and deputy representatives of the lists concerned;
- (b) delete the name of that person from any list on which the returning officer is satisfied he did not consent to the inclusion of his name;
- (c) delete his name from each list on which it appears if the returning officer is satisfied that he consented to the inclusion of his name on more than one list.

(3) If the name of any person appears as a signatory to the submission of more than one list, his signature shall be inoperative on any list other than the one first delivered to the returning officer and the returning officer shall delete his name from every other list, and if by reason of such deletion it appears to the returning officer that any list is defective in that there remain less than the required number of signatories thereto, such list shall be treated as defective.

Corrections  
to lists.

47. The representative and deputy representative of a list of candidates, or either of them, may, not later than the 20th day before election day, submit to the returning officer corrections of any defects in the list (whether or not those defects are defects which have been notified under section 46).

Applications  
for symbols.

48. (1) The representative and deputy representative of a list of candidates, or either of them, may, not later than the 21st day before election day, make application in writing addressed to the returning officer for the allocation of a symbol which shall be a symbol approved by the Chief Election Officer.

(2) Applications for symbols shall be considered by the Chief Election Officer in the order in which they have been received but no right shall be conferred by priority of application to the allocation of the symbol for which application is made or for any particular symbol.

Approval  
of lists.

49. (1) Subject to the provisions of section 50, no list of candidates shall be valid unless it has been approved by the returning officer not later than the 20th day before election day.

(2) If it appears to the returning officer that a list of candidates is not defective or that defects in it have been cured by corrections submitted in accordance with section 47, he shall approve it and affix thereto the symbol duly allocated by the Chief Election Officer, and if it appears to the returning officer that a defective list has not been corrected, he shall refuse to approve it.

(3) Not later than the 20th day before election day, the returning officer shall notify the representative and deputy representative of each list that the list is or is not approved and shall publicly declare the titles of the approved lists and the names of candidates thereon.

(4) The refusal of the returning officer to approve a list shall not be called in question except by appeal under section 50, and the approval of a list by the returning officer shall not be called in question except in accordance with the provisions of Part IV.

Appeal  
against  
refusal  
of approval.

50. (1) Where the returning officer has refused to approve a list of candidates, the representative and deputy representative of the list, or either of them, may, not later than the 20th day before election day appeal against such refusal to the magistrate of the judicial district in which are situated the offices of the council.

(2) The magistrate shall hear the appeal and deliver judgment within such time before election day as will enable the returning officer duly to comply with the requirement of section 51 relating to publication of the list; and the judgment of the magistrate shall not be subject to appeal.

(3) The magistrate may —

- (a) dismiss the appeal;
- (b) approve the list to which the returning officer has refused to give his approval; or
- (c) approve that list with such modifications as to the magistrate may seem just

and when the magistrate approves a list, with or without modification, the list as approved by him shall have effect as if it had been approved by the returning officer under section 49.

Publica-  
tion of  
lists.

51. The returning officer shall, not later than the 18th day before election day, cause a notice to be published of the titles and symbols of the lists approved by him or the magistrate, as the case may be, and the names of the candidates on those lists.

With-  
drawal  
of lists.

52. A list of candidates may be withdrawn by notice in writing addressed to the returning officer and signed by both the representative and deputy representative of the list:

Provided that a list shall not be withdrawn after the returning officer has notified the representative and deputy representative thereof that it has been approved.

Death or withdrawal of candidate.

53. (1) If a person whose name is included in a list of candidates which has been submitted to the returning officer dies, or, by notice in writing signed by him and addressed and delivered to the returning officer, withdraws his candidature, his name shall be deleted from the list and, if the list has already been published, the returning officer shall cause notification of the deletion to be published:

Provided that where the name of a person is the only name originally included in or remaining in the list of candidates, that person shall not withdraw his candidature unless his notice of withdrawal is delivered to the returning officer not later than the 19th day before election day.

(2) Where by reason of the death of a candidate or by reason of the withdrawal of a candidate in accordance with subsection (1) no names remain on a list of candidates such list shall cease to have effect.

Election of candidates or unopposed list.

54. If only one list of candidates has been approved, the persons whose names appear on the list shall be deemed to have been elected as councillors; and the returning officer shall publicly declare their election and cause notice thereof to be published.

#### AGENTS

Appointment of election agents.

55. (1) The representative of each list of candidates shall not later than the 21st day before election day give notice in writing to the returning officer, appointing himself or some other person to be the election agent of the candidates in the list and if the appointment of an election agent is revoked or the election agent dies and no further appointment is made, the representative of the list of candidates shall be deemed to have been appointed to be the election agent of the candidates.

(2) The returning officer shall cause a notice to be published of the name and address of the person appointed or deemed to be appointed as election agent.

Appointment of assistant agents, counting agents, and polling agents.

56. (1) An election agent may appoint not more than one assistant agent and not more than one counting agent; and he may further appoint for each polling place not more than one polling agent.

(2) Notice in writing of every appointment of an assistant agent, counting agent and polling agent, stating the name and address of the person appointed shall be given not later than the 5th day before election day by the election agent to the returning officer.

(3) The returning officer shall upon receiving a notice of an appointment of an assistant agent publish notice of the name and address of the person appointed.

(4) Upon the revocation of the appointment, or upon the death of an assistant agent, counting agent or polling agent the election agent shall forthwith give notice in writing thereof to the returning officer and shall give notice in writing of any further appointment made in accordance with subsection (2):

Provided that the appointment of an assistant agent, counting agent or polling agent shall not be vacated solely by reason of the revocation of the appointment or the death of the election agent who appointed him.

(5) Nothing in this section shall preclude the appointment of a person as polling agent for two or more polling places or as both assistant agent and counting agent, or as both assistant and polling agent, or as both counting agent and polling agent or as assistant agent, counting agent, an polling agent.



Actions  
of assistant  
agents.

57. (1) Every election agent may act by his assistant agent; and anything done for the purposes of this Part by an assistant agent shall be deemed to have been done by the election agent.

(2) Any act or default by an assistant agent which, if he were an election agent, would be an illegal practice or other offence under this Part, shall be an **illegal practice or other offence** under this Part committed by the assistant agent who shall be liable to punishment accordingly.

(3) Where in this Part any action or thing is required to be done in the presence of candidates, polling agents or counting agents the non-attendance of any such candidate, polling agent or counting agent at the time and place appointed for the purpose shall not, if any act or thing is otherwise properly done, invalidate the act or thing done.

Liability of  
candidates  
for offences  
by election  
agents.

58. Where any corrupt or illegal practice or any illegal payment, employment or hiring, or other offence under this Part is proved to have been committed by an election agent or assistant agent with the consent or connivance of a candidate, such candidates shall also be deemed to have been guilty of such corrupt or illegal practice or illegal payment, employment or hiring or other offence.

#### ENTITLEMENT TO VOTE

Registered  
voter to  
vote in  
person.

59. (1) A registered voter for the local authority area shall be entitled to vote at an election if he complies with the provisions of this Part and with requirements made and directions given thereunder and if the presiding officer of the polling place at which he applies for a ballot paper is satisfied as to the matters specified in subsection (1) of section 40.

(2) No person shall be entitled to vote at an election unless he is entitled to do so under subsection (1).

(3) Every registered voter who votes at an election shall, subject to the provisions of this Part relating to voting by proxy, and to the marking of ballot papers on behalf of blind and incapacitated voters, vote in person.

(4) Without prejudice to the provisions of this Part relating to voting as a proxy on behalf of other registered voters and to the marking of ballot papers on behalf of blind and incapacitated voters, no registered voter shall vote more than once at the election.

Place of  
voting.

60. (1) A registered voter for the local authority area shall be entitled to vote (whether in person or as a proxy on behalf of another voter or in the manner otherwise provided by this Act) at the polling place where is displayed the official list of voters or part thereof, as the case may be, on which his name appears; and no registered voter shall, subject to the provisions of section 61, be entitled to vote (either in person or as a proxy on behalf of another voter) at any other polling place.

(2) The official list of voters shall be the register of voters for the local authority area.

Place of  
voting in  
special cases.

61. A registered voter who in the local authority area in which he is registered, is employed as an election officer or member of the Police Force for a purpose connected with the election at a polling place other than that at which he is authorised under subsection (1) of section 60 to vote, may vote at the polling place where he is so employed if, not later than the day before election day, he obtains from the returning officer a certificate under his hand, in the prescribed form authorising him to vote at that polling place, which certificate shall state the name of the voter, the number of his identification card and the fact that he is to be so employed.

62.(1) The following registered voters shall be entitled to apply to vote by proxy:— Entitlement to apply to vote by proxy.

- (a) members of the Police Force, the Special Service Unit and the Guyana Defence Force;
- (b) members of a town constabulary and rural constables;
- (c) employees of the Transport and Harbours Department engaged in running trains and vessels;
- (d) candidates;
- (e) election officers and their staff;
- (f) persons unable or unlikely to be able by reason of blindness or other physical infirmity to travel to the polling place at which they are entitled to vote or, if able so to travel, to vote unaided;
- (g) persons for whom it is likely to be impracticable or seriously inconvenient, by reason of the general nature of their occupation, service or employment or for other good cause, to go in person to the polling place at which they are entitled to vote.

(2) Not more than one person shall be appointed to vote as a proxy on behalf of any one registered voter.

(3) No person shall be appointed to vote as a proxy—

- (a) on behalf of another registered voter unless he is himself a registered voter for the local authority area, who is entitled to vote at the same polling place as that at which the registered voter on whose behalf his appointment is sought is entitled to vote;
- (b) for more than three registered voters.

(4) A registered voter voting as a proxy on behalf of another registered voter shall do so at the same polling place and at the same time as he votes on his own behalf.

63. Every application for the appointment of a registered voter to vote as a proxy shall be —

Requirements of application for appointment of proxy.

- (a) in writing in the prescribed form and accompanied by any document which may be prescribed;
- (b) addressed and sent to the returning officer so as to be received by him not later than the 7th day before election day;
- (c) accompanied by the consent in writing of the registered voter named as proxy therein to his appointment.

64. (1) If a returning officer is satisfied that an application for the appointment of another registered voter to vote as a proxy on behalf of the applicant has been duly submitted in accordance with the provisions of section 63 by a registered voter entitled to apply to vote by proxy and that the person whose appointment is sought is entitled to vote as a proxy on behalf of the applicant and consents to his appointment, he shall issue to that person a notice of appointment as a proxy in the prescribed form and shall notify the applicant accordingly. Notice of appointment as proxy and list of proxies.

(2) If the returning officer refuses the application he shall notify the applicant of his refusal and of his reasons therefor; and the decision of the returning officer shall be final.

(3) The returning officer shall keep a list of proxies which shall be in the prescribed form and which shall set out the names, addresses and the serial numbers of the identification cards of the registered voters for whom proxies have been appointed and of the registered voters who have been appointed to vote as proxies on their behalf.

Cancellation of appointment as proxy.

65. A registered voter may cancel the appointment of another person to vote as a proxy on his behalf by giving notice in writing in the prescribed form and addressed and sent to the returning officer so that the notice of cancellation is received by the returning officer not later than the 7th day before election day; and thereupon the notice of appointment shall be void and the returning officer shall—

- (a) so notify the registered voter whose appointment as a proxy is cancelled;
- (b) delete the names of both registered voters from the list of proxies.

#### PREPARATION FOR THE POLL

Notice of poll.

66. (1) Whenever two or more lists are published under section 51 the returning officer shall, not later than the 10th day before election day, cause to be published—

- (a) a notice of poll which shall be in the prescribed form and which shall specify—
  - (i) the day on and the hours between which the poll will be taken;
  - (ii) the situation of each polling place;
- (b) a copy of each list of candidates published in accordance with section 51;
- (c) a copy of the official list of voters.

(2) The hours between which the poll shall be taken shall be from 6 o'clock in the forenoon until 6 o'clock in the afternoon at all polling places unless the Chief Election Officer shall appoint different hours, being twelve consecutive hours, for any polling place.

Division of official list of voters.

67. Where more than one polling place is established the returning officer shall divide the official list of voters into as many parts as there are polling places and shall assign to each polling place the part relating to that polling place.

Display of part of official list of voters.

68. Where more than one polling place is established, the returning officer shall cause a copy of that part of the official list of voters to be displayed at the polling place to which it relates.

Preparation of polling places.

69. The returning officer shall before election day cause every polling place to be provided with—

- (a) such doors, barriers, tables, chairs and other conveniences as are necessary or desirable for implementing this Part;
- (b) such number of compartments as are necessary or desirable and in which registered voters can vote free from observation.

Printing of directions for voting and ballot papers.

70. The Chief Election Officer shall cause to be printed and sent to the returning officer before election day a sufficient number of the following documents—

- (a) directions for voting in the prescribed form;
- (b) ballot papers, in the prescribed form;
- (c) tendered ballot papers, in the prescribed form.

