

# **CHAPTER 68A**

## **ELECTIONS ACT**

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SCHEDULE 1

SCHEDULE 2

SCHEDULE 3

17 of 1995,  
19 of 1996,  
4 of 2011,  
9 of 2011,  
27 of 2014,  
8 of 2015,  
14 of 2015.

[Date of commencement: 20<sup>th</sup> November 1995]

[Note: The word “Commissioner” was replaced with the word “Commission” throughout the Act by s 2(b) of Act 9 of 2011.]

## PART I PRELIMINARY

### 1. Short title.

(1) This Act may be cited as the Elections Act.

(2) This Act shall apply for the purposes of—

- (a) an election of the President;
- (b) an election of a directly elected member of the National Assembly; and
- (c) a referendum,

under the Constitution.

### 2. Interpretation.

In this Act—

“directly elected member” means a member of the National Assembly referred to in article 78(a) of the Constitution;

“election” means a Presidential Election or a National Assembly Election;

“electoral area” means an electoral area referred to in article 112 of the Constitution;

“Electoral Commission”, “Commission” means the Electoral Commission established under article 115 of the Constitution of the Republic of Seychelles;

[“Election Commissioner” rep and subs as “Electoral Commission”, “Commission” by s 2(a) of Act 9 of 2011 w.e.f. 18 July 2011.]

“lobby” means a lobby constituted under section 60(2);

“National Assembly Election” means an election to elect a directly elected member;

“Outer Islands” means the islands specified as Outer Islands in Part II of Schedule 1 of the Constitution;

“Presidential Election” means an election to elect the President of Seychelles.

“reside” means being resident in an electoral area for a minimum period of three months.

[Ins by s 2(a) of Act 4 of 2011 w.e.f. 9 May 2011.]

### 3. Appointment of officers.

(1) The Electoral Commission shall, for the purposes of this Act, appoint—

- (a) a Chief Registration Officer who shall, subject to the directions of the Electoral Commission, be responsible for the registration of voters under this Act;
- (b) a Chief Electoral Officer who shall, subject to the directions of the Electoral Commission, be responsible for the supervision of elections or a referendum under this Act;
- (c) a Registration Officer for each electoral area and such number of Assistant Registration Officers as the Electoral Commission thinks fit for each such area; and
- (d) an Electoral Officer for each electoral area and such number of Assistant Electoral Officers as the Electoral Commission thinks fit for each such area.

(2) The Chief Registration Officer and the Chief Electoral Officer may give directions not inconsistent with this Act to any person exercising a function in connection with the registration of voters or the conduct of an election or a referendum, as the case may be, and such person shall comply with the directions.

(3) The Registration Officers and Assistant Registration Officers, may subject to the directions of the Chief Registration Officer, exercise and perform in the electoral areas for which they are appointed, all the functions conferred on the Chief

Registration Officer under this Act.

(4) The Electoral Officers and Assistant Electoral Officers, may, subject to the directions of the Chief Electoral Officer, exercise and perform in the electoral areas for which they are appointed all the functions conferred on the Chief Electoral Officer under this Act.

(5) A person appointed under this section may at any time demand from any person any information necessary to ascertain whether the person is qualified to be registered as a voter in an electoral area or to vote in an electoral area.

(6) The Chief Registration Officer of the Chief Electoral Officer or a Registration Officer or an Electoral Officer may, for the purpose of this Act, administer oaths and may require any declaration, information or explanation given by any person for the purpose of this Act to be verified on oath.

(7) An appointment made under subsection (1) shall be published in the *Gazette*.

(8) A person appointed under subsection (1) shall, before taking office, take and subscribe before the Electoral Commission an oath of secrecy provided by the Commission.

#### **4. Electoral Areas.**

For the purposes of this Act, Seychelles shall consist of such number of electoral areas into which Seychelles is divided under articles 112 and 116 of the Constitution:

Provided that the electoral areas into which Seychelles is divided at the commencement of this Act shall, until any determination is made under those articles, be deemed to be the electoral areas for the purposes of this Act.

## **PART II REGISTRATION OF VOTERS**

#### **5. Qualification for registration.**

(1) Every citizen of Seychelles entitled to be registered as a voter under article 114 of the Constitution and who has attained the age of eighteen years shall, if the citizen resides in an electoral area, be registered as a voter in that electoral area unless the citizen—

[S 5(1) am by s 2(a)(i)(A) of Act 27 of 2014 w.e.f. 15 May 2015.]

- (a) is disqualified from registering as a voter under this Act or any other written law;
- (b) is under any written law, adjudged or otherwise declared to be of unsound mind or detained as a criminal lunatic at the pleasure of the President;

[S 5(1)(b) am by s 2(a)(i)(B) of Act 27 of 2014 w.e.f. 15 May 2015.]

- (c) is serving a sentence of imprisonment exceeding six months imposed by a court in Seychelles.

[S 5(1)(c) am by s 2(a)(i)(C) of Act 27 of 2014 w.e.f. 15 May 2015.]

(2) No person shall be registered as a voter in more than one electoral area.

(3) Any citizen of Seychelles living overseas may be registered as a voter if—

- (a) he is issued with a National Identity Card under the National Identity Cards Act; and
- (b) he resides in an electoral area for a minimum period of three months, immediately prior to registration.

[S 5(3) ins by s 2(a)(ii) of Act 27 of 2014 w.e.f. 15 May 2015.]

#### **6. Qualification to vote.**

Every person registered as a voter in an electoral area is entitled to vote, in accordance with this Act, at an election or at a referendum in the electoral area unless—

- (a) any circumstances, other than the fact that the person no longer resides in the electoral area, have arisen which if the person were not registered as a voter would cause the person to be disqualified under section 5(1)(a), (b) or (c);
- (b) the person is serving a sentence of imprisonment.

[S 6(b) am by s 2(b) of Act 27 of 2014 w.e.f. 15 May 2015.]

#### **7. Register of voters.**

- (1) The Chief Registration Officer shall for every year prepare a register of voters, for each electoral area.
- (2) In the preparation of a register of voters under subsection (1), the Chief Registration Officer may use—
- (a) any information furnished to the Chief Officer of the Civil Status for the issue of a National Identity Card under the National Identity Cards Act, 1995 and for that purpose may require the Chief Officer of the Civil Status to communicate to the Chief Registration Officer such information;
  - (b) any information furnished to the Chief Officer of the Civil Status for the registration of births and deaths under the Civil Status Act and for that purpose may require the Chief Officer of the Civil Status to communicate to the Chief Registration Officer such information;
  - (c) any information recorded in the National Population Data Base compiled by the Chief Officer of the Civil Status and for that purpose may require any such information to be communicated to the Chief Registration Officer;
  - (d) any information recorded in the register maintained under section 9 of the Citizenship Act, 1994 and, for that purpose, may require the Citizenship Officer to communicate to the Chief Registration Officer such information;
  - (e) notwithstanding anything to the contrary in the Census Act, any information compiled by a census officer under that Act, and for that purpose may require the Census Commission to communicate to the Chief Registration Officer such information;
  - (f) any information furnished to the Chief Registration Officer by any person who is or claims to be entitled to have the name of that person entered in a Register of voters in an electoral area; or
  - (g) such other information as the Chief Registration Officer may obtain from a house to house or other sufficient inquiry.
  - (h) information contained in any previous register of voters.

(3) The information acquired under subsection (2)(a) to (g) shall only be used for the preparation of a register of voters and shall not be divulged or communicated to any person otherwise than in the performance of the functions under this Act.