Requirements of ballot papers.

71. (1) Every ballot paper shall —

- (a) contain, serially numbered on the left hand side and in alphabetical order of the initial letters of the title of each list of candidates, the initial letters, title and symbol of each list of candidates;
- (b) be capable of being folded up;
- (c) be attached to a counterfoil bearing, printed on the face, a serial number and the words and dots "Voter's number....."

(2) In the printing of the ballot paper—

- (a) no letter, word, or design shall be printed on the face except the initial letters, titles and symbols of the lists of candidates;
- (b) no rule shall be printed on the face except the horizontal rules separating the particulars of the lists of candidates from one another and the vertical rules separating those particulars from the numbers on the left hand side and from the spaces on the right where the symbols are shown and separating the spaces for symbols from the spaces on their right where the vote is to be marked;
- (c) the whole space between the top and bottom of the paper shall be equally divided between the lists of candidates by rules separating their particulars;
- (d) the initial letters of each list of candidates shall be printed in large capitals and the full titles of each list in small capitals.

(3) Tendered ballot papers shall be of a different colour from ordinary ballot papers but, subject to such difference of colour, the provisions of this section shall apply to tendered ballot papers as they do to ordinary ballot papers.

72. (1) The returning officer shall supply to each presiding officer the following:—

Supplies  
of election  
material.

- (a) a sufficient number of ballot papers and tendered ballot papers, together with a statement showing the numbers supplied and their serial numbers;
- (b) a sufficient number of copies of the directions for voting;
- (c) a sufficient number of copies of this Act;
- (d) a sufficient number of copies of the official list of voters or part thereof, as the case may require, containing the names of the registered voters entitled to vote at the polling place;
- (e) a sufficient number of copies of the list of proxies;
- (f) a ballot box and materials for affixing thereto or stamping thereon the seal of the presiding officer;
- (g) the several forms of oaths to be administered to registered voters;
- (h) a poll book;
- (i) the necessary envelopes and such other forms and supplies as may be authorised or furnished by the Chief Election Officer;
- (j) a sufficient number of copies of each list of candidates published in accordance with section 54.

(2) The ballot box shall be of convenient size and so constructed that the ballot papers can be placed therein, but cannot be withdrawn therefrom, without the box being unlocked.

(3) The poll book shall be in the prescribed form.

73. The presiding officer of each polling place shall before the opening of the poll post up in a conspicuous position outside the polling place a copy of—

Display  
of lists  
of candi-  
dates

- (a) the directions for voting;
- (b) the lists of candidates published in accordance with section 51.

74. The presiding officer of each polling place shall, until the opening of the poll, keep the documents supplied to him in pursuance of section 72 (other than those required to be posted up by section 73) locked in the ballot box or other depository and shall take every precaution to prevent any person having unauthorised access thereto.

Custody  
of election  
material.

## THE POLL

Place and  
time of  
poll.

75. The poll shall be taken at each polling place on election day in accordance with the provisions of this Part during the hours specified in the notice of poll:

Provided that if at the hour of the closing of the poll there are any registered voters waiting at the polling place to vote, the poll shall remain open for sufficient time to enable those voters to vote.

Appoint-  
ment of  
candidate  
to attend  
poll.

76. (1) The election agent of each group of candidates may appoint one of the candidates to attend the poll at a polling place.

(2) Notice in writing of the appointment of a candidate under this section, stating his name and address, shall be signed by the election agent and delivered to the returning officer not later than the 7th day before election day.

(3) There shall not be more than one candidate appointed under this section of the same list of candidates for any one polling place.

(4) A candidate may be appointed under this section for two or more polling places.

Opening  
of poll.

77. At the hour specified in the notice of poll for the opening of the poll the presiding officer, in the presence of such persons, if any (being persons entitled to enter the polling place) as are present, shall—

- (a) open the ballot box and ensure that there are not ballot papers or other papers therein;
- (b) lock the ballot box, retain the key thereof and place his seal upon the ballot box in such manner as to prevent it being opened without breaking the seal;
- (c) place the ballot box on a table in full view of all present where it shall remain until the poll is closed;
- (d) call upon the registered voters for the local authority area to vote.

Appli-  
cant to  
vote to  
hand iden-  
tification  
card to  
poll clerk.

78. (1) Each applicant to vote shall, upon entering the room where the poll is held, state to the poll clerk his name, address and occupation and hand to him—

- (a) his identification card (if any);
- (b) if he has been appointed to vote as a proxy on behalf of a registered voter, the identification card (if any) of that voter and his notice of appointment to vote as proxy;
- (c) if he claims to be entitled to vote at the polling place by virtue of section 61, his certificate of employment.

(2) The poll clerk shall ascertain if the name of the applicant and that of any registered voter on whose behalf he holds a notice of appointment to vote as a proxy appear in the official list of voters or part thereof for the polling place.

(3) Where there is contained in the official list of voters or part thereof, a name or other particulars which correspond so closely with the name or other particulars entered on the identification card of an applicant to vote as to suggest that the entry in the official list or part thereof is intended to refer to him, the applicant shall, upon taking an oath of identity in the prescribed form, be deemed to be the person so named in the official list or part thereof.

(4) Where an applicant to vote hands to the poll clerk both his identification card and his certificate of employment, the poll clerk shall add his name to the official list of voters or part thereof and shall make an appropriate entry in the poll book.

(5) The poll clerk shall, after the foregoing provisions of this section have been complied with, return to the applicant the identification card (if any) together with any other documents he may have received and direct him to hand the same to the presiding officer and apply to him for a ballot paper.

(6) Anything in the other provisions of this Act to the contrary notwithstanding the presiding officer or the poll clerk may dispense with the production of an identification card if he is satisfied that an applicant to vote is the person whose name appears on the official list of voters and in such case he shall require the applicant to take and subscribe before him an oath of identity in the prescribed form.

79. (1) Upon receipt of the identification card (if any) and other documents pursuant to subsection (5) of section 78 and upon application made to him for a ballot paper the presiding officer shall satisfy himself as to the following—

Duty of  
presiding  
officer  
upon appli-  
cation for  
ballot  
paper

- (a) that the applicant has not already voted in the local authority area;
- (b) the identity of the applicant and his entitlement to vote at the polling place;
- (c) the authority of the applicant to vote as a proxy on behalf of another registered voter (if he applies so to vote).

(2) For the purposes of subsection (1) the presiding officer, in so far as the following are applicable to the applicant, may—

- (a) examine the applicant's fingers to ascertain if there appears on them any stain of electoral ink;
- (b) compare the signature of the applicant with that on his identification card;
- (c) compare any photograph on his identification card with his face;
- (d) compare the thumb-print or other finger-print recorded on his identification card with that of the applicant;
- (e) compare the height recorded on his identification card with that of the applicant;
- (f) examine his notice of appointment (if any) to vote as a proxy on behalf of another registered voter;
- (g) make such further comparisons as are reasonably necessary between the particulars recorded on his identification card and those of the applicant.

An applicant shall comply with such requirements of the presiding officer for the examination of his fingers, the taking and recording of his thumb or finger print, of his signature and of his height, and shall answer such questions as the presiding officer may ask which are reasonably necessary to ask for the purposes of subsection (1).

80. (1) The presiding officer shall refuse to issue a ballot paper to any applicant therefor who does not hand to him his identification card and other documents as directed under subsection (5) of section 78 and he shall refuse to issue a ballot paper to any applicant if he is not satisfied as required by subsection (1) of section 79 but if such identification card and other documents are handed to him and he is so satisfied he shall—

Issue of  
ballot  
paper.

- (a) deliver to the applicant a ballot paper stamped with the official mark;
- (b) enter on the counterfoil of the ballot paper the serial number of the registered voter on the official list of voters;
- (c) add to his copy of the official list of voters or part thereof the name of a registered voter who has produced to him a certificate of employment;

- (d) place a mark on his copy of the official list of voters or part thereof, to show that a ballot paper has been delivered to the applicant but without showing the particular ballot paper issued;
- (e) return to the applicant his identification card, (if any) and also, if he has been appointed to vote as a proxy on behalf of another registered voter, the identification card (if any) of that voter.

(2) If the applicant has been appointed to vote as a proxy on behalf of another registered voter the presiding officer shall—

- (a) deliver to him, in addition to his own ballot paper, a ballot paper for each registered voter on whose behalf he has been appointed to vote as a proxy and shall enter on the counterfoil of such ballot paper the number on the official list of voters of the registered voter on behalf of whom he has been appointed and place a mark as prescribed by paragraph (d) of subsection (1) on his copy of the official list of voters or part thereof, to show that a ballot paper has been issued on behalf of each such registered voter;
- (b) retain the notice of appointment to vote as proxy of the voter.

Mode of  
voting.

81. (1) The presiding officer shall ensure that the registered voter understands how and where to place his mark (without indicating that the voter should vote for any particular list of candidates) and how to fold the ballot paper and shall direct him to return with it when marked, folded as shown.

(2) The registered voter shall enter one of the polling compartments and there record his vote by secretly marking his ballot paper within the space opposite the name and symbol of the list of candidates for whom he wishes to vote and shall then fold his ballot paper so as to conceal the vote; and if he has been appointed to vote as a proxy he shall record the vote of the registered voter on whose behalf he has been so appointed, for the list of candidates for whom that voter wishes to vote by secretly marking, in the manner aforesaid, the ballot paper issued to him for that voter and shall then similarly fold that ballot paper.

(3) The registered voter shall, having recorded his vote (and if such be the case that of a registered voter for whom he has been appointed a proxy), show the folded ballot paper (or papers) to the presiding officer so as to disclose the official mark appearing on the reverse thereof and shall place it (or them) so folded in the ballot box in the presence of the presiding officer:

Provided that the presiding officer, shall not permit any registered voter whether voting on his own behalf or as a proxy on behalf of another registered voter to put a ballot paper in the ballot box unless, immediately before he does so, one of his fingers has been stained by immersion in a container of electoral ink.

(4) Notwithstanding the provision of the proviso to subsection (3), where the presiding officer is satisfied that a registered voter is suffering from an injury to any finger of such a nature as to render it undesirable for that finger to be stained with electoral ink, he shall not require that finger to be stained but shall stain another finger.

(5) If a registered voter fails or refuses to comply with a lawful requirement of the presiding officer for the staining of one of his fingers the presiding officer shall order him to return to him any ballot paper issued to him and to leave the polling place forthwith; and the presiding officer shall destroy any ballot paper so returned and make an entry in the poll book as to the facts of such failure or refusal.

(6) A registered voter who refuses or fails to return a ballot paper when so ordered under subsection (5) shall be guilty of an offence.

(7) A registered voter who has inadvertently dealt with a ballot paper in such manner that it cannot conveniently be used as a valid ballot paper may, on delivering such ballot paper to the presiding officer and after satisfying him that it has been spoiled by inadvertence, obtain another ballot paper in its place and the spoiled ballot paper and its counterfoil shall be marked cancelled.

(8) A registered voter shall not show the marks which he has placed on his ballot paper to any person and if he does so the ballot paper shall be treated as a spoiled ballot paper:

Provided that the provisions of this subsection shall not apply if a registered voter shows a ballot paper to the presiding officer solely for the purpose of ascertaining if he has carried out his duties correctly.

(9) A registered voter shall vote without delay and shall leave the polling place as soon as he has put his ballot paper and that of any person on whose behalf he has voted as a proxy in the ballot box.

(10) Whenever in the opinion of the presiding officer a registered voter does not understand the language spoken to him he may appoint and swear, in the prescribed form, an interpreter; and the interpreter so sworn shall be the means of communication between the presiding officer and the registered voter with regard to all matters required to enable the registered voter to vote.

82. (1) The presiding officer shall, on the application of any registered voter who is incapacitated by blindness or other physical cause an oath in the prescribed form, mark the ballot paper of such voter in his presence and in the manner directed by him.

Blind and  
incapacitated  
voters.

(2) The presiding officer may, at the request of any registered voter incapacitated in the manner prescribed by subsection (1) and who has taken the oath prescribed pursuant to that subsection and is accompanied by a friend, permit such friend, if he is a registered voter entitled to vote at the polling place, immediately after he has voted on his own behalf, and notwithstanding that his finger has been immersed in electoral ink, to accompany the registered voter into the voting compartment and mark his ballot paper for him:

Provided that no person may mark the ballot paper of more than one registered voter as his friend under this subsection or mark such ballot paper unless he first takes an oath in the prescribed form.

(3) Whenever the ballot paper of a registered voter has been marked in accordance with this section, the poll clerk shall enter in the poll book opposite the name of the registered voter the fact that the ballot paper was so marked, the reason therefor and, if marked by a friend, the name and the number in the official list of voters of that friend.

83. (1) If an applicant to vote represents himself to be a registered voter whose name appears on the official list of voters or part thereof for a polling place, and there has already been placed a mark against the name of such voter on the presiding officer's copy of such list or part thereof, the presiding officer shall issue to such applicant a tendered ballot paper if—

Tendered  
ballot  
papers and  
entries in  
poll book.

- (a) the applicant hands to him his identification card;
- (b) the applicant takes an oath of identity in the prescribed form; and
- (c) The presiding officer is satisfied as to the matters set out in subsection (1) of section 79.

(2) A tendered ballot paper shall not be put in the ballot box but shall be given to the presiding officer and endorsed by him with the name of the registered voter and his number in the official list of voters; and the tendered ballot paper shall be set aside in a separate packet and shall not be counted by the returning officer.



(3) The poll clerk shall enter in the poll book the name of every registered voter to whom a tendered ballot paper is given and a note of his having marked such ballot paper.

(4) The poll clerk shall—

- (a) make in the poll book such entries as are required by this Part or directed by the presiding officer;
- (b) enter in the poll book the word "SWORN" opposite the name of each registered voter to whom any oath is administered and "REFUSED TO BE SWORN" or "REFUSED TO ANSWER" opposite the name of each registered voter who has refused to take an oath or who has refused to answer any question when legally so required.

Maintenance of secrecy at polling place.

84. (1) Every person specified in paragraph (b) of subsection (1) of section 86 attending the polling place shall maintain and aid in maintaining the secrecy of the voting and shall not, except for a purpose authorised by law, communicate to any person before the poll is closed any information as to—

- (a) the name of any registered voter who has or has not applied for a ballot paper or voted whether on his own behalf or as a proxy on behalf of another registered voter;
- (b) the number in the official list of voters of any registered voter who, or whose proxy on his behalf, has or has not applied for a ballot paper or voted;
- (c) the official mark.

(2) No person shall—

- (a) except in the performance of his duty under this Part interfere with or attempt to interfere with a registered voter when casting his vote or, as a proxy, that of another registered voter;
- (b) obtain or attempt to obtain in a polling place information as to the list of candidates for whom a registered voter in that polling place is about to vote or has voted either on his own behalf or as a proxy on behalf of another registered voter;
- (c) communicate at any time to any person any information obtained in a polling place as to the list of candidates for whom a registered voter in that polling place is about to vote or has voted either on his own behalf or as a proxy on behalf of another registered voter;
- (d) directly or indirectly induce a registered voter to display his ballot paper or that of another registered voter for whom he has voted as a proxy after he has marked it, so as to make known the list of candidates for which he has or has not voted either on his own behalf or on behalf of a registered voter for whom he has voted as a proxy.

(3) No person having undertaken to assist a registered voter incapacitated by blindness or other physical cause to vote shall communicate at any time to any person any information as to the list of candidates for whom that voter intends to vote or has voted.

(4) Any person who contravenes any of the provisions of this section shall be guilty of an offence.

Molestation of voters.

85. (1) No person shall anywhere within a distance of two hundred yards of a polling place annoy, molest or otherwise interfere with a registered voter or attempt to obtain any information as to the list of candidates for whom any registered voter in the polling place is about to vote or has voted either on his own behalf or as a proxy on behalf of another registered voter.

(2) Any person who contravenes any of the provisions of this section shall be guilty of an offence.

86. (1) The presiding officer may, for the purpose of maintaining order at the polling place —

Preservation of order at polling place.

- (a) regulate the admission of applicants to vote and may, if he deems it advisable, direct that not more than one registered voter for each compartment shall at the same time enter the room where the poll is held;
- (b) exclude all other persons except —
  - (i) the Minister;
  - (ii) the Chief Election Officer;
  - (iii) the election officers;
  - (iv) candidates appointed under section 76 to attend the poll;
  - (v) polling agents for the polling place;
  - (vi) members of the Police Force on duty;
  - (vii) election agents;
  - (viii) assistant agents;
- (c) issue such directions as may be necessary for such purpose.

(2) If any person (whether entitled to enter or not) misconducts himself at a polling place or fails to obey any lawful direction, requirement or order of the presiding officer, whether given or made under this or any other section, he may immediately by order of the presiding officer, be removed therefrom by a member of the Police Force or by any other person authorised in writing by the presiding officer to remove him, and the person so removed shall not without the permission of the presiding officer, again enter the polling place on election day:

Provided that the powers conferred by this subsection shall not be so exercised as to prevent a registered voter entitled to vote at a polling place having an opportunity to vote thereat.

(3) Any person removed from a polling place under subsection (2) may, if charged with the commission of an offence at or anywhere within a distance of two hundred yards of the polling place, be dealt with as a person taken into custody by a member of the Police Force for an offence without warrant.

87. (1) All premises within the local authority area for which spirit shop licences, off licences and railway station or stalling licences have been issued under the Intoxicating Liquor Licensing Ordinance shall be closed and kept closed on election day.

Closing of spirit shops Cap. 316.

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

Cap. 316.

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

Cap. 311.

(4) Any person who contravenes any of the provisions of this section shall be guilty of an offence.

88. (1) Every employer shall permit every registered voter in his employ other than any registered voter on whose behalf another registered voter has been appointed to vote as a proxy, to be absent from his work on election day for a reasonable time, in addition to the normal midday meal hour, for the purpose of voting at the election; and no employer shall make any deduction from pay or other remuneration of any such voter or impose on him or exact from him any penalty by reason of his absence during such period.

Employees to be given time to vote.

(2) Employees of the Transport and Harbours Department shall be deemed to be employees for the purposes of this section except such as are actually engaged in running trains and vessels and to whom time cannot be allowed without interfering with the running 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 to grant or who, by intimidation, undue influence or in any other way interferes with the granting to any registered voter in his employ, other than a registered voter on whose behalf another registered voter has been appointed to vote as a proxy, of the period for voting prescribed by this section shall be guilty of an offence.

Adjournment  
of poll.

89. ( ) Where the proceedings at a polling place are interrupted or obstructed by riot, open violence, fire, flood, epidemic or other calamity, whether similar to the foregoing or not, the presiding officer shall adjourn the proceedings until the day following and shall forthwith give notice by the quickest available means to the returning officer, who shall inform the Chief Election Officer.

( ) Where the poll is adjourned at any polling place under subsection (1) the hours of poll on the day following shall be the same as those on election day and references in this Part to the close of the poll shall be construed accordingly.

Procedure  
on closing  
of poll.

90. The presiding officer, as soon as practicable after the closing of the poll in the presence of such of the persons entitled by paragraph (b) of subsection (1) of section 85 to be present, as attend shall —

- (a) secure and seal, with his seal and with the seals of such of the duly appointed candidates appointed under section 76 to attend the poll and polling agents as attend and desire to affix their seals, the ballot box in such manner that it cannot be opened and nothing can be inserted therein or taken therefrom without breaking the seals;
- (b) Make up in separate packets, sealed with his seal and with the seal of such of the persons mentioned in paragraph (a) as desire to affix their seals —
  - (i) the unused and spoiled ballot papers and tendered ballot papers placed together;
  - (ii) the used tendered ballot papers;
  - (iii) the counterfoils of the used and spoiled ballot papers and the certificates of employment;
  - (iv) the marked copies of the official list of voters or part thereof;
  - (v) notices of appointments to vote as proxy and copies of the list of proxies;
  - (vi) the poll book;
- (c) deliver the sealed ballot box and the sealed packets to the returning officer together with a statement in writing to be called "the ballot papers account", prepared by the presiding officer in the prescribed form.

#### COUNTING OF VOTES AND ASCERTAINMENT OF ELECTION RESULTS

Returning  
officer to  
count votes.

91. The votes cast at the polling places shall be counted by the returning officer in accordance with the provisions of sections 95 to 97:

Provided that the Minister may, if he thinks fit, determine the places where and by whom the votes cast at any polling place shall be counted.

Candidates  
appointed  
to attend  
court.

92. (1) The election agent of each group of candidates may appoint one of the candidates to attend at the counting of the votes.

2) Notice in writing of the appointment of a candidate under this section stating his name and address shall be signed by the election agent and delivered to the returning officer not later than the 7th day before election day.

3) There shall not be more than one candidate appointed under this section of the same list of candidates.

93. 1) No person shall be present at the counting of votes except— Attendance at count

- (a) the Minister;
- (b) the returning officer and such other election officers as he may appoint to assist him in the counting;
- (c) the Chief Election Officer;
- (d) candidates appointed under section 92 to attend at the counting;
- (e) counting agents;
- (f) the election agent appointed under section 55;
- (g) the representative or deputy representative of the respective lists of candidates for the local authority area as provided for by section 45;
- (h) such other persons as, in the opinion of the returning officer, have good reason to be present.

2) The returning officer shall give the counting agents all such reasonable facilities for overseeing the proceedings and all such information with respect thereto as he can give them consistent with the orderly conduct of the proceedings and with the discharge of his duties in connection therewith.

94. 1) The returning officer shall, as soon as practicable after the receipt of all the ballot boxes and packets delivered to him in pursuance of paragraph (c) of section 90, in the presence of such of the persons entitled under subsection (1) of section 93 to be present as attend Method of counting.

- (a) open each ballot box;
- (b) take out the ballot papers;
- (c) count and record the number of ballot papers taken from each ballot box;
- (d) mix together the whole of the ballot papers taken from the ballot boxes;
- (e) Count the votes recorded for each list of candidates.

(2) In counting the votes the returning officer shall, subject to the provision of subsection (3) reject as invalid and not count any ballot paper —

- (a) which does not bear the official mark;
- (b) which has not been marked for any list of candidates or is void for uncertainty;
- (c) on which votes have been given for more than one list of candidates;
- (d) on which there is any writing or mark by which the voter can be identified.

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

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

shall not be rejected solely by reason thereof if

- (i) an intention that the vote shall be for one or other of the lists of candidates clearly appears; and
- (ii) the voter is neither identified nor can be identified by the manner in which the ballot paper is marked.

(4) The returning officer shall endorse the words 'rejected' on any ballot paper which he may reject as invalid and shall add to the endorsement the words 'rejection objected to' if any objection to his decision be made by a duly appointed candidate or a counting agent present during the counting.

(5) The decision of the returning officer as to any question arising in respect of any ballot paper shall, subject to the provisions of subsection (2) of section 163 be final.

Recounts.

95. A candidate appointed under section 92 to attend the counting of votes or a counting agent present when the counting or any recount of votes is completed, may request the returning officer to have the votes recounted or again recounted; but the returning officer may refuse such request if in his opinion it is unreasonable.

Procedure on conclusion of count.

96. (1) Upon the conclusion of the counting of the votes the returning officer, in the presence of such of the persons entitled under subsection (1) of section 93 to be present as attend, shall —

- (a) seal in separate packets the counted and rejected ballot papers;
- (b) verify the ballot papers account given by each presiding officer by comparing it with —
  - (i) the number of ballot papers recorded under paragraph (c) of subsection (1) of section 94;
  - (ii) the unused and spoiled ballot papers in his possession; and
  - (iii) the record of tendered votes contained in the poll book;
- (c) reseal the packets of unused and spoiled ballot papers;
- (d) prepare a written statement as to the result of the verification of the ballot papers account;
- (e) prepare a written statement in the prescribed form which shall set out the number of —
  - (i) valid votes cast for each list of candidates;
  - (ii) rejected ballot papers together with, in each case, the reason for rejection;
  - (iii) spoiled ballot papers delivered to him;
  - (iv) tendered ballot papers;
  - (v) persons who appear to have voted.

(2) The returning officer shall not open the sealed packets containing tendered ballot papers, marked copies of the official list of voters or part thereof or counterfoils of used ballot papers.

(3) Any counting agent may copy the statements made under paragraphs (d) or (e) of subsection (1).

Maintenance of secrecy at count.

97. Every person attending at the counting of votes shall maintain and aid in maintaining the secrecy of voting and shall not communicate any information obtained at the count as to the list of candidates for which any vote has been given.

Ascertainment of election results

98. The returning officer shall, after compliance with the provisions of section 96 ascertain the result of the election in accordance with sections 99 and 100.

Allocation of seats.

99. (1) The total number of votes cast for all the lists of candidates shall be divided by the number of persons to be elected as councillors and the whole number resulting from that division shall be known as 'the electoral quota'.

(2) The number of votes cast for any list shall be divided by the electoral quota; there shall be allocated to that list a number of seats equal to the whole number resulting from that division; and the number of votes represented by a fraction so resulting shall be known as 'surplus votes' of the list; and if the number of votes cast for any list is less than the electoral quota those votes shall accordingly be treated as surplus votes of that list.