(4) The Chief Registration Officer may, on information referred to in subsection (2), revise not less than once in each year the registers prepared under subsection (1) for the purposes of—

- (a) removing any obsolete entries;
- (b) correcting any mistake in respect of the name and other particulars of a registered voter;
- (c) where a registered voter has changed the residence to another electoral area, registering the voter in the register of that area;
- (d) deleting the name and other particulars of a person not qualified to be entered as a registered voter.
- (e) inserting the name and other particulars of a person entitled to have the name of that person entered in the register under subsection (5).

(5) The register of voters prepared or revised under subsection (1) or subsection (4) shall contain—

- (a) names of persons who on 1<sup>st</sup> January of the year for which the register is prepared or revised are entitled to be registered as voters; and
- (b) ...

[S 7(5)(b) rep by s 2(c)(i) of Act 27 of 2014 w.e.f. 15 May 2015.]

(6)...

[S 7 rep and subs by s 2(a) of Act 19 of 1996 w.e.f. 9 December 1996; s 7(6) rep by s 2(c)(ii) of Act 27 of 2014 w.e.f. 15 May 2015.]

## **8. Inspection of registers.**

(1) The Chief Registration Officer shall not later than 15<sup>th</sup> January of each year publish a notice in the *Gazette* and a local newspaper inviting any person who is or claims to be entitled to have the name of that person entered in the register of voters in an electoral area to inspect the registers prepared or revised under section 7 during the preceding year.

[S 8(1) rep and subs by s 2(a) of Act 19 of 1996 w.e.f. 9 December 1996; am by s 2(d)(i) of Act 27 of 2014 w.e.f. 15 May 2015.]

(1A) The register of voters shall, throughout the year, remain open for inspection:

Provided that the register of voters shall be closed for inspection for the period—

- (a) from the date of the issue of the notice under section 13(1) by the Electoral Commission; and
- (b) in case of a by-election, from the date on which the Speaker declares the seat vacant, to the date of the declaration of result of election under section 38.

[S 8(1A) ins by s 2(d)(ii) of Act 27 of 2014 w.e.f. 15 May 2015.]

(1B) The Electoral Commission shall, make year round arrangements for registration of new voters, claims or objections, transfer of voters from one electoral area to another and to make changes in the demographic information on the register of voters.

[S 8(1B) ins by s 2(d)(ii) of Act 27 of 2014 w.e.f. 15 May 2015.]

(1C) The establishment of registration centres, procedures for submitting applications, claims or objections and verifications thereof, appeals, if any, and publication of register of voters and other related matters shall, subject to this section, be as provided in Schedule 3.

[S 8(1C) ins by s 2(d)(ii) of Act 27 of 2014 w.e.f. 15 May 2015.]

(2) Any person who is or claims to be entitled to be entitled to have the name of that person entered in a register of voters in any electoral area may at any time during office hours, on application made to the Registration Officer of that area in a form to be provided by the Electoral Commission, inspect the register of voters for that area.

[S 8(2) rep and subs by s 2(a) of Act 19 of 1996 w.e.f. 9 December 1996; am by s 2(d)(iii) of Act 27 of 2014 w.e.f. 15 May 2015.]

(2A) A registered voter who has changed his residence from one electoral area to another, may request for his registration as a voter to be transferred to the electoral area of his new residence.

[S 8(2A) ins by s 2(d)(iv) of Act 27 of 2014 w.e.f. 15 May 2015.]

(3) Any person who—

- (a) claims to be entitled to have the name of that person entered in a register of voters in an electoral area but whose name does not appear on the register of voters in that area;
- (b) claims to be incorrectly entered on the register of that area;
- (bb) makes a claim for transfer of his registration as voter from one electoral area to another;

[S 8(3)(bb) ins by s 2(d)(v)(A) of Act 27 of 2014 w.e.f. 15 May 2015.]

- (c) objects to the name of the person, or, being a person whose name appears on the register, objects to the name of any other person, appearing on the register of that area,

may submit a claim or objection, to the Registration Officer of that area in such form as may be provided by the Electoral Commission.

[S 8(3) rep and subs by s 2(a) of Act 19 of 1996 w.e.f. 9 December 1996; am by s 2(d)(v)(B) of Act 27 of 2014 w.e.f. 15 May 2015.]

(4) The Registration Officer shall take a decision on the claims or objections, as the case may be, made under subsection (3) in accordance with the provisions contained in Schedule 3.

[S 8(4) rep and subs by s 2(d)(vi) of Act 27 of 2014 w.e.f. 15 May 2015.]

(5) Where the registration of a voter has been transferred from one electoral area to another, the details of the voter shall be entered in the register of voters in the electoral area where he resides and his registration as a voter in old electoral area shall be deleted.

[S 8(5) rep and subs by s 2(d)(vi) of Act 27 of 2014 w.e.f. 15 May 2015.]

(6) ...

[S 8(6) rep by s 2(d)(vi) of Act 27 of 2014 w.e.f. 15 May 2015.]

(7) Any person affected by a decision on a claim or objection made under subsection (3), may within 7 days of being notified, appeal against the decision to the Chief Registration officer.

[S 8(7) rep and subs by s 2(a) of Act 19 of 1996 w.e.f. 9 December 1996; am by s 2(d)(vii) of Act 27 of 2014 w.e.f. 15 May 2015.]

(8) The Chief Registration Officer shall, after giving 4 days notice in writing to the person who made the appeal under subsection (7), which notice shall be given within 3 days after receiving the appeal, hear the person if the person appears in response to the notice, and after considering such other evidence as the Chief Registration Officer thinks relevant and necessary allow or reject the appeal.

[S 8(8) rep and subs by s 2(a) of Act 19 of 1996 w.e.f. 9 December 1996;

(9) ...

[S 8 rep and subs by s 2(a) of Act 19 of 1996 w.e.f. 9 December 1996; s 8(9) rep by s 2(d)(viii) of Act 27 of 2014 w.e.f. 15 May 2015.]

## **9. Certification of register.**

(1) The Chief Registration Officer shall, after all claims, objections and appeals have been concluded under section 8, amend the register of voters for each electoral area accordingly and certify the registers:

[S 9(1) rep and subs by s 2(a) of Act 19 of 1996 w.e.f. 9 December 1996.]

Provided that the amended registers of voters under this subsection shall be certified and published on the 31<sup>st</sup> March:

[S 9(1) first proviso ins by s 2(e)(i) of Act 27 of 2014 w.e.f. 15 May 2015.]

Provided further that the Chief Registration Officer shall in a year in which an election is held, amend the register of voters—

(a) for each electoral area by including therein or deleting therefrom the names of persons registered as voters or otherwise between the period from the date on which the registers were previously certified and the date on which the notice under section 13(1) was issued; and

(b) in case of a by-election, for that electoral area including therein or deleting therefrom the names of persons registered as voters or otherwise between the period from the date on which the register was previously certified and the date on which the Speaker declares the seat vacant,

and certify and publish such amended registers of voters, as early as practicable.

[S 9(1) second proviso ins by s 2(e)(i) of Act 27 of 2014 w.e.f. 15 May 2015.]

(2) The registers of voters certified under subsection (1) shall be the registers for the purposes of an election or referendum held in any period prior to the next following certification of the registers under that subsection.

[S 9(2) rep and subs by s 2(a) of Act 19 of 1996 w.e.f.

9 December 1996

(3) The Electoral Commission shall provide the registered political parties with an electronic copy in a secured format as determined by the Electoral Commission and a hard copy of the registers of voters and amended registers of voters, if any, as certified under subsection (1) which shall contain only the name, date of birth, address, National Identity Number and electoral area, of the voters.

[S 9(3) rep and subs by s 2(a) of Act 8 of 2015 w.e.f. 25 September 2015.]

## **10. Display and inspection of registers.**

The Registration Officer shall display the registers of voters certified under section 9 for inspection by a new voter or a voter who applied for any change, to verify that his name has been entered or change has been effected in the register.

[S 10 rep and subs by s 2(f) of Act 27 of 2014 w.e.f. 15 May 2015.]

### **PART III**

### **PRESIDENTIAL ELECTION AND NATIONAL ASSEMBLY ELECTION**

#### **11. Presidential Election.**

A Presidential Election for the election of the President shall be held during the period specified in paragraph 4 of Schedule 3 of the Constitution.

#### **12. National Assembly Election.**

(1) A National Assembly Election may be—

- (a) a general election; or
- (b) a by-election,

for the election of the directly elected members of the National Assembly.

(2) A general election shall be held—

- (a) during the period specified in Article 79(1) of the Constitution, where the Assembly would stand dissolved by effluxion of the period specified in article 106(1) of the Constitution; or
  - (b) during the period of three (3) months beginning with the date the Assembly would stand dissolved under article 106(3) of the Constitution; or
  - (c) during the period of three (3) months beginning with the date the Assembly would stand dissolved under article 110 or article 111 of the Constitution.
- (3) A by-election shall be held during the period specified in article 79(2) of the Constitution.

### **13. Date of election.**

(1) The Electoral Commission shall, by notice in the *Gazette*, appoint the date or dates on which a Presidential Election or a National Assembly Election shall be held under this Act.

(2) The Electoral Commission may appoint different dates for the holding of a Presidential Election or a National Assembly Election or for the holding of those elections in different electoral areas.

(3) Where a Presidential Election and a National Assembly Election are to be held simultaneously the two elections shall begin on the same day.

### **14. Nomination Day.**

(1) The Electoral Commission shall, at least 21 days before the earliest date fixed under section 13 for a Presidential Election or a National Assembly Election, hereafter referred to as the “election day”, by notice in the *Gazette*, appoint the date, place and time for the nomination of candidates for the Presidential Election or the National Assembly Election and shall in the notice specify—

- (a) the sum required to be deposited or secured with the Electoral Commission by each candidate for each such election and the form and manner in which such sum shall be deposited or secured;

[S 14(1)(a) am by s 2(g)(i) of Act 27 of 2014 w.e.f. 15 May 2015.]

- (b) the number of persons required to endorse the nomination paper of each such candidate.

(2) The Electoral Commission may, in the case of a National Assembly Election, appoint the same place or different places for nomination of candidates for the election.

(3) The date appointed under subsection (1) shall hereafter be referred to as the “Nomination day”.

(4) The filing of nomination of candidates on the Nomination day shall be from 9 am to 1 pm.

[S 14(4) ins by s 2(g)(ii) of Act 27 of 2014 w.e.f. 15 May 2015.]

(5) The sum specified by the Electoral Commission under subsection (1)(a) shall not be less than—

- (a) R15000 in the case of the Presidential Election; and
- (b) R1500 in the case of a National Assembly Election.

[S 14(5) ins by s 2(g)(ii) of Act 27 of 2014 w.e.f. 15 May 2015.]

(6) The number of persons specified by the Electoral Commission under subsection (1)(b) shall not be less than—

- (a) 500 persons in the case of the Presidential Election; and
- (b) 50 persons in the case of a National Assembly Election.

[S 14(6) ins by s 2(g)(ii) of Act 27 of 2014 w.e.f. 15 May 2015.]

### **15. Requirements for nomination.**

(1) Every candidate for a Presidential Election or a National Assembly Election shall be nominated by means of a nomination paper provided for the purposes by the Electoral Commission.

(2) The nomination paper shall be submitted by each candidate on the nomination day at the time and place appointed in the notice published under section 14—

- (a) in the case of the Presidential Election to the Chief Electoral Officer; and
- (b) in the case of the National Assembly Election, to the Electoral Officer appointed for the electoral area for which the

candidate proposes to stand for election.

(3) The nomination paper submitted by each candidate for a Presidential Election or a National Assembly Election shall be signed by the candidate and—

- (a) in the case of the Presidential Election, shall be endorsed to the satisfaction of the Chief Electoral Officer by such number of persons entitled to vote at that election as is specified in the notice published under section 14(1);
- (b) in the case of a National Assembly Election, shall be endorsed to the satisfaction of the Electoral Officer by such number of persons entitled to vote at that election in the electoral area for which the candidate stands for election as is specified in the notice published under section 14(1).

(4) Each nomination paper shall be accompanied by—

- (a) a certificate issued by the Electoral Commission certifying the deposit of or securing the sum specified in the notice published under section 14(1);
- (b) such number of photographs of the candidate in such form and of such size as the Electoral Commission may specify in the nomination paper provided by the Commission; and
- (c) a symbol or a colour to identify the political party of the candidate, or, if the candidate is an independent candidate, the candidate along with a copy of the symbol or the colour in digital format

[S 15(4)(c) am by s 2(h)(i) of Act 27 of 2014 w.e.f. 15 May 2015.]

(5) Any nomination paper submitted after the expiration of the time specified in the notice published under section 14(1) shall be invalid and shall be rejected.

(6) After the expiration of the time specified in the notice published under section 14(1) for submission of nominations—

- (a) in the case of the Presidential Election, the Chief Electoral Officer;
  - (b) in the case of a National Assembly Election, the Electoral Officer to whom the nomination is submitted,
- shall, as soon as is practicable thereafter, determine whether to accept or reject the nomination paper submitted within the time specified in the notice.

(7) For the purposes of subsection (6), the Chief Election Officer or the Electoral Officer, as the case may be, shall permit each candidate to examine the nomination papers of other candidates.

(8) A candidate may object the acceptance of a nomination paper of any other candidate on the grounds that—

- (a) the other candidate is not qualified to stand for the election for which the candidate seeks to stand;
- (b) the nomination paper does not comply with subsections (1) to (4);
- (c) the description of the candidate on the nomination paper is insufficient to identify the candidate;
- (d) the candidate is not registered as a voter in the last published register of voters; or
- (e) the candidate already stands nominated for Presidential election or, as the case may be, for another electoral area in case of a National Assembly election.

[S 15(8) rep and subs by s 2(h)(ii) of Act 27 of 2014 w.e.f. 15 May 2015.]

(9) The Chief Electoral Officer or, as the case may be, the Electoral Officer shall consider the objections and determine whether to accept or reject the nomination paper.

(9A) The Chief Electoral Officer shall, before taking a decision on the objection, give the candidate against whom the objection is made an opportunity of being heard.

[S 15(9A) ins by s 2(h)(iii) of Act 27 of 2014 w.e.f. 15 May 2015.]

(9B) Where the Chief Electoral Officer or, as the case may be, the Electoral Officer rejects the nomination paper of a candidate, the sum deposited or secured pursuant to the notice under section 14(1) shall be refunded or returned.

[S 15(9B) ins by s 2(h)(iii) of Act 27 of 2014 w.e.f. 15 May 2015.]

(10) The determination made under this section by the Chief Electoral Officer or, as the case may be, the Electoral Officer shall be final.

(11) The determination made under subsection (9) shall not prevent the validity of the nomination of a candidate from being questioned in an election petition under section 44.