(3) Any seat or seats remaining unallocated after seats have been allocated in accordance with subsection (2) shall be allocated as follows:—

- (a) one seat shall be allocated to the list with the largest number of surplus votes;

- (b) if the number of seats so remaining is two or more, one seat shall be allocated to the list with the next largest number of surplus votes, and so on until all the seats so remaining have been allocated;
- (c) for the purpose of this subsection, where two or more lists have equal numbers of surplus votes, then lots shall be drawn by the returning officer in the presence of the representatives of the lists affected to determine which list or lists shall be deemed to have more surplus votes than the other list or lists.

(4) If any list of candidates contains insufficient names to fill any seat allocated in pursuance of this section, such seat shall remain vacant until it is filled consequent upon an ensuing election.

100. When seats have in pursuance of section 99 been allocated to any list of candidates — Candidates elected.

- (a) the representative of the list; or
- (b) if the representative is unwilling or unable (by reason of absence, illness or any other cause when he is called upon by the returning officer) so to do, the deputy representative of such list; or
- (c) in case of any such unwillingness or inability on the part of the deputy representative, a majority of the persons named in that list may designate in writing any such person able and willing (when called upon as aforesaid) so to do, who,

shall extract from the said list as many names belonging to candidates selected him for the purpose, as can be so extracted without their number exceeding the number of seats allocated to that list; and the returning officer shall declare such names, in the order of their extraction as aforesaid, to be the names of the candidates on such list who have been elected.

101. As soon as practicable the returning officer shall publicly declare the results of the election and shall cause to be published a notification thereof in the prescribed form specifying Notification of elections results.

- (a) the number of votes cast for each list of candidates;
- (b) the number of rejected ballot papers;
- (c) the number of seats allocated to each list of candidates; and
- (d) the names of the persons who, as a result of the election, have been elected as councillors.

102. The returning officer shall furnish a person who has been elected a councillor with a certificate in the prescribed form that he has been so elected. Certificate of election.

103. 1) When a vacancy occurs in an office of a councillor elected under this Act prior to the retirement of the holder thereof at the expiration of his term of office, the vacancy shall be filled by that person being a person who is qualified for election as, and is willing to become, a councillor whose name is on the relevant list of Candidates and is extracted therefrom in accordance with the provisions of section 100 by the representative or deputy representative of such list or a person designated by a majority of persons named in such list, as the case may be, the name of every person who became a member of the council at the preceding election, or has since become such a member, being ineligible for extraction under the foregoing provisions of this subsection; and if there is no such person the seat shall remain vacant until it is filled consequent upon an ensuing election. Filling of casual vacancies.

( ) In this section the relevant list of candidates means that list in which was included the name of the councillor vacating his office or, when a person is held in proceedings under Part IV not to be a councillor, the name of that person.

104. The returning officer shall as soon as practicable after the election cause to be prepared and printed a general report on the election including the particulars specified in section 101 and the total number of persons whose names appear in the register of voters for the local authority area. Election report.

Custody of election documents.

105. (1) The returning officer shall make up in one parcel the packets he has received in pursuance of paragraph (c) of section 90 and the other papers used at the polling places and in his possession and shall seal the parcel so that it cannot be opened without breaking the seals and deliver it to the Chief Election Officer.

(2) The Chief Election Officer shall keep all parcels received in pursuance of subsection (1) in safe custody and, subject to the provisions of this Act, allow no person to have access thereto.

(3) The returning officer shall return the official seals to the Chief Election Officer and deposit the ballot boxes, together with the locks and keys in the custody of the member of the Police Force in charge of the nearest police station and obtain from him a receipt therefor in the prescribed form; and he shall return the polling compartments to the custody of the person from whom they were obtained and obtain a receipt therefor in the prescribed form.

(4) The returning officer shall forward to the Chief Election Officer receipts obtained pursuant to subsection (3).

ELECTION EXPENSES

Making of contracts through election agents.

106. (1) The election agent of a group of candidates shall appoint every clerk and messenger employed for payment on behalf of the group at the election and shall hire every committee room hired on behalf of the group.

(2) A contract whereby any expenses are incurred on account of or in respect of the conduct or the management of the election shall not be enforceable against a candidate unless made by the candidate or by the election agent of the group to which the candidate belongs:

Provided that the inability under this Part to enforce such contract against a candidate shall not relieve such candidate from the consequences of any corrupt or illegal practices committed by the election agent or assistant agent of his group with the consent or connivance of such candidate.

Payment of expenses.

107. (1) Except as permitted by this section or in pursuance of section 111, no payment and no advance or deposit shall be made by a candidate or by any other person at any time in respect of election expenses otherwise than by or through the election agent of the group of candidates to which the candidate belongs.

(2) A candidate may pay personal expenses incurred by him on account of or in connection with or incidental to the election to an amount not exceeding such amount as may be prescribed by the Act or Ordinance under which the local authority for which he is a candidate is constituted and such candidate shall send to the election agent of his group of candidates not later than the 14th day after the declaration of the results of the election under section 111 a written statement of personal expenses so paid.

(3) Any personal expenses incurred by a candidate in excess of the sum applicable to him by virtue of subsection (2) shall be paid by the election agent.

(4) If a candidate pays personal expenses in excess of the sum applicable to him by virtue of subsection (2), he shall be guilty of an illegal practice.

Petty expenditure

108. (1) A person authorised in that behalf by an election agent may pay any necessary expenses for stationery, postage, telegrams and other petty expenses to a total amount not exceeding that named in the authority; and such person shall send to the election agent not later than the 14th day after the declaration of the results of the election under section 101 a written statement of the expenses so made together with particulars thereof.

(2) Any petty expenses incurred in excess of the amount named in the authority of the election agent shall be paid by the election agent.

109. (1) No expense shall be incurred by or on behalf of a group of candidates and no payment shall be made on their behalf whether before during or after the election, on account of or in respect of the conduct and management of the election — Maximum expenses

- (a) in excess of the sum prescribed by the Act or Ordinance under which the local authority for which the candidates are seeking election is constituted;
- (b) for purposes other than the following —
  - (i) the expenses of printing, advertising, publishing, issuing and distributing addresses and notices;
  - (ii) the expenses of stationery, messages, postage and telegrams;
  - (iii) the expense of holding public meetings;
  - (iv) the expense of one committee room in each local authority area;
  - (v) the expense permitted under section 117;
  - (vi) the personal expenses of candidates.

(2) In determining the total expenditure incurred by a group of candidates no regard shall be had to amounts paid by candidates under subsection (2) of section 107.

(3) If an election agent incurs or pays election expenses in excess of the sum specified in subsection (i) or for purposes other than those therein specified, he shall be guilty of an illegal practice.

(4) If a candidate pays any election expenses except his personal expenses otherwise than by or through the election agent of his group of candidates he shall be guilty of an illegal practice.

110. So far as circumstances permit this Part 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 there is any dispute as to the amount due, such claim shall be a disputed claim within the meaning of the Part and dealt with accordingly. Remuneration of election agent.

111. (1) Every claim against any candidate or against an election agent in respect of any expenses incurred on account of or in respect of the conduct or management of an election shall be sent to the election agent not later than the 14th day after the publication under section 101 of the results of the election. Period for claims for payment of election expenses.

(2) Any such claim as is specified in sub-section (1) which is not sent to the election agent within the time therein prescribed shall be barred and not paid.

(3) An election agent who pays a claim in contravention of subsection (4) shall be guilty of an illegal practice.

(4) All expenses incurred on account of or in respect of the conduct or management of the election shall be paid not later than the 28th day after the publication under section 101 of the results of the election.

(5) An election agent who makes a payment in contravention of subsection (4) shall be guilty of an illegal practice.

(6) If an election agent disputes any claim received by him within the time limited by subsection (1) or if he refuses or fails to pay such claim within that period, such claim shall be deemed to be a disputed claim.

(7) A claimant may, if he thinks fit, bring an action for a disputed claim in any competent court; and anything paid by a candidate or by an election agent in pursuance of the judgement or order of the court shall be deemed to be paid within the time limited by subsection (1) and to be an exception from the provisions of this Part requiring claims to be paid by the election agent.

(8) The Court may, on application by the claimant or by a candidate or by an election agent and on cause shown to its satisfaction, by order give leave for the payment by a candidate or by an election agent of a disputed claim or for a claim in respect of expenses incurred on account of or in respect of the conduct or management of



an election, notwithstanding that such claim was sent after the time limit prescribed by subsection (1) and notwithstanding the sending of such claim to a candidate and not to the election agent.

(9) Any sum specified in any order of the Court made under subsection (8) may be paid by a candidate or by an election agent and when paid in pursuance of such order shall be deemed to be paid within the time limited by subsection (1).

Exemption of act in good faith from being illegal practice.

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

- (a) any act of omission of any candidate or of any election agent or of any other agent or person, would, by reason of being a payment, contract, engagement, employment or hiring, or the incurring of an expense in excess of the maximum allowed, in contravention of any of the provisions of this Part pertaining thereto, be but for this section an illegal practice, payment, employment or hiring; and
- (b) 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) notice of the application has been published in two newspapers circulating in Guyana,

and in the circumstances it seems to the Court to be just that such candidate, election agent and other agent or person, or certain of them should not be subject to any of the consequences under this Part for the act or omission, the Court may make an order allowing such act or omission to be an exception from the provisions of this Part which would otherwise make the same an illegal practice, payment, employment, hiring or an incurring of an expense in excess of the maximum allowed, and such candidate, election agent or other agent or person as the Court may specify in its order shall not be subject to any of the consequences under this Part for the act or omission.

Saving for creditors.

113. The provisions of this Part prohibiting certain payments and contracts for payments, and the payment of any sum and the incurring of any expense in excess of the prescribed maximum, shall not affect the rights of any creditor who when the contract was made or the expense incurred was ignorant that such contract, payment or expense was in contravention of this Part.

Prohibition of expenses not authorised by election agent.

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

- (a) holding public meetings or organising any public display;
- (b) issuing advertisements, circulars or publications;
- (c) otherwise presenting to the registered voters the candidates of the group or any of them or their views or the extent or nature of their backing or of disparaging the candidates of another group or any of them:

Provided that paragraph (c) 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 five 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 travelling or living away from home or similar personal expenses.

(2) Any person other than an election agent or a person authorised in that behalf in writing by him who incurs expenses prohibited by subsection (1) shall be guilty of a corrupt practice.

(3) Any expenses incurred on account of any purpose referred to in subsection (1) and duly authorised by the election agent shall be returned as part of the election expenses of the group of candidates.

#### ILLEGAL PAYMENT, EMPLOYMENT, HIRING.

115. Any person who knowingly provides money —

Providing money for illegal purpose.

- (a) for any payment which is contrary to the provisions of this Part;
- (b) for any expenses in excess of the maximum allowed by this Part;
- (c) to replace any money expended in any such payment or expenses,

shall be guilty of illegal payment.

116. 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 of candidate.

117. (1) No person shall, for the purpose of promoting or procuring the election of a group of candidates at an election be engaged or employed for payment or promise of payment for any purpose or in any capacity whatsoever, except for the following —

Prohibition of certain forms of employment.

- (a) one election agent;
- (b) one assistant agent;
- (c) one polling agent for each polling place;
- (d) one counting agent;
- (e) two clerks and two messengers for each committee room.

(2) 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.

118. (1) No person shall let, lend or employ, for the purposes of the conveyance of registered voters 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; and any person who contravenes the provisions of this subsection knowing the purpose of the letting, lending or hiring shall be guilty of illegal hiring.

Illegal hiring of transport for voters.

(2) No person shall hire, borrow or use for the purpose of the conveyance of registered voters to or from the poll any carriage, horse or other animal which he knows the owner thereof is prohibited by subsection (1) from letting, lending or employing; and any person who contravenes the provisions of this subsection shall be guilty of illegal hiring.

(3) Nothing in this section or in section 121 shall prevent a carriage, horse or other animal being let to or hired, employed or used by a registered voter or several registered voters at his own or their own joint cost for the purpose of being conveyed to or from the poll.

119. (1) No person shall let, hire or use as a committee room for the purpose of promoting or procuring the election of a group of candidates at an election any of the following premises —

Use of certain premises as committee room prohibited.

- (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;
- (b) any premises where any intoxicating liquor is sold or supplied to members of a club, society or association other than a permanent political club;

- (c) any premises wherein refreshment of any kind, whether food or drink, is ordinarily sold for consumption in the premises.

(2) Any person who hires or uses premises in contravention of subsection (1) shall be guilty of illegal hiring and any person who lets or permits to be used such premises or part thereof shall also, if he knew it was intended to use such premises or part thereof as a committee room, be guilty of illegal hiring.