(12) Articles 51(1) and (2), 113, 114 of the Constitution shall apply for the purposes of the Presidential Election.

(13) Articles 79(3) to (7), 80, 113 and 114 of the Constitution shall apply for the purposes of a National Assembly Election.

(14) Save as provided in the Third Schedule of the Constitution, the Chief Electoral Officer or, as the case may be, the Electoral Officer shall, on the Nomination day, follow the procedure as specified in Schedule 3.

[S 15(14) ins by s 2(h)(iv) of Act 27 of 2014 w.e.f. 15 May 2015.]

#### **15A. Power to postpone or adjourn nomination.**

Where proceedings at a nomination day are interrupted or obstructed by riot, violence, or *force majeure* the Chief Electoral Officer or, as the case may be, the Electoral Officer may—

- (a) adjourn the proceedings until the following day;
- (b) shall affix a notice to that effect in a conspicuous place at the nomination centre; and
- (c) shall forthwith notify the Electoral Commission and the Chief Electoral Officer, as the case may be, of the adjournment.

[S 15A ins by s 2(i) of Act 27 of 2014 w.e.f. 15 May 2015.]

#### **16. Withdrawal of candidate.**

A candidate for the Presidential Election or a National Assembly Election may withdraw the nomination at any time by notice in writing to the Electoral Commission and shall, where the candidate withdraws the nomination at least 7 days before the election day, be refunded the deposit or returned the security for the deposit specified in the notice under section 14.

#### **17. Notice of names of candidates and polling stations.**

(1) The Chief Electoral Officer shall at least 15 days before election day by notice published in the *Gazette* and a local newspaper specify—

- (a) the address of the polling station for each electoral areas;
- (b) the time when voting may commence and the time of closing of the poll;
- (c) the names of each candidate for the election, the name of the registered political party of which the candidate is a member or the fact that the candidate is an independent candidate and the symbol or the colour of each candidate;
- (d) where Presidential Election and a National Assembly Election are held simultaneously—
  - (i) the Chief Electoral Officer may specify under paragraph (a) the same polling station for the conduct of each such election; and
  - (ii) the particulars in paragraph (c) shall be specified separately for each such election.

(2) Notwithstanding subsection (1)(b), the Electoral Officer of an electoral area shall allow a voter of the electoral area who at the time specified for the closing of the poll in the notice published under that subsection—

- (a) is inside the polling station; or
  - (b) in the opinion of the Electoral Officer, was in the immediate precincts of the polling station at that time but was prevented from entering the polling station because of congestion therein,
- to vote at the election before closing the poll.

#### **18. Polling for the elections.**

(1) Subject to subsections (2), (3) and (4) polling for—

- (a) a Presidential shall be conducted at each of the polling stations specified for each electoral area under section 17;
- (b) a National Assembly Election shall, in respect of each electoral area for which an election is held, be conducted at the polling station specified for that area under section 17.

(2) The Chief Electoral Officer shall provide voting facilities for voters—

- (a) temporarily on Mahé, who are registered in electoral areas other than those situated on Mahé, on the date of the election in those electoral areas;
- (b) temporarily residing on the Island of Praslin, and Inner Islands for employment reasons, who are registered in electoral areas on Mahé;
- (c) incapacitated and elderly residing in the institutions set out in the schedule 1; and
- (d) who are registered in any electoral areas and employed in the essential services, as set out in the schedule 2, and on the date of election are on duty away from their electoral area.

(e) who are for the time being detained but not serving a sentence of imprisonment under any written law.

[18(2)(e) ins by s 2(j) of Act 27 of 2014 w.e.f. 15 May 2015.]

(f) in any other special circumstances the Chief Electoral Officer considers it appropriate.

[S 18(2) rep and subs by s 2(b) of Act 4 of 2011 w.e.f. 9 May 2011; 18(2)(f) ins by s 2 of Act 14 of 2015 w.e.f. 19 October 2015.]

(2A) Voters under subsection (2) when so voting shall be deemed to have voted in the electoral area in which they have registered.

[S 18(2A) ins by s 2(b) of Act 4 of 2011 w.e.f. 9 May 2011.]

(3) Polling for an election in the Outer Islands shall be conducted in such manner as the Chief Electoral Officer determines and any voter so voting shall be deemed to have voted in the electoral area in which the voter is registered.

(4) The Chief Electoral Officer shall provide voting facilities for Electoral Officers, Assistant Electoral Officers and police officers on duty at a polling station of an electoral area other than that in which they are registered as voters to vote on the day on which they are on duty or on the immediately preceding day and when they have so voted they shall be deemed to have voted in the electoral area in which they are registered.

(5) The Chief Electoral Officer shall provide sufficient ballot boxes for an election at each polling station.

(6) Where polling for a Presidential Election and a National Assembly Election are held simultaneously—

(a) polling for each such election shall be conducted simultaneously at each polling station;

(b) sufficient ballot boxes shall be provided separately for each such election;

(c) the Electoral Officer at each polling station shall organise and conduct the polling station so as to avoid any confusion which may arise by reason of each such election being held simultaneously at each such polling station;

(d) it shall not be necessary to call out the number and particulars of the voter twice by reason of the voter voting in both elections but where such requirements are complied with immediately before the voter is issued with the ballot paper for one election, this may be dispensed with for the other election before the issue of the ballot paper for the other election.

## **19. Power to postpone or adjourn voting.**

(1) Where proceedings at a polling station are interrupted or obstructed by riot or violence, the Electoral Officer of the station may adjourn the proceedings until the following day, shall affix a notice to that effect in a conspicuous place at the polling station and shall forthwith notify the Electoral Commission and the Chief Electoral Officer of the adjournment.

(2) Where proceedings are adjourned at a polling station under subsection (1), the hours of polling on the following day shall be the same as those specified for the day on which the election was originally scheduled to take place.

## **20. Polling agents and counting agents.**

(1) Each candidate may appoint a person to be known as a polling agent to attend at the polling station during voting and a person to be known as a counting agent to attend the counting of votes at the place of counting votes.

(2) A candidate shall not later than 7 days before the election day notify in writing the Chief Electoral Officer, the name, National Identity Number and address of the polling agent and counting agent of the candidate.

(3) The Chief Electoral Officer shall as soon as is practicable before the election day issue a polling agent and a counting agent a certificate and—

(a) an Electoral Officer shall not allow a person to attend at a polling station as a polling agent;

(b) the Chief Electoral Officer or the Electoral Officer, as the case may be, shall not allow a person to attend at the counting of votes as a counting agent,

unless the person holds the certificate issued by the Chief Electoral Officer.

(4) When the polling agent or the counting agent of a candidate dies or becomes incapable of performing functions as polling agent or counting agent before the election day, the candidate shall forthwith appoint another person as polling agent or counting agent, as the case may be, and shall notify the Chief Electoral Officer in writing of the change and the reasons therefor and the Chief Electoral Officer shall issue a certificate to the person so appointed.

(5) A polling agent shall, as far as is practicable, be so posted at a polling station so as to be able to see each person being called, see the ballot paper being handed and see the entrance of the compartment used by the voter for the purpose of recording the vote but so that the polling agent cannot see how the voter votes.

(6) A candidate may appoint more than one person as a polling agent but not more than one such person shall at any one

time be posted at a polling station as the polling agent of the candidate.

(7) A candidate may appoint the same person as the polling agent and counting agent and, where a Presidential Election and a National Assembly Election are held simultaneously, a person appointed as polling agent for a candidate nominated by a political party for the Presidential Election may be appointed as the polling agent for a candidate of the same political party for a National Assembly Election at the same polling station.

## **21. Arrangements at polling.**

(1) A polling station shall be furnished with—

- (a) such number of compartments as the Electoral Officer of that station thinks necessary for the purpose of allowing voters to record their votes screened from observation;
- (b) sufficient number of ballot boxes for the election;
- (c) notices both inside and outside the station, containing instructions relating to the voting to be followed at the election;
- (d) notices showing the name of each candidate at the election together with the photograph of the candidate, the registered political party or the independent status of the candidate and the symbol or colour of the candidate as the case may be;
- (e) sufficient copies of the register of voters for the electoral area certified under section 9; and
- (f) such other things which the Chief Electoral Officer may, direct to be kept at the polling agent.

(1A) A polling agent of a candidate shall not carry into or use in the polling station any electronic or telecommunication instrument or device unless authorised by the Electoral Commission.

[S 21(1A) ins by s 2(k) of Act 27 of 2014 w.e.f. 15 May 2015.]

(2) Where the Presidential Election and a National Assembly Election are held simultaneously at the same polling station—

- (a) the polling station shall be furnished with sufficient number of ballot boxes for each such election;
- (b) the notices specified in subsection (1)(c) and (d) shall contain the particulars separately for each such election.

(3) A ballot box shall be so constructed that a voter can put the ballot paper inside but cannot withdraw it from the box without breaching the seal of the box referred to in section 24.

## **22. Admission to polling station.**

(1) The Electoral Officer of a polling station shall—

- (a) regulate the admission of persons wishing to vote at the polling station;
- (b) exclude all other persons, other than a person selected by a voter under section 25(3), the candidates, polling agents of the candidates, the leaders of registered political parties of the candidates, Assistant Electoral Officers, police officers on duty, Electoral Commission, Chief Electoral Officer or any person authorised by the Electoral Commission or the Chief Electoral Officer.

(2) The Electoral Officer of a polling station may order a police officer or any person authorised in writing by the Electoral Officer to remove a person who misbehaves or fails to obey lawful orders of the Electoral Officer at the polling station and the person so removed shall not, unless authorised by the Electoral Officer, again be allowed to enter the polling station and may be charged with the commission of an offence.

## **23. Form of ballot paper.**

The ballot paper shall be in such form and such colour as the Electoral Commission may approve and where a Presidential Election and a National Assembly Election are held simultaneously the ballot paper for the Presidential Election shall have at its outer edges on both sides of the ballot paper a border in such colour as the Electoral Commission may approve so as to differentiate it from the ballot paper for the National Assembly election.

## **24. Procedure before commencement of election.**

The Electoral Officer at the polling station shall, immediately before the beginning of voting at a polling station, show to persons lawfully present at the station that the ballot boxes are empty and then shall close and seal the boxes in such a manner as to prevent the boxes from being opened without the seals being broken.

## **24A. Commencement of voting.**

- (1) The voting for an election shall begin at 7 am and end at 7 pm.

(2) Where the voting at a polling station does not begin at the time specified under subsection (1) or the voting has been discontinued by the Electoral Officer or the Assistant Electoral Officer for any reason which in the opinion of the Electoral Officer or, as the case may be, the Assistant Electoral Officer sufficient to discontinue the voting, the Chief Electoral Officer or the Electoral Officer, may extend the time of voting at the polling station by such time the voting was delayed or discontinued.

[S 24A ins by s 2(1) of Act 27 of 2014 w.e.f. 15 May 2015.]

## **25. Procedure for voting.**

(1) Voting for an election at the polling station shall be conducted in substance and as nearly as possible in the following manner—

- (a) a person wishing to vote at the polling station shall—
  - (i) attend personally the polling station;
  - (ii) produce the National Identity Card of the person or satisfy the Electoral Officer of the identity and that the person has not voted at the station or elsewhere at the election;
- (b) the Electoral Officer, on being satisfied as provided in paragraph (a), shall—
  - (i) call out the number and particulars of the person as stated in the copy of the register of voters at the polling station;
  - (ii) stamp a ballot paper with an official mark and deliver it to the person;
  - (iii) place a mark against the name of the person on the copy of the register of voters to denote that a ballot paper in respect of the election has been delivered to the person; and
  - (iv) explain to the person how to record the vote; and
- (c) subject to subsection (3), the person shall go immediately into one of the compartments at the polling station and, without delay, record the vote in the manner explained in the notices referred to in section 21(1)(c) and by the Electoral Officer, fold the ballot paper in such manner as not to reveal the identity of the candidate for whom the vote has been recorded and place the ballot paper in the ballot box provided for this purpose.

(2) Where the Presidential Election and a National Assembly election are held simultaneously, subsection (1) shall apply subject to the following provisions—

- (a) subsection (1)(b)(i) shall be subject to section 18(6)(d);
- (b) in complying with subsection (1)(b)(ii), the Electoral Officer shall stamp and deliver a ballot paper separately for each such election;
- (c) in complying with subsection (1)(c), fold and place each such ballot paper in the manner specified in that subsection.

(3) Where a voter is incapacitated by blindness, or other physical cause or otherwise or is illiterate, the voter shall, after receiving the ballot paper or the ballot papers, as the case may be, enter the compartment or the place designated for the purpose by the Electoral Officer accompanied by the Electoral Officer and a person selected by the voter and in the presence of the person selected direct the Electoral Officer how the vote is to be cast and the Electoral Officer shall in the presence of the person selected mark the ballot paper or the ballot papers, of the voter accordingly, fold the ballot paper or ballot papers in such manner as not to reveal the identity of the candidate for whom the vote has been recorded and after leaving the compartment or the place designated for the purpose by the Electoral Officer with the voter and the other person place the ballot paper or ballot papers in the ballot box provided for this purpose and the voter shall, for the purposes of this Act, be deemed to have voted.

(4) An Electoral Officer or an Assistant Electoral Officer—

- (a) shall not refuse admission to the polling station of the person selected by a voter referred to in subsection (3); and
- (b) shall allow the person selected by a voter to be present at the time when the voter is instructing the Electoral Officer how the vote is to be cast and the Electoral Officer is marking the ballot paper or each of the ballot papers.

(5) A voter or the Electoral Officer, as the case may be, shall not place on the ballot paper or ballot papers any writing or mark by which the voter may be identified.

## **25A. Time off to exercise vote.**

(1) Every employer shall, on the day notified by the Electoral Commission for voting, provide every employee under him, who is a registered voter, sufficient time off to enable such employee to exercise his right to vote.

(2) The Employer shall not make any deductions from the pay or other remunerations of the employee so permitted to cast

his vote.

[S 25A ins by s 2(m) of Act 27 of 2014 w.e.f. 215 May 2015.]

## **26. Allegation of irregularities.**

(1) Where an Electoral Officer at a polling station has reason to believe or a polling agent at that station alleges that a person wishing to vote at the station is not a person entitled to vote at the station, the Electoral Officer shall—

- (a) advise the person accordingly, giving reasons for the belief or, where the polling agent has made an allegation referred to in this subsection, require the polling agent to state in the presence of the person wishing to vote the reason for the allegation;
- (b) warn the person that the person may commit an offence under this Act by voting.

(2) Where the polling agent refuses to state the reason for the allegation referred to in subsection (1), the Electoral Officer shall disregard the allegation.