(3) Nothing in this section shall apply to any part of premises described in subsection (1) which is ordinarily let for the purpose of chambers or offices or the holding of public meetings or arbitrations if such part has a separate entrance and no direct communication with any part of the premises on which intoxicating liquor or refreshment is sold or supplied.

Penalty for illegal payment, employment or hiring.

120. Any candidate or election agent guilty of an offence of illegal payment, employment or hiring shall be guilty of an illegal practice; and any other person who is guilty of an offence of illegal payment, employment or hiring shall, on summary conviction, be liable to a fine not exceeding five hundred dollars.

#### ILLEGAL PRACTICES

Certain expenditure to be illegal practice.

121. (1) No payment or contract shall, for the purpose of promoting the election of a group of candidates at an election, be made—

- (a) on account of the conveyance of registered voters to or from the poll, whether for the hiring of horses or carriages or for railway fares, water or air transport fares or otherwise; or
- (b) to a registered voter 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 a registered voter as an advertising agent to exhibit for payment bills and advertisements, a payment to or contract with such voter, if made in the ordinary course of business shall not be deemed to be an illegal practice within the meaning of this section.

(2) If 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 it to be in contravention of this section, shall also be guilty of an illegal practice.

Disorderly behaviour at election meeting

122. Every person who, at a lawful political meeting held before election day, acts or incites any other person to act 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.

False statements concerning candidates.

123. (1) Any person who, before or during an election, shall, for the purpose of affecting the return of any group of candidates, make or publish any false statement of fact in relation to the personal character or conduct of the candidates of that group or any of them shall, subject to the provisions of subsection (2) be guilty of an 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 person making or publishing a false statement of fact in contravention of subsection (1) may be restrained by interim or perpetual injunction by the 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 purposes of granting an interim injunction, *prima facie* proof of the falsity of the statement shall be sufficient.

Election publications.

124. (1) No person shall —

- (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 pur-

pose of promoting or procuring the election of a group of candidates;

- (b) post or cause to be posted any such bill, placard or poster as is specified in paragraph (a);
- (c) distribute or cause to be distributed any printed document for the purpose specified in paragraph (a),

unless the bill, placard, poster or document bears upon the face thereof the names and addresses 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 word "printer" shall be construed accordingly.

(3) Any candidate, or any election agent who contravenes the provisions of this section shall be guilty of an illegal practice; and any other person who contravenes the provisions of this section shall be guilty of an offence and shall, on summary conviction, be liable to a fine not exceeding five hundred dollars.

125. Any person who —

- (a) votes either on his own behalf or as a proxy on behalf of another person or procures any person to vote either on his own behalf or as a proxy on behalf of another person, at an election, knowing that he or such other person is not a registered voter;
- (b) applies for the appointment of a person to vote on his behalf at an election as a proxy knowing that he or the person for whose appointment he applies is not a registered voter or who in such application makes a false statement as to his entitlement to apply to vote by proxy;
- (c) before or during an election knowingly publishes a false statement of the withdrawal of a list of candidates or of any of the candidates named therein for the purpose of promoting or procuring the election of the candidates named in another list;
- (d) hands to a poll clerk or a presiding officer —
  - (i) a forged identification card;
  - (ii) save as permitted by this Part the identification card of some other person;
  - (iii) a forged notice of appointment to vote as a proxy on behalf of some other person,

Miscellaneous illegal practices.

shall be guilty of an illegal practice.

126. Any person who —

- (a) votes on his own behalf more than once at an election in any one local authority area;
- (b) votes in person on his own behalf when there is in force an appointment of another person to vote as a proxy on his behalf;
- (c) applies for a person to be appointed as a proxy to vote on his behalf without applying for the cancellation of an existing appointment of some other person to vote as a proxy on his behalf or without withdrawing a pending application for such appointment;
- (d) votes as a proxy more than once on behalf of the same registered voter; or
- (e) votes as a proxy on behalf of more than three registered voters,

Plural voting.

shall be guilty of an illegal practice.

127. (1) Any person guilty of an illegal practice shall, on summary conviction —

Penalty for illegal practice.

- (a) be liable to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment; and

- (b) subject to the provisions of subsection (2) be incapable, during a period of five years from the date of his conviction, of being registered as a voter or voting at an election.

(2) In the case of any conviction of an illegal practice 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.

Treating.

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

- (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 expenses 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 refraining from voting, at an election;
- (b) every registered voter who corruptly accepts or takes any such food, drink, entertainment or provision.

Undue influence.

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

- (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;
  - (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;
- (b) every person who by abduction, duress, or any fraudulent contrivance, impedes or prevents the free exercise of the franchise of any registered voter or thereby compels, induces or prevails upon any voter either to vote or to refrain from voting at an election.

Bribery.

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

- a) every person who, directly or indirectly, by himself or by any other person on his behalf
- (i) gives or agrees to give;
  - (ii) lends or agrees to lend;
  - (iii) offers or promises;
  - (iv) promises to procure or promises to endeavour to procure —
- any money or valuable consideration to or for any registered voter, or to or for any other person, in order to induce any registered voter 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;
  - (ii) lends or agrees to lend;
  - (iii) offers or promises;
  - (iv) promises to procure or promises to endeavour to procure —

- any money or valuable consideration to or for any registered voter, or to or for any person on behalf of any registered voter, or to or for any other person, on account of such voter having voted or refrained from voting at an election;
- (c) every person who, directly or indirectly, by himself or by any other person on his behalf, corruptly —
- (i) gives or agrees to give;
  - (ii) procures or agrees to procure;
  - (iii) offers or promises;
  - (iv) promises to procure or promises to endeavour to procure —
- any office, place or employment to or for any registered voter or to or for any person on behalf of any registered voter, or to or for any other person, in order to induce such voter 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;
  - (ii) procures or agrees to procure;
  - (iii) offers or promises;
  - (iv) promises to procure or promises to endeavour to procure —
- any office, place or employment to or for any registered voter or to or for any person on behalf of any registered voter, or to or for any other person, on account of any registered voter 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 a group of candidates as councillors, or the vote of any registered voter at an 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 group of candidates as councillors, or the vote of any registered voter 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 an election;
  - (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 an election;
- (h) every registered voter who, before or during an 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 an election;
- (i) every person who, after an 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 at an election.

- (a) votes as some other person whether as a registered voter on his own behalf or as a proxy on behalf of another registered voter, and whether that other person is living or dead or is a fictitious person;
- (b) votes in person or as proxy
  - (i) for a person whom he knows or has reasonable grounds for supposing to be dead or to be a fictitious person;
  - (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 (b) of subsection (1), a person who has applied for a ballot paper for the purpose of voting shall be deemed to have voted.

General penalty for corrupt practices.

132. Every person who is guilty of a corrupt practice other than as specified in section 133 shall, on conviction thereof on indictment, be liable to imprisonment for a term not exceeding one year or to a fine not exceeding one thousand dollars, or to both such imprisonment and fine.

Penalty for Personation.

133. Every person who is guilty of personation or aiding, abetting, counselling or procuring the commission of the offence of personation shall, on conviction thereof on indictment, be liable to imprisonment for a term not exceeding two years.

Disqualification.

134. (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 five years from the date of conviction —

- (a) of being registered as a voter in any local authority area or of voting at any election in any local authority area;
- (b) of being elected as a councillor of any local authority.

(2) In the event of any conviction under section 114, 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.

Offences in relation to ballot boxes, and ballot papers, identification cards and appointments as proxy

135. (1) Every person who —

- (a) forges or counterfeits or fraudulently defaces, or destroys, any ballot paper or the official mark thereon or any identification card or notice of appointment of a person to vote as a proxy;
- (b) without due authority supplies a ballot paper to any person;
- (c) fraudulently puts into any ballot box any paper other than the lawful ballot paper;
- (d) 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 an election,

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

- (i) if he is an election officer employed at a polling place, to imprisonment for a term not exceeding two years or to a fine not exceeding one thousand dollars or to both such imprisonment and fine;
- (ii) if he is not an election officer, to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred and fifty dollars, or to both such imprisonment and fine.

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

Voting when not entitled.

136. Every person who —

- (a) not being a registered voter for a local authority area, votes at an election in that area;
- (b) induces or procures any person not so registered to vote at such election,

shall be guilty of an offence, and on summary conviction thereof, shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred and fifty dollars, or to both such imprisonment and fine.

137. 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 Part for the purposes of or in connection with an election shall be guilty of an offence, and on summary conviction thereof, shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred dollars.

Interference with notices and lists.

GENERAL.

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

Property in election material.

139. A complaint or information against a person in respect of any offence under this Part in relation to an election shall be made or filed within one year after the offence was committed.

Limitation of time for prosecution of election offences.

140. In any prosecution under this Part whether on indictment or summarily, the certificate of the returning officer that the election was duly held or that the person or persons named therein was named as a candidate or candidates at such election, shall be sufficient evidence of the facts stated therein.

Certificate of returning officer.

141. Where an offence under this Part committed by a body corporate is proved to have been committed with the consent or connivance of any director, manager, secretary or other officer of the body corporate, or any person purporting to act in such capacity, he, as well as the body corporate, shall be deemed to be guilty of the offence and punished accordingly.

Offences by bodies corporate.

142. (1) A 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.

Special provision as to convictions.

(2) A 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) A 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 an illegal practice shall be an indictable offence.

143. Where any notice or other document is required by any provision of this Part to be published by an election officer, he shall cause the same to be affixed to the offices of the council and of the returning officer and may use such further publication thereof as he may think desirable to bring its contents to the attention of registered voters.

Publication of notices by election officers.

144. The expenses of an election (including the payment of emoluments of election officers and their staffs) shall be paid out of funds provided by the local authority.

Expenses of election.

145. In this Part the expression "committee room" does not include any house or room occupied by a candidate at an election as a dwelling by reason solely of the candidate there transacting business with his agents in relation to an election; nor shall any room or building be deemed to be a committee room for the purposes of this Part by reason solely of the candidate or any agent of the group of candidates addressing therein registered voters, committee men or others.

Meaning of "committee room".

PART

ELECTION AND MEMBERSHIP CONTROVERSIES  
DISPUTED ELECTIONS

146. (1) Any question whether any person has been validly elected as a councillor shall be referred to and determined by the Court.

Method of questioning validity of election.



(2) Every such reference shall be by a petition (hereinafter referred to as an election petition) presented to the Court.

Presentation and service of election petition.

147. (1) An election petition may be presented by a registered voter in the local authority area for which the election was held or by a candidate at the election.

(2) The person whose election is complained of is hereinafter referred to as the respondent and if the petition complains of the conduct of the Chief Election Officer he shall be deemed to be a respondent and if it complains of the conduct of an election officer such officer shall be deemed to be a respondent.

(3) An election petition shall be in the prescribed form, state the prescribed matters and be signed by the petitioner or all of the petitioners if more than one, and shall be presented by delivering it at the office of the Registrar; and the Registrar or the officer of the registry of the Court to whom the petition is delivered shall, if required, give a receipt therefor.

(4) The Registrar shall cause a copy of the petition to be transmitted to such persons as may be prescribed and shall cause the petition to be published in the prescribed manner.

(5) An election petition shall be served in such manner as may be prescribed.

Time for presentation of election petition

148. (1) Subject to the provisions of this section, an election petition shall be presented within twenty-eight days of the publication under section 101 of the results of the election.

(2) If the petition questions the validity of the election of any person upon an allegation of a corrupt practice and specifically alleges a payment of money or other reward to have been made by the person elected who is the respondent, or by an election agent or assistant agent or other agent with his consent or connivance, since the date referred to in subsection (1) in pursuance of furtherance of the alleged corrupt practice, it may be presented within twenty-eight days after the date of the payment.

(3) For the purposes of this section, the allegation that the election of any person is avoided on the grounds that corrupt or illegal practices or illegal payments, employments or hirings were committed in reference to the election for the purpose of promoting or procuring the election of any person thereat and had so extensively prevailed that they may reasonably be supposed to have affected the allocation of to in subsection (1) in pursuance of furtherance of the alleged corrupt practices, notwithstanding that the offences alleged are or include offences other than corrupt practices.

Amendment of election petition.

149. The Court may, at any stage before conclusion of the trial of an election petition, allow the petitioner to alter or amend the petition in such manner and on such terms as may seem just:

Provided that no amendment for the purpose of inserting an allegation of a corrupt or illegal practice in a petition shall be allowed, unless made within the time within which a petition might have been presented under section 148.

Security for costs.

150. (1) At the time of presenting an election petition or within three days afterwards the petitioner shall give security for all costs which may become payable by him to any witness summoned on his behalf or to any respondent.

(2) Security shall be of an amount of five hundred dollars and shall be given in the prescribed manner by recognisance entered into by any number of sureties not exceeding four or by a deposit of money, or partly in one way and partly in the other.

Service of petition.

151. Within the prescribed time, not exceeding five days after the presentation of an election petition, the petitioner shall in the prescribed manner serve on the respondent a notice of the presentation of the petition, and of the nature of the security or proposed security, and a copy of the petition.

Objections to security.

152. (1) Within a further prescribed time, not exceeding ten days after service of the notice of the presentation of the petition, the res-

pondent may object in writing to any recognisance on the ground that any surety is insufficient or dead or cannot be found or ascertained for want of a sufficient description in the recognisance, or that the person named in the recognisance has not duly acknowledged the recognisance.

(2) An objection to the security shall be heard and decided by a Judge, whose decision shall be final, and if the objection be allowed the petitioner may, within such time as may be allowed remove the objection by giving further security either in the form of an additional recognisance with a surety or sureties approved by the Judge, or by deposit in the prescribed manner of such sum of money as the Judge may deem sufficient.

(3) The costs of hearing or deciding objections made as to security shall be paid as ordered by the Judge or, in the absence of such order, shall form part of the general costs of the petition.

153. (1) If security as provided in section 150 is not given by the petitioner, or if any objection is allowed and not removed as in section 152 provided, no further proceedings shall, subject to the provisions of section 155, be had on an election petition and the respondent may apply to a Judge for an order directing the dismissal of the petition and for the payment of the respondent's costs.

Dismissal of petition on failure to give security.

(2) The costs of hearing and deciding such application shall be paid as ordered by the Judge or, in the absence of such order, shall form part of the general costs of the petition.

154. (1) On the hearing of an application under section 153 any person who might have been a petitioner in respect of the matter to which the election petition relates may apply to the Judge to be substituted as a petitioner for the original petitioner and the Judge may, if he thinks fit, dismiss the original petitioner from the petition and substitute as the petitioner such applicant, who shall provide security in the sum of five hundred dollars and subject to the like conditions and to the same rights of objection as in the case of the original petitioner.

Substitution of petitioner on failure to give security.

(2) Such security shall be given within three days of the making of the order of substitution and on the failure of the applicant to comply with the provisions of this subsection the petition shall stand dismissed.

155. On the expiration of the time limited for objections or, after objection made, on the objection being disallowed or removed whichever last happens, the election petition shall be at issue.

Petition at issue.

156. (1) An election petition shall be tried by the Court in open court, without a jury, and notice of the time and place of trial shall be given in the prescribed manner not less than fourteen days before the day of trial.

Trial of petition.

(2) The Court may in its discretion adjourn the trial from time to time, but the trial shall, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day on every lawful day, not being a holiday observed by the Court, until conclusion:

Provided that an election petition may be presented and heard and all other necessary proceedings thereunder may be taken during any period appointed as a vacation to be observed by the Court.

(3) The trial of an election petition shall be proceeded with notwithstanding the resignation by the respondent as a councillor.

(4) On the trial of the petition, unless the Court otherwise directs, any charge of a corrupt or illegal practice may be gone into and evidence in relation thereto received, before any proof has been given of agency on behalf of any candidate in respect of the corrupt or illegal practice.

157. Witnesses shall be summoned and sworn in the same manner as in an ordinary action within the jurisdiction of the Court and shall be subject to the same penalties for perjury.

Witnesses.

158. (1) On the trial of an election petition the Court may by order require any person who appears to it to have been concerned in the election to attend as a witness and any person refusing to obey this order shall be guilty of contempt of court.

Power of court to summon witnesses.

(2) The Court may examine any person so required to attend or who is in court, although he is not called or examined by any party to the petition.

(3) A witness may, after his examination by the Court under subsection (2), be cross-examined by or on behalf of the petitioner and respondent, or either of them.

(4) The Director of Public Prosecutions shall obey any direction given him by the Court with respect to the summoning and examination of any witness to give evidence at the trial:

Provided that the examination of a witness may be conducted by such counsel as the Director of Public Prosecutions may appoint as his representative for that purpose and it shall not be necessary for a person appointed as the representative of the Director of Public Prosecutions under any provision of this Part to produce any commission or other proof of his having been so appointed.

(5) The Director of Public Prosecutions shall without any direction from the Court cause any person appearing to him to be able to give material evidence as to the subject of the trial to attend the trial and either himself or his representative shall, with the leave of the Court, examine him as a witness.

Obligation  
of witness  
to answer.

159. (1) A person called before the Court as a witness respecting an election 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 criminate or tend to criminate him or on the ground of privilege:

Provided that —

(a) a witness who answers truly all questions which he is required by the Court to answer shall be entitled to receive a certificate of indemnity from the Court stating that the witness has so answered; and

(b) an answer by a person to a question put by or before the Court when trying an election petition shall not, except in the case of any criminal proceeding for perjury in respect of the evidence, be in any proceedings, civil or criminal, admissible in evidence against him.

(2) Where a person has received a certificate of indemnity in relation to an election, and any legal proceeding is at any time instituted against him for any corrupt or illegal practice, or any illegal payment, employment or hiring, or any offence under section 124 or under section 166 committed by him previously to the date of the certificate at or in relation to the election, any court having cognisance of the case shall, on production of the certificate, stay the proceedings 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 deemed to relieve a person receiving a certificate of indemnity from any incapacity under any law relating to elections or from any proceedings (other than a criminal prosecution) to enforce such incapacity.

Voter not  
to be asked  
for whom  
he voted.

160. No person who has voted at any election shall, in any proceeding on an election petition, be required to state for which list of candidates he has voted.

Expenses  
of wit-  
nesses

161. (1) The reasonable expenses incurred by any person in appearing to give evidence at the trial of an election petition, according to the scale allowed to witnesses in the trial of civil actions before the Court, may be allowed to such person under the hand of a Judge or the Registrar, and the amount to be paid to any such witness shall be ascertained and certified by the Registrar.

(2) The expenses of a witness called by a party shall be deemed to be costs of the petition but the expenses of a witness called by the Court shall be deemed part of the expenses of the Court and paid out of moneys provided for such expenses.

Production  
of election  
documents.

162. Any document or paper relating to an election and required to be kept thereafter in safe custody by the Chief Election Officer under section 5 may be inspected or produced under an order of the Court for the purpose of an election petition and the order may be made by a Judge on his being satisfied by evidence on oath that such inspection or production is required for the purpose aforesaid:

Provided that the Chief Election Officer shall, after the expiration of twelve months from the date of an election, burn all such documents and papers relating thereto.

163. (1) On a scrutiny at the trial of an election petition any tendered vote proved to be a valid vote shall, on the application of any party to the petition be added to the poll and any vote given on a ballot paper in contravention of the provisions of subsections (2) of section 94 shall be struck off.

Scrutiny.

(2) Any decision referred to in subsection (5) of section 94 shall be subject to reversal by the Court on an election petition.

164. (1) A petitioner shall not withdraw an election petition without the leave of the Court on special application, made in the prescribed manner and at the prescribed time and place.

Withdrawal of petition.

(2) The application shall not be made until the prescribed notice of the intention to make it has been given in the prescribed manner.

(3) Where there are more petitioners than one, the application shall not be made except with the consent of all the petitioners.

(4) If a petition is withdrawn the petitioners shall be liable to pay the costs of the respondent.

165. (1) Before leave for the withdrawal of an election petition is granted, there shall be produced affidavits by all the parties to the petition and their solicitors and by the election agents of all the said parties who were candidates at the election, but the Court may on cause shown dispense with the affidavit of any particular person if it seems to the court on special grounds to be just so to do.

Evidence required for withdrawal of petition.

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

(3) The affidavits of the applicant and his solicitor shall further state the grounds on which the petition is sought to be withdrawn.

(4) Copies of the said affidavits shall be delivered to the Director of Public Prosecutions a reasonable time before the application for the withdrawal is heard, and the Court may hear the Director of Public Prosecutions, or his duly appointed representative, in opposition to the allowance of the withdrawal of the petition, and shall have the power to receive the evidence on oath of any person or persons whose evidence the Director of Public Prosecutions or his representative may consider material.

(5) Where more than one solicitor is concerned for the petitioner or respondent, whether as agent for another solicitor or otherwise, the affidavit shall be made by all such solicitors.

166. If any person makes any agreement or terms or enters into any undertaking, in relation to the withdrawal of an election petition, and such agreement, terms or undertaking is or are for the withdrawal of the petition in consideration of any payment, or in consideration that a seat shall at any time be vacated, or in consideration of the withdrawal of any other such election petition, or is or are (whether lawful or unlawful) not mentioned in the aforesaid affidavits, he shall be guilty of a misdemeanour and shall be liable on conviction on indictment to imprisonment for a term not exceeding twelve months or to a fine not exceeding one thousand dollars, or to both such imprisonment and fine.

Punishment for corrupt withdrawal.

167. (1) On the hearing of the application for leave to withdraw a petition any person who might have been a petitioner in respect of the matter to which the petition relates may apply to the Court to be substituted as the petitioner and the Court may, if it thinks fit, substitute him accordingly.

Substitution of new petitioner on withdrawal of petition.

(2) If the proposed withdrawal is in the opinion of the Court the result of any agreement, terms or undertaking prohibited by section 166 or induced by any corrupt bargain or consideration, the Court

may by order direct that the security given on behalf of the original petitioner shall remain as security for any costs that may be incurred by the substituted petitioner, and that, to the extent of the sum named in the security, the original petitioner and his surety shall be liable to pay the costs of the substituted petitioner.

(3) If no such order is made with respect to the security given by or on behalf of the original petitioner, security to the same amount as would be required in the case of a new petition and subject to the like conditions and to the same right of objection shall be given by or on behalf of the substituted petitioner within three days after the making of the order of substitution and before he proceeds with the petition; and if the substituted petitioner fails to comply with the provisions of this subsection the petition shall stand dismissed.

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

Report on  
with-  
drawal.

168. (1) Where an election petition is withdrawn, the Court shall make a report to the clerk of the local authority.

(2) The report shall state whether in the opinion of the Court the withdrawal of the election petition was the result of any agreement, terms or undertaking or was in consideration of any payment, or in consideration that a seat should be at any time vacated or in consideration of the withdrawal of any other such election petition or for any other consideration, and if so, shall state the circumstances attending the withdrawal.

Abatement  
of petition.

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

(2) The abatement of the petition shall not affect the liability of the petitioner or any other person to the payment of costs incurred in respect of any proceeding taken prior to the abatement.

Preservation

(3) On the abatement of a petition the prescribed notice thereof shall be given in the prescribed manner; and any person who might have been a petitioner may, within the prescribed time after the notice is given, apply to the Court in the prescribed manner to be substituted as a petitioner; and the Court may if it thinks fit, substitute him accordingly.

(4) Security shall be given on behalf of a petitioner so substituted as in the case of a new petition.

Withdrawal  
and sub-  
stitution  
of respon-  
dents be-  
fore trial.

170. (1) If before the trial of an election petition —

- (a) a respondent other than the Chief Election Officer or an election officer gives the prescribed notice that he does not intend to oppose the petition or dies, the Registrar shall give notice thereof in the prescribed manner and any person who might have been a petitioner in respect of the election may, within the prescribed time after the notice is given apply to the Court to be admitted as a respondent to oppose the petition, and shall be admitted accordingly;
- (b) any person who might have been a petitioner in respect of the election gives notice in the prescribed manner that he intends at the trial to apply to be admitted as a respondent, then at the trial of the petition, upon the Court being satisfied that there are reasonable grounds for believing that circumstances have arisen that, if the original respondent (not being the Chief Election Officer or an election officer) were a councillor, would cause him to vacate his seat under section 40, the Court may admit such person as a respondent to oppose the petition:

Provided that the number of persons admitted under this subsection shall not exceed three.

(2) A respondent who has given the prescribed notice that he does not intend to oppose the petition shall not be allowed to appear to act as a party against the petition in any proceedings thereon.

171. (1) Where on an election petition it is shown that —

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

(b) a candidate was at the time of his election a person not qualified, or a person disqualified, for election,

the Court shall declare his election to be void.

Avoidance of election of candidate for corrupt or illegal practice or lack of qualification.

(2) For the purpose of paragraph (b) of subsection (1), an agent of a candidate means an election agent or assistant agent or any other person acting under the general or special authority of a candidate with reference to the election.

(3) Upon a declaration of the Court under subsection (1), the vacant seat in the local authority shall be filled in accordance with section 103.

172. (1) Where on an election petition it is shown that the seats in the council were not allocated in accordance with the provisions of section 99, the Court shall order that the seats be re-allocated by the returning officer in accordance with those provisions and that the election of councillors be re-declared in accordance with the provisions of section 100.

Re-allocation of seats.