(3) Where an Electoral Officer has warned under subsection (1) a person wishing to vote and notwithstanding the warning the person—

- (a) persists in voting;
- (b) produces evidence that the person is the person entitled to vote;
- (c) makes and subscribes to the declaration referred to in section 27,

the Electoral Officer shall record in writing the full name and address which the person gives as the name and address and comply with section 25(1)(b)(ii), (iii) and (iv) and, where the person votes, state that fact in the record.

## **27. Declaration of voter.**

(1) An Electoral Officer at a polling station shall, in the circumstances specified in section 26(1), require a person who persists in voting, before the person is given the ballot paper to make and subscribe to a declaration in the form provided by the Electoral Officer.

(2) Where a person referred to in subsection (1) fails to make and subscribe to the declaration referred to in that subsection, the Electoral Officer shall refuse to give to the person the ballot paper or the ballot papers.

## **28. No communication with a voter at the polling station.**

No person, other than the Chief Electoral Officer or the Electoral Officer or Assistant Electoral Officer of the polling station, shall communicate with a voter while the voter is in the polling station for the purpose of voting and the Electoral Officer may require any person who contravenes this section to leave the polling station.

## **29. Procedure on the close of poll.**

(1) The Electoral Officer shall, as soon as is practicable, after each ballot box is full and in respect of other ballot boxes after the close of the poll, in the presence of the respective polling agents who wish to attend—

- (a) close and seal the aperture of each ballot box and place the seal of the Electoral Officer thereto and allow the respective polling agents who are present to place their seals thereto;
- (b) make up in a separate packet the unused ballot papers;
- (c) mark the copy of the register of voters;
- (d) complete a statement, to be known as the ballot paper account, in the form provided by the Electoral Commission;
- (e) place the packet of unused ballot papers and register of voters referred to in paragraphs (b) and (c) together with any record made under section 26(3) in a bag and seal the bag with the seal of the Electoral Officer.

(2) Where a Presidential Election and a National Assembly Election are held simultaneously the Electoral Office shall in complying with subsection (1)(b), (d) and (e) do so separately in respect of each such election.

(3) After complying with subsection (1) and subject to section 30, the Electoral Officer shall, as soon as is practicable, make arrangements, for the counting of votes at the polling station and give notice of the time of counting to the candidates, if they are present, and the counting agents of each of the candidates and commence the counting of votes at the time specified in the notice and in the manner specified in sections 33 and 34.

### **30. Electoral area consisting of islands other than Mahe and Praslin.**

(1) In the case of a Presidential Election or a National Assembly Election at the electoral area consisting of the islands other than Mahe and Praslin, the Electoral Officer shall, after complying with section 29(1)(a) to (e), forward the sealed ballot boxes, the bags and the ballot paper accounts in respect of the election to an Electoral Officer designated for the purpose by the Chief Electoral Officer who shall hereafter be referred to as the “Designated Electoral Officer”.

(2) The Designated Electoral Officer shall, after the receipt under subsection (1) of the ballot boxes for the electoral area consisting of the islands other than Mahe and Praslin—

- (a) make arrangement for counting of votes;
- (b) give notice of the place and time, which shall not be earlier than the close of poll of other electoral areas, of the counting of votes to the candidates, if they are present, and to the counting agents of each of the candidates; and
- (c) commence the counting of votes at the time and place specified in the notice and in the manner specified in sections 33 and 34.

### **31. Enumerators.**

The Chief Electoral Officer may appoint such assistants, to be known as the enumerators, as the Chief Electoral Officer thinks necessary for the purpose of assisting the Chief Electoral Officer, the Electoral Officer or the Designated Electoral Officer, as the case may be, in the counting of votes.

### **32. Person who may be present at counting of votes.**

Except with the consent of the Electoral Commission, Chief Electoral Officer, the Electoral Officer or the Designated Electoral Officer no person, other than the enumerators, candidates, the counting agents of candidates and the leaders of the registered political parties of the candidates shall be present at the counting of votes at the respective places of counting.

### **33. Procedure before counting of votes.**

The Electoral Officer or the Designated Electoral Officer, as the case may be, shall, at the time and place notified for the counting of votes and, in the presence of the candidates, if they are present, and the counting agents of each candidate who may be present, examine and offer the candidates and the counting agents the opportunity to also examine the seals of all ballot boxes and sealed bags referred to in section 29 or section 30, as the case may be.

### **34. Counting.**

(1) The Electoral Officer or the Designated Electoral Officer, as the case may be, shall in respect of an election or, where the Presidential Election and a National Assembly Election are held simultaneously in respect of each such election separately, in the presence of the candidates, if they are present, with the help of enumerators examine, count and record the number of ballot papers contained in each ballot box.

(2) Where a ballot paper—

- (i) does not bear the official mark referred to in section 25;
- (ii) has anything written or marked by which a voter can be identified;
- (iii) is mutilated or torn; or
- (iv) does not contain a clear indication of the candidate for whom the voter has voted,

the ballot paper, shall be rejected and shall be endorsed with the word “rejected” by the Electoral Officer or the Designated Electoral Officer, as the case may be, and if a candidate or a counting agent of a candidate who may be present objects to the decision of the Electoral Officer or the Designated Electoral Officer, as the case may be, also with the words “rejection objected to”.

(3) The ballot papers, other than those rejected under subsection (2), shall, in respect of an election or, where the Presidential Election and the National Assembly Election are held simultaneously, in respect of each such election separately, be thereafter sorted into different groups according to the indication of the candidate for whom the voter has voted, the ballot papers in each group shall be counted and the Electoral Officer or the Designated Electoral Officer, as the case may be, shall record the number of ballot papers in each group.

(4) The ballot papers shall be kept with their faces upwards while being counted and recorded.

(5) Subject to the decision of the court on an election petition, the decision of the Electoral Officer or Designated Electoral Officer, as the case may be, as to the question arising in respect of a ballot paper is final.

(6) The Electoral Officer or the Designated Electoral Officer, as the case may be, shall prepare a statement showing the number of ballot papers rejected under the following heads—

- (a) want of official stamp;
- (b) writing or mark by which a voter could be identified;
- (c) mutilated or torn;
- (d) absence of a clear indication of the candidate for whom the voter has voted,

and shall, on request, allow the candidate, if present, or the counting agent of each candidate, as may be present, to copy the statement.

### **35. Recount.**

(1) A candidate or the counting agent of a candidate may, if present at the counting of ballot papers, require the Electoral Officer or the Designated Electoral Officer, as the case may be, to have the vote recounted once.

(2) The Electoral Officer or the Designated Electoral Officer, as the case may be, may, on his own motion, recount the ballot papers.

### **36. Conclusion of counting.**

(1) Upon the conclusion of the counting of votes, the Electoral Officer or the Designated Electoral Officer, as the case may be, shall in respect of an election or, where the Presidential Election and a National Assembly Election are held simultaneously, in respect of each such election separately, with the assistance of the enumerators—

- (a) in the presence of the candidates, if present, or the counting agents of candidates, as may be present, proceed to verify the ballot paper account referred to in section 29(1)(d) by comparing the number of ballot papers recorded in the account with the number of ballot papers counted, rejected and unused;
- (b) shall seal in separate packets the counted, rejected and unused ballot papers;
- (c) prepare a statement as to the result of the verification carried out under this subsection and, on request, allow a candidate or the counting agent of a candidate to copy the statement.

(2) The Electoral Officer or the Designated Electoral Officer, as the case may be, shall, as soon as is practicable after the result of the election has been ascertained, transmit—

- (a) a statement of the result to the Electoral Commission;
- (b) the ballot boxes, bags and other documents used in connection with the election to the Chief Electoral Officer.