(2) Where on an election petition the Court, on a scrutiny determines that the number of valid votes cast for any list of candidates differs from the number of votes upon which seats in the council were allocated to that list, the Court may order that the allocation of seats to that list be reviewed by the returning officer and that, on it appearing to the returning officer from such review that any seat was not allocated in accordance with the provisions of section 99, such seat shall be re-allocated by the returning officer in accordance with those provisions and the election of councillors shall be re-declared by the returning officer in accordance with the provisions of section 100.

173. (1) Where on an election petition it is shown that —

(a) corrupt or illegal practices or illegal payments, employments or hirings committed have so extensively prevailed that they may be reasonably supposed to have affected the allocation of seats under section 99;

(b) the election was not conducted in accordance with the principles laid down in Part III (such circumstances being hereinafter referred to as "procedural irregularities") and such procedural irregularities may reasonably be supposed to have affected the allocation of seats under section 99,

the Court shall declare the election to be void.

Avoidance of election for widespread corrupt or illegal practices.

(2) The election shall not be liable, by reason of general corruption, bribery, treating or intimidation, to be avoided otherwise than by virtue of paragraph (a) of subsection (1).

(3) The election shall not be declared invalid by reason of any act or omission by the Chief Election Officer or any election officer in breach of his official duty in connection with the election or otherwise if it appears to the Court that the election was so conducted as to be substantially in accordance with the law relating to the election and that the act or omission may not reasonably be supposed to have affected the allocation of seats under section 99.

(4) The validity of the election shall not be impugned on the ground that the application of any registered voter entitled to apply to vote by proxy so to vote was refused or that the application of any registered voter not entitled to apply so to vote was granted; and such refusal and grant shall be deemed not to be procedural irregularities and notwithstanding any of the provisions of this section the election shall not be declared to be void by reason thereof.

174. At the conclusion of the trial of an election petition the Court shall forthwith certify in writing its determination to the clerk of the local authority and upon any such certificate being given the determination of the Court shall be final; the Court may in addition

Conclusion of trial of petition

to giving the certificate and at the same time, make a special report to the clerk of the local authority as to matters arising in the course of the trial an account of which in the judgement of the Court ought to be submitted to the local authority.

Case  
stated.

175. (1) If, on the application of any party to an election petition made in the prescribed manner to the Court, it appears to the Court that the case raised by the petition can be conveniently stated as a special case, the Court may direct it to be stated accordingly and the special case shall be heard before the Court, and the Court shall certify in writing to the clerk of the local authority its determination in relation to the special case.

(2) If it appears to the Court on the trial of an election petition that any question of law requires further consideration by the Full Court, the Court may adjourn the further hearing of the petition or postpone its determination thereon, and reserve such questions by stating a case for the decision of the Full Court, and the Full Court shall have power to hear and decide any question so reserved; and the Court shall determine the petition in accordance with the decision of the Full Court on the question so reserved.

Costs of  
petition.

176. (1) All costs of and incidental to the presentation of an election petition and the proceedings consequent thereon, except such as are by this section otherwise provided for, shall be defrayed by the parties to the petition in such manner and in such proportion as the Court may determine; and in particular any costs which in the opinion of the Court have been caused by vexatious conduct, unfounded allegations or unfounded objections on the part either of the petitioner or of the respondent, and any needless expense incurred or caused on the part of the petitioner or respondent, may be ordered to be defrayed by the parties by whom it has been incurred or caused whether or not they are on the whole successful.

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(2) If a petitioner neglects or refuses for six months after demand to pay to any person summoned as a witness on his behalf or to the respondent any costs certified or adjudged to be due to him and the neglect or refusal is, within one year after the demand, proved to the satisfaction of the Court, every person who in accordance with section 150 entered into a recognisance relating to the petition shall be held to have made default in the recognisance and such default shall be dealt with under subsections (1) and (2) of section 208 of the Criminal Law (Procedure) Ordinance as though committed at the then current sitting of the Court in the exercise of its criminal jurisdiction in the county where the petition was tried, or, if the Court is not then so sitting, such default shall be deemed to have been dealt with under those subsections as though committed at the last preceding sitting of the Court as aforesaid, and the recognisance shall be enforceable accordingly.

Further  
provision  
as to  
costs.

177. (1) Where upon the trial of an election petition it appears to the Court that any person or persons is or are proved, whether by providing money or otherwise, to have been extensively engaged in corrupt practices, or to have encouraged or promoted extensive corrupt practices in reference to the election to which the petition relates, the Court may, after giving that person or those persons an opportunity of being heard by counsel or solicitor and examining and cross-examining witnesses to show cause why the order should not be made, order the whole or part of the costs to be paid by that person or those persons or any of them and may order that if the costs cannot be recovered from one or more of those persons they shall be paid by some other of those persons or by either of the parties to the petition.

(2) Where any person appears to the Court to have been guilty of a corrupt or illegal practice, the Court may, after giving that person an opportunity of making a statement to show why the order should not be made, order the whole or any part of the costs of or incidental to any proceeding before the Court in relation to the said offence or to the said person to be paid by the said person to such person or persons as the Court may direct.

Report of  
the Court.

178. (1) Where, in an election petition a charge is made of a corrupt practice or an illegal practice having been committed at the election to which the petition relates, the Court shall, when certifying

its determination as hereinbefore provided, report in writing to the Minister and the clerk of the local authority who shall submit such report to the council,

- (a) whether any corrupt practice or illegal practice has or has not been proved to have been committed by or with the consent or connivance of any candidate at the election, and the nature of the corrupt practice or illegal practice;
- (b) 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;
- (c) 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
- (d) if any person is reported to have been guilty of any corrupt practice or of any illegal practice, whether he has or has not been furnished with a certificate of indemnity.

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

(3) If the person appears in pursuance of the notice, the 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.

(4) Every person who is reported by the Court to have been personally guilty of any corrupt or illegal practice at the election shall, whether he obtained a certificate of indemnity or not, be subject to the same incapacities 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.

(5) If the Court reports that any corrupt practice has been proved to have been committed in reference to the election by or with the consent or connivance of a candidate at the election, the candidate shall be incapable during a period of five years next after the date of the report, of being elected a councillor of any local authority 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.

(6) If the Court reports that any illegal practice has been proved to have been committed in reference to the election by or with consent or connivance of a candidate at the election, the candidate shall be incapable, during a period of five years next after the date of the report, of being elected a councillor of any local authority 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.

179. (1) Where a person who is subject to incapacity by reason of his conviction of a corrupt or illegal practice is reported under section 178 to be guilty of such corrupt or illegal practice, no further incapacity shall be imposed on him under the provisions of subsection (4) of that section. Exemption from liability.

(2) Where a person who is subject to incapacity under subsection (4) of section 178 for any corrupt or illegal practice is convicted of such corrupt or illegal practice no further incapacity shall be deemed to be imposed on him by reason of the conviction.

(3) Every reference to consequences in section 121 shall be construed to include a reference to consequences under this Part and nothing provided in this Part shall abridge any powers of the Court under that section.

180. (1) Where any person is subject to any incapacity by virtue of conviction of an offence or the report of the Court under section 184 and he or some other person in respect of whose act the incapacity was imposed, is on a prosecution acquitted of any of the matters in respect of which the incapacity was imposed, the acquittal shall Removal of incapacity.



thereafter, or if an appeal be made, after the expiration of the ordinary period allowed for making an appeal or, if an appeal is made and the acquittal is affirmed, after the appeal is finally disposed of or if an appeal is made and is abandoned or fails by reason of non-prosecution thereof, after the appeal is abandoned or so fails, be reported to the Court which may, if it thinks fit, order that the incapacity shall henceforth cease so far as it is imposed in respect of those matters.

(2) Where a person becomes subject to any incapacity by virtue of conviction of an offence or the report of the Court under section 178 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 Court, and the Court, if satisfied that the conviction or report regarding such person was based upon perjury may order that such incapacity shall henceforth cease, and the same shall cease accordingly; and if by reason of the conviction or report a vacancy has occurred in the local authority and such vacancy has been filled by another person in accordance with section 106, such other person shall cease to be a councillor and the person whose incapacity has ceased shall be re-instated as a councillor.

#### DISPUTED VACANCIES

References of questions as to vacancy in local authority.

181. (1) Any question whether a councillor has vacated his office shall be referred to and determined by the Court.

(2) Every such reference shall be by a petition (hereinafter referred to as a vacancy petition) presented to the Court by —

(a) the clerk of the local authority when so authorised by the resolution of the local authority;

(b) a registered voter for the local authority area.

Contents, delivery and service of vacancy petition.

182. (1) A vacancy petition shall be in the prescribed form, state the prescribed matters and be signed by such persons as may be prescribed, and shall be presented by delivering it at the office of the Registrar, and the Registrar or the officer of the registry of the Court to whom the petition is delivered shall, if required, give a receipt therefor.

(2) The Registrar shall cause a copy of the petition to be transmitted to such persons as may be prescribed and shall cause the petition to be published in the prescribed manner.

(3) A vacancy petition shall be served in such manner as may be prescribed.

Security for costs.

183. (1) When a vacancy petition has been presented to the Court by a registered voter pursuant to paragraph (b) of subsection (2) of section 182, the petitioner shall at the time of delivering the reference to the Registrar or within three days afterwards give security for all costs which may become payable by him to any witness summoned on his behalf or to any party to the petition.

(2) Security shall be an amount of five hundred dollars and shall be given in the prescribed manner by recognisance entered into by any number of sureties approved by the Court not exceeding four or by a deposit of money, or partly in one way and partly in the other.

Service of petition.

184. Within the prescribed time, not exceeding five days after delivery of a vacancy petition, the petitioner shall cause notice of the presentation of the petition, and of the nature of the security or proposed security and a copy of the petition to be served upon —

(a) the councillor whose office is the subject-matter of the petition;

(b) such other person as may be prescribed.

Parties to vacancy petition.

185. The parties to a vacancy petition shall be—

(a) the petitioner;

(b) the councillor whose office is the subject-matter of the petition;

(c) such other person as, in the opinion of the Court, is interested in the determination of the question referred, and whom the Court directs may be heard upon the hearing of the reference:

Provided that the Court shall hear the Director of Public Prosecutions or other representative appointed by him whether or not

he is a party to the petition, and shall have power to receive the evidence on oath of any person whose evidence the Director or his representative may consider material.

186. Subject to such modifications and adaptations as may be necessary for the purpose, the following provisions of this Part shall so far as they are applicable, have effect on a vacancy petition presented to the Court, namely — sections 152, 153, 154 and 155, subsections (1), (2) and (3) of section 156, sections 151, 158, 175 and 176: Applica-  
tion of  
provisions.

Provided that in subsection (1) of section 153 the reference to section 150 shall be deemed to be a reference to section 183.

187. The Court shall, at the conclusion of the hearing of a vacancy petition, determine the question thereby referred to it and shall forthwith certify in writing such determination to the clerk of the local authority; and the certified determination of a vacancy petition by the Court shall be final. Deter-  
mination  
of vacancy  
petition.

#### DISPUTES REGARDING ELECTIONS TO CERTAIN OFFICES.

188. (1) Any question whether any person has been validly elected to an office to which this section applies, or, having been so elected, has vacated such office shall be determined by the Court upon a reference thereto. Reference  
to the  
Court.

- (2) No such question shall be referred to the Court except by
- (a) the clerk of the local authority;
  - (b) a councillor of the local authority.

(3) This section applies to offices in a local authority (other than the office of councillor) the holder of which is a councillor elected from among their number by the councillors or the persons elected to be councillors.

189. (1) A reference to the Court questioning whether a person was validly elected to an office to which section 188 applies shall be delivered to the Registrar within twenty-one days of the election or the appointment, as the case may be. Delivery  
of re-  
ference.

(2) The reference shall be in the prescribed form, state the prescribed matters and be signed by such person as may be prescribed.

(3) The Registrar shall send a copy of a reference made by a councillor to the clerk of the local authority who shall cause it to be laid before the local authority.

190. (1) When a question has been referred to the Court under sections 188 and 189 by a councillor, the councillor so referring the question shall at the time of delivering the reference to the Registrar or within three days afterwards, give security for all costs which may become payable by him to any witness summoned on his behalf or to any party to the reference. Security  
for costs.

(2) Security shall be an amount of five hundred dollars and shall be given in the prescribed manner by recognisance entered into by any number of sureties approved by the Court not exceeding four or by a deposit of money, or partly in one way and partly in the other.

191. The parties to a reference to the Court under sections 188 and 189 shall be — Parties  
to a re-  
ference.

- (a) the clerk of the local authority or the councillor referring the question as the case may be;
- (b) the person whose election to or tenure in an office to which section 188 applies or whose appointment as a councillor is questioned;
- (c) such other person as the Court may direct.