### **37. Second ballot.**

(1) Where on the statement of the result transmitted to the Electoral Commission in respect of a Presidential Election, no candidate receives more than fifty percent of the votes cast, the Electoral Commission shall not declare the result of the election and the provision of paragraph 8 of Schedule 3 of the Constitution and sections 17 to 36 of this Act as applicable to the election shall apply to the second ballot.

(2) Where on the statement of the result transmitted to the Electoral Commission, in respect of a National Assembly Election an equality of votes is found to exist among the candidates receiving the highest number of votes in any electoral area, the Electoral Commission shall, without declaring the result of the election make arrangements for the holding of a second ballot in that electoral area among those candidates receiving equality of votes and the provisions of sections 17 to 36 as applicable to the election shall apply to the second ballot.

### **38. Notice of result of election.**

(1) Subject to section 37, the Electoral Commission shall, as soon as is practicable after receiving the statement of the result under section 36(2)(a)—

- (a) of a Presidential Election;
- (b) of a National Assembly Election,

declare the result of the election.

(2) As soon as is practicable after announcing the result under subsection (1), the Electoral Commission shall, by notice in the *Gazette*, publish the result of the Presidential Election and the National Assembly Election.

(3) Where a National Assembly Election is a general election held for the election of members of the National Assembly, the Electoral Commission shall as soon as is possible after declaring the results of the election under subsection (1)(b)—

- (a) in accordance with Schedule 4 of the Constitution, declare the number of proportionately elected members of the National Assembly which each political party is entitled to nominate; and
- (b) call upon each registered political party which is entitled to nominate a proportionately elected member of the National Assembly to submit to the Electoral Commission within seven days after the publication of the result of the general election, the names and other particulars of the proportionately elected members.

### **39. Disposal of ballot papers.**

The Chief Electoral Officer shall retain and ensure the safe custody of the counted, rejected and unused ballot papers, and other documents prepared under this Act in connection with a Presidential Election and a National Assembly Election for a period of 3 months from the date of the elections and on the expiration of that period shall destroy the ballot papers and other documents unless otherwise directed by the Constitutional Court or otherwise required for investigation or trial of an election petition or offence.

### **40. Delegation.**

(1) A Registration Officer may, unless otherwise directed by the Chief Registration Officer, authorise an Assistant Registration Officer of the electoral area in respect of which the Registration Officer has been appointed to do any act or thing which a Registration Officer may do under this Act and a reference in this Act other than in this section, to a Registration Officer shall be deemed to include a reference to an Assistant Registration Officer.

(2) An Electoral Officer or a Designated Electoral Officer may, unless otherwise directed by the Chief Electoral Officer, authorise an Assistant Electoral Officer at the polling station in respect of which the Electoral Officer or the Designated Electoral Officer has been appointed or designated to do any act or thing which an Electoral Officer may do under this Act and a reference in this Act, other than in this section, to an Electoral Officer or Designated Electoral Officer shall be deemed to include a reference to an Assistant Electoral Officer.

(3) Where a person who has been appointed Registration Officer is unable to exercise the functions under this Act, the Chief Registration Officer may authorise an Assistant Registration Officer of the electoral area in respect of which the Registration Officer was appointed to do any act or thing which a Registration Officer may do under this Act and a reference in this Act including subsection (1), to a Registration Officer shall be deemed to include a reference to an Assistant Registration Officer authorised under this subsection.

(4) Where a person who has been appointed Electoral Officer or designated as a Designated Electoral Officer is unable to exercise the functions under this Act on the day of the election, the Chief Electoral Officer may authorise an Assistant Electoral Officer at the polling station in respect of which the Electoral Officer was appointed or a Designated Electoral Officer was designated to do any act or thing which an Electoral Officer or Designated Electoral Officer may do under this Act and a reference in this Act including subsection (2), to an Electoral Officer or a Designated Electoral Officer shall be deemed to include a reference to an Assistant Electoral Officer authorised under this subsection.

### **41. Non attendance of candidate, polling agent or election agent.**

Where under this Act, an act or thing is required or authorised to be done in the presence of a candidate, polling agent or counting agent of a candidate, the non attendance of the candidate, polling agent or counting agent at the time and place appointed for the purposes shall not invalidate the act or thing.

### **42. Right to refuse disclosure of vote.**

A person who has voted at an election shall not, in any legal proceedings or otherwise, be required to state for whom the person voted.

### **43. Avoidance of elections.**

The result of a Presidential Election or a National Assembly Election shall not be questioned or subject to review in any court except on an election petition presented to the Constitutional Court under this Act.

#### 44. Election Petition.

(1) Article 51(3) to (5) of the Constitution shall apply for the determination of the question as to whether a person has been validly elected to the office of President.

(2) Article 82(1) to (4) of the Constitution shall apply for the determination of the question as to whether a person has been validly elected as a directly elected member of the National Assembly or nominated as a proportionately elected member of the National Assembly.

(3) An election petition to determine the question referred to in subsection (1) may be presented within 14 days of the publication of the results under section 38(2).

[S 44(3) am by s 2(n) of Act 27 of 2014 w.e.f. 15 May 2015.]

(4) An election petition to determine the question referred to in subsection (2) may be presented within 14 days of the publication of the results under section 38(2) or the publication of the names in the *Gazette* under paragraph 5 of Schedule 4 of the Constitution as the case may be.

[S 44(4) am by s 2(n) of Act 27 of 2014 w.e.f. 15 May 2015.]

(5) A petitioner in an election petition may claim—

- (a) a declaration that the election is void; or
- (b) a declaration that the nomination of a proportionately elected member of the National Assembly is void;
- (c) a recount of the ballot papers.

(6) The Constitutional Court, before hearing an election petition, shall require the petitioner to furnish security of such nature and in such amount as the Court may direct for the payment of costs, charges and expenses that may become payable by the petitioner.

(7) The Constitutional Court may declare that an election or as the case may be, a nomination is void if the Court is satisfied—

- (a) that there was a non-compliance with this Act relating to the election or relating to the nomination of a proportionately elected member of the National Assembly and the non-compliance affected the result of the election or the nomination;
- (b) that an illegal practice was committed in connection with the election by or with the knowledge and consent or approval of the candidate or by or with the knowledge and consent or approval of any of the agents of the candidate;
- (c) that the candidate or the person nominated at the time of the election or nomination was not a person qualified to be elected as President or a directly elected member of the National Assembly or to be nominated as a proportionately elected member of the National Assembly, as the case may be.

(7) The Constitutional Court may order a recount of the ballot papers where it is satisfied that there was an irregularity in the counting of ballot papers that affected the results of the election or the nomination.

#### 45. Trial of election.

(1) The trial of an election petition, shall, subject to this Act, be held in the same manner as a trial before the Supreme Court in its original civil jurisdiction.

(2) The Constitutional Court may—

- (a) by an order, compel any person who appears to the Court to be concerned in the election to attend as a witness at the trial; and
- (b) examine a witness referred to in paragraph (a) or any person in Court, although the person has not been called as a witness.

(3) A witness or a person referred to in subsection (2) may be examined or cross examined, as the case may be, by the petitioner, respondent and Attorney-General or his representative, if present at the trial.