192. At the conclusion of the hearing of a reference under sections 188 and 189 the Court shall determine whether the person has been validly elected to an office to which section 180 applies or whether he has vacated such office or has been validly appointed as a councillor, as the case may require, and shall forthwith certify in writing such determination to the Minister and to the clerk of the local authority; and the certified determination by the Court of such reference shall be final. Determi-  
nation of  
reference.

## GENERAL

Powers exercised by single Judge.

193. Any of the powers of the Court conferred by or under any of the provisions of this Part may be exercised by a single Judge: Provided that any power, jurisdiction or authority vested in the Court under section 196 with respect to proceedings brought by or under this Part shall only be exercisable by such number of Judges as could exercise that power, jurisdiction or authority if the proceedings were an ordinary action within the jurisdiction of the Court.

Service of notices.

194. Any summons, notice or document required to be served on any person with reference to any proceeding under this Part for the purpose of causing him to appear before the Court or otherwise, or 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 Act, may be served—

- (a) by delivering it to that person; or
- (b) by leaving it at, or sending it by post by a registered letter to, his last known place of abode; or
- (c) in such manner as may be—
  - (i) prescribed, or
  - (ii) directed by any Judge before whom the proceeding is taken.

Costs.

195. Subject to the provisions of the Part and rules made by the virtue of any such provisions, the rules of court with respect to costs in action, causes and matters in the Court shall, so far as practicable, apply in relation to costs of petitions and other proceedings under this Part.

Powers of Court.

196. The Court shall, subject to the provisions of this Part and rules made by virtue of any such provisions, have the same powers, jurisdiction and authority with respect to any proceedings brought under or by virtue of this Part as if the proceedings were an ordinary action within the jurisdiction of the Court.

Matters to be prescribed by rules of court.

197. Anything which this Part authorises or requires to be prescribed shall be prescribed by rules of court.

## PART V

## MISCELLANEOUS AND TRANSITIONAL PROVISIONS.

Regulations

198. (1) The Minister may make regulations for giving effect to the provisions of this Act and anything which is to be prescribed in pursuance of this Act shall, except as is provided by section 197, be prescribed by such regulations.

(2) The power to make regulations under this Act shall be deemed to include a power to alter, vary or amend the provisions of schedules.

(3) All regulations under this Act shall be laid before the National Assembly within fourteen days next after they are made and if the National Assembly, within the period of thirty days beginning with the day on which the regulations are laid before it resolves 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 henceforth become void and of no effect without prejudice to the validity of anything previously done under the regulations or any part thereof, as the case may be, or to the making of new regulations.

(4) In reckoning for the purposes of subsection (3) any period of days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which the National Assembly is adjourned for more than seven days.

Rules of Court. Cap. 7.

199. The power conferred by the High Court Ordinance to make rules of court shall be deemed to include the power to make rules of court for any of the purposes of this Act.

200. When any oath is required to be taken by or under this Act, every person permitted by law to make a solemn affirmation or declaration may, instead of taking an oath, make a solemn declaration in the form of such oath, substituting the words "solemnly, sincerely, and truly declare and affirm" for the word "swear" and omitting the words "So help me God".

Affirmations.

201. Notwithstanding the provisions of any other law all declarations under this Act or regulations thereunder shall be exempt from stamp duty.

Exemption from stamp duty.

202. Where any notice is required to be published by a local authority under this Act, the same shall be published by affixing it to the offices of the local authority and it may also be published in such other manner, if any as is, in the opinion of the local authority expedient to give publicity thereto.

Publication of notices by local authority.

203. No election officer or registration officer shall produce for inspection or supply a copy of the thumb-print, fingerprint or photograph of an applicant for registration as a voter or of a registered voter except—

Duty not to disclose fingerprints.

- (a) for the purposes of this Act and its enforcement;
- (b) for purposes connected with the registration of voters and the conduct of an election;
- (c) as otherwise expressly provided by law.

204. (1) Save as otherwise expressly provided, all offences against this Act shall be prosecuted under the Summary Jurisdiction Ordinances.

Prosecutions and penalties.

(2) A person guilty of an offence against this Act for which no special penalty is provided, shall be liable on conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months.

205. The expenses of the Chief Election Officer and his staff shall be paid out of the funds provided by Parliament.

Expenses of Chief Election Officer.

206. The Ordinances specified in Schedule 2 are hereby repealed or amended to the extent specified therein.

Consequential repeals and amendments Schedule 2.

207. Upon the coming into operation of the amendment to subsection (4) of section 28 of the Local Government Ordinance made by Schedule 2 of this Act (which amendment declares every village council to be a local authority to which this Act applies and a local authority within the meaning of this Act), then notwithstanding anything contained in the Local Government Ordinance, the Minister may by order —

Transitional provisions concerning village councils. Cap. 150

- (a) appoint any day for the first election of councillors of any village council under this Act;
- (b) appoint a day for the election of the chairman and deputy chairman of such council by the persons elected to be councillors;
- (c) determine the terms of office of councillors and chairman and deputy chairman first elected as aforesaid.

208. (1) If at any time any difficulty arises in connection with the application of this Act or in bringing into operation any of the provisions, the Minister may by order make any provision that appears to him necessary or expedient for removing the difficulty.

Removal of difficulties.

(2) Any such order may modify the provisions of this Act in respect of any particular matter or occasion so far as may appear to the Minister to be necessary or expedient for removing the difficulty.

(3) The provisions of subsections (3) and (4) of section 198 shall *mutatis mutandis* apply to any order made under this section as they apply to regulations made under the said section 198.

## SCHEDULE 1

(section 40).

## OFFICES DISQUALIFYING FOR OFFICE AS COUNCILLOR

Member of the National Assembly.  
 Judge of the Supreme Court of Judicature.  
 Ombudsman.  
 Director of Public Prosecutions.  
 Magistrate.  
 Member of the Police Force.  
 Member of the Guyana Defence Force.  
 Member of Local Government Service Commission.  
 Local Government Officer.  
 Chief Election Officer.  
 Election Officer.  
 Registration Officer.

## SCHEDULE 2

(section 206)

## ORDINANCES AMENDED AND REPEALED

Chapter or Number	Short-Title	Extent of amendment or repeal
Cap. 150	Local Government Ordinance	<p>(a) In section 2 delete the definition of the word "election".</p> <p>(b) In section 28</p> <p>(i) Substitute for subsections (4) and (6) the following subsections —</p> <p>"(4) All village councillors shall be elected at elections held every third year during the period commencing on 1st November and ending on 7th December in accordance with the provisions of the Local Authorities (Elections) Act, 1969; <sup>No. of 1969.</sup> and every village council shall be a local authority to which that Act applies and a local authority within the meaning of that Act, and the overseer shall be the clerk of the local authority for the purposes of that Act.</p> <p>(5) The number of registered voters who may under section 43 of the Local Authorities (Elections) Act, 1969, <sup>No. of 1969.</sup> submit a list of candidates shall be not less than twenty and not more than thirty.</p> <p>(6) The amount of the personal expenses which may be incurred under subsection (2) of section 107 of the Local Authorities (Elections) Act, 1969 by a candidate at <sup>No. of 1969.</sup></p>

Chapter or Number	Short-Title	Extent of amendment or repeal
		<p>an election to a village council shall not exceed one hundred dollars and the expenses which may be incurred under subsection (1) of section 109 of that Act by or on behalf of a group of candidates shall not exceed five hundred dollars”;</p> <p>(ii) Delete paragraphs (c), (d), (e), (f), (h) and (i) of subsection (7), and substitute subsection (8);</p> <p>(iii) Substitute for subsection (9) the following subsection —</p> <p>“Except as is otherwise provided in this Ordinance, the term of office of councillors shall be three years commencing on the first day of January after the declaration under section 101 of the Local Authorities (Elections) Act, 1969 of the election results for the village”;</p> <p>(iv) Substitute for subsection (10) the following subsection — “(10) A person filling a vacancy in the office of councillor in accordance with section 103 of the Local Authorities (Elections) Act, 1969 shall hold office for the unexpired term of office of his predecessor”;</p> <p>(c) Delete sections 29, 30, and 32.</p> <p>(d) In section 33 substitute for the words which appear before the proviso the following words —</p> <p>“If a member of a village council is either directly or indirectly pecuniarily interested in any contract with the council he shall, at any meeting of the council at which the contract is the subject of consideration, disclose the fact and shall not take part in the consideration or discussion of or vote on any question with respect to the contract.”</p> <p>(e) In section 34, substitute for paragraphs (c), (d) and (e) the following paragraphs —</p>

No. of 1969.

Chapter or Number	Short-Title	Extent of amendment or repeal
		<p>“(c) is not qualified to be elected; (d) is disqualified for being or is disqualified from continuing to be a councillor.”</p>
		<p>(f) Substitute for section 35 the following section — “35. Whenever a vacancy occurs in the office of a councillor of a village council the overseer shall report the same at the next meeting of the council and the council shall publish notice thereof, and the provisions of section 103 of the Local Authorities (Elections) Act, 1969 shall apply to the filling of that vacancy.”</p>
		<p>(g) In section 36 substitute for subsection (3) the following subsection — “(3) No action under this section shall be brought after three months from the date of publication under section 35 of notice of the vacancy”;</p>
		<p>(h) Delete sections 37 to 49 and sections 51 to 54.</p>
		<p>(i) In section 55 —</p> <p>(i) in subsection (2) substitute the words and figures “not later than the 16th” for the words and figures “within the 10th and 20th”;</p> <p>(ii) re-number subsection (7) as subsection (8);</p> <p>(iii) insert the following subsection as subsection (7) — “(7) Where by reason of an equality of votes cast at the election by the voters no person is elected chairman, the Minister shall select one of the councillors receiving the greatest number of equal votes to be chairman”.</p>
		<p>(j) In section 56 substitute in subsection (6) the words “Minister responsible for local government” by the word “Board” wherever that word appears.</p>
		<p>(k) Delete sections 57 to 69.</p>

No.  
of 1969.

Chapter or Number	Short-Title	Extent of amendment or repeal	
		(l) In paragraph (a) of section 76 delete the words "village council or".	
		(m) Delete the first and second schedules.	
	Local Government (Bartica Voters Register Continuance) Ordinance, 1963.	Repealed.	No. 21 of 1953.

#### EXPLANATORY MEMORANDUM

The purpose of this Bill is to provide for the registration of voters for local government elections, the holding of those elections and for the determination of controversies relating to such elections and to the membership of local authorities.

2. Part I of the Bill charges the Minister responsible for elections to the National Assembly with the responsibility of supervision over the registration of local government voters and over the administrative conduct of local government elections.

3. Part II provides for the preparation of registers of persons qualified to vote at elections of councillors. The persons qualified to be registered in any local authority area are persons qualified to be registered as electors for elections to the National Assembly who are ordinarily resident in the area.

4. The registration process in any area is to be commenced by a registration order made by the Minister responsible for elections to the National Assembly (clause 8). Thereupon preliminary lists are to be prepared of persons whose names appear in the register to be compiled for the purposes of registration whose addresses are recorded in the register as being within the area of the local authority (clause 11).

5. Persons whose names do not appear on the preliminary list but who are qualified to be registered as local government voters for the area may apply in person for registration to the assistant electoral registrar of the area. If he is satisfied that they are qualified he will then register them in a supplementary list.

6. Persons may object to the inclusion of names in the preliminary list and those objections shall be heard and determined by the electoral registrar (Clause 20).

7. Registration is completed by the electoral registrar making any necessary corrections to the preliminary and supplementary lists, which together will form the local government electoral register for the area.

8. Part III provides for the election of members of local authorities by a system of proportional representation under which votes are cast in favour of lists of candidates, the whole of the local authority area forming one electoral area for determining the result of the elections. However, the Minister may sub-divide a local authority area into as many electoral areas as he may think fit. These lists may contain the names of not more than the number of candidates to be elected set out in the order of priority for which their election is sought.

9. Voting must generally be in person at the polling place where is displayed the official list of voters on which the name of the voter appears, but provision is included for voting by proxy in certain cases for not more than three other registered voters entitled to vote at the same polling place. Voters must produce their identification cards before they can be issued with ballot papers.



10. After the votes have been counted the results of the elections are to be ascertained by the returning officer for the local authority area in the manner set out in clause 98 and seats allocated in accordance with clause 99.

11. Provision is also included in this Part for the appointment of election agents and for election expenses.

12. Part IV makes provision for the reference to and determination by the High Court of questions relating to the validity of election of members of local authorities and for the determination of disputes relating to local government elections and membership of local authorities.

13. Part V contains provisions making consequential amendments to election provisions of the Local Government Ordinance (Cap. 150); included amongst these amendments are provisions declaring village councils to be local authorities for the purposes of this Bill and specifying not less than twenty and not more than thirty as the number of registered voters who may, under clause 43 of this Bill, submit a list of candidates.

C. M. LLEWELLYN JOHN,  
Minister of Local Government.