(4) Where it appears to the Constitutional Court on an election petition—

- (a) that an act or omission of a candidate or the agent of a candidate or any other person, which, but for this section, would be an illegal practice under this Act, has been done or made in good faith through inadvertence or accidental

miscalculation or some other reasonable cause of a like nature; or

- (b) that upon taking into account all the relevant circumstances it would be just that the candidate, agent of the candidate or the other person should not be subject to any of the consequences under this Act for such act or omission, the Court may make an order allowing the act or omission, which would otherwise be an illegal practice under this Act, to be an exception to this Act and the candidate, agent or other person shall not be subject to the consequences under this Act in respect of the act or omission and the result obtained by the candidate shall not, by reason only of that act or omission, be declared to be void.

#### **46. Certificate of counts as to validity of election.**

- (1) At the conclusion of the trial of an election petition the Constitutional Court shall determine—
- (a) whether the election was valid;
  - (b) whether the election was void; or
  - (c) whether a recount of the ballot papers is required or not;
  - (d) whether the nomination of a proportionately elected member of the National Assembly was valid;
  - (e) whether the nomination of a proportionately elected member of the National Assembly was void,
- and shall certify the determination to the Electoral Commission.
- (2) The determination referred to in subsection (1) shall, subject to an appeal to the Court of Appeal, be final.
- (3) Where the Constitutional Court determines that an election or nomination is void, all the proceedings with regard to the election or nomination shall be recommenced.
- (4) Where the Constitutional Court determines that a recount of ballot papers is required, the Electoral Commission shall—
- (a) cause the ballot papers to be recounted in accordance with this Act and subject to any directions of the Court; and
  - (b) declare the result of the recount.

#### **47. Report of court as to illegal practice.**

- (1) At the conclusion of the trial of an election petition, the Constitutional Court shall report in writing to the Electoral Commission—
- (a) whether an illegal practice has been proved to have been committed by a candidate or an agent of the candidate and the nature of the practice;
  - (b) the names and descriptions of all persons who have been proved at the trial to have been guilty of an illegal practice.
- (2) Before making any report under subsection (1)(b) in respect of a person who is not a party to an election petition the Constitutional Court shall give the person an opportunity to be heard and to call evidence to show why the person should not be reported.
- (3) When the Constitutional Court reports that an illegal practice has been committed by a person, the person is disqualified for a period of five years from the date of the report from being registered as a voter and from voting at an election or a referendum under this Act.
- (4) The Electoral Commission shall cause the name of the person reported under subsection (1) to be removed from the register of voters of the electoral area where the person is registered as a voter.

#### **48. Secrecy.**

- (1) A polling agent, counting agent or such other person authorised under this Act by the Electoral Commission or the Chief Electoral Officer to attend at a polling station or at the counting of votes shall, unless the agent or person has taken an oath of secrecy under section 3(8), take an oath of secrecy in the form provided by the Chief Electoral Officer before attending at the polling station or counting of votes.
- (2) The Electoral Commission or Chief Electoral Officer, an Electoral Officer, Designated Electoral Officer, Assistant Electoral Officer, enumerator or any other person referred to in subsection (1) shall not, except for a purpose authorised under this Act or any other written law—
- (a) seek to obtain any information as to the candidate for whom a person is about to vote or has voted at a polling station;

- (b) communicate to any person any information concerning for whom a person has voted;
- (c) communicate to any person as to the name or number of a voter who has or has not applied for a ballot paper or voted at a polling station or as to the official mark used for stamping ballot paper;
- (d) communicate or seek to communicate with any person after that person has received a ballot paper and before that person has placed the paper in the ballot box;
- (e) communicate to any person any information regarding the number of votes a candidate has received in respect of a particular election before the declaration of the results of that election under section 38(1).

#### **49. Inaccurate description.**

A misname or inaccurate description of a person or place named or described in a notice or other document prepared or issued under this Act shall not affect the operation of the Act as respect the person or place if the person or place is so designated in the notice or document as to be identified.

#### **50. Electoral campaign.**

- (1) Electioneering for the purposes of an election shall end 24 hours prior to the time the voting begins.

[S 50(1) am by s 2(o)(i) of Act 27 of 2014 w.e.f. 15 May 2015.]

- (2) A candidate at the election shall, immediately after electioneering ends under subsection (1), remove or cause to be removed any bill, placard, poster, pamphlet referred to in section 51(2) in relation to the candidate's election which have been affixed within a radius of 100 metres of a polling station.

[S 50(2) am by s 2(o)(ii) of Act 27 of 2014 w.e.f. 15 May 2015.]

- (3) A candidate at the election or an agent of the candidate or any political party or any person on their behalf shall, within 24 hours prior to the time the voting begins, not engage in the following activities—

- (a) motorcade, rally, or public meeting;
- (b) stage show, party or picnic;
- (c) political broadcast or political advertisement on radio, television or newspaper;
- (d) publication of political bill, placard, poster or pamphlet, whether printed or in electronic form;
- (e) opinion poll; or
- (f) any other activity as may be prescribed by regulations.

[S 50(3) ins by s 2(o)(iii) of Act 27 of 2014 w.e.f. 15 May 2015.]

#### **51. Offences.**

- (1) A person who—

- (a) for the purposes of procuring the registration of the person or any other person as a voter, knowingly makes to any person having the duty of preparing, revising or amending the register of voters under section 7 or section 8 a false or misleading statement or representation;
- (b) applies to be registered as a voter in respect of an electoral area when the person resides in another electoral area and is already registered as a voter in respect of that other electoral area;
- (c) forges or fraudulently defaces or fraudulently destroys a register of voters or any part thereof;
- (d) forges, counterfeits or fraudulently destroys any official mark relating to a Presidential Election or a National Assembly Election;
- (e) forges or counterfeits or fraudulently destroys a ballot paper;
- (f) without due authority, supplies a ballot paper to any person;
- (g) fraudulently puts into any ballot box any paper other than a ballot paper which the person is authorised by law to put in;

- (h) without due authority, takes out of any polling station a ballot paper or has in the possession of the person a ballot paper outside a polling station;
- (i) without due authority, destroys, takes, opens or otherwise interferes with a ballot box or packet of ballot papers then in use for the purpose of a Presidential Election or a National Assembly Election;
- (j) wilfully furnishes false evidence or makes a false declaration under section 25, section 26 or section 27;
- (k) contravenes section 48(2);
- (l) commits an illegal practice in connection with a Presidential Election or a National Assembly Election;
- (m) without lawful authority, destroys, mutilates, defaces or removes a notice which is exhibited or any document which is made available for inspection, under this Act in connection with a Presidential Election or a National Assembly Election;
- (n) after a lawful demand to the person has been made under section 3(5) fails to give such information as the person possesses or unreasonably delays in giving the information;
- (o) causes any disturbances or fails to comply with a lawful order of the Chief Registration Officer or a Registration Officer at any place where a register of voters is kept for inspection under section 7(5) or section 8 or of the Chief Electoral Officer, an Electoral Officer or a Designated Electoral Officer at a polling station or place where the counting of votes is being carried out;
- (p) obstructs any member of the Electoral Commission or an officer appointed under this Act or fails to obey a lawful order of the Director or the officer;

[S 51(1)(p) am by s 2(c) of Act 9 of 2011 w.e.f. 18 July 2011.]

- (q) annoys, molests or in any way interferes with a voter within the precincts of a polling station or a radius of 200 metres of a polling station;
- (qa) fails to grant sufficient time to an employee, as provided under section 25A(1), to cast his vote;

[S 51(1)(qa) ins by s 2(p)(i)(A) of Act 27 of 2014 w.e.f. 15 May 2015.]

- (qb) deducts any amount from the pay or other remunerations of an employee, contrary to the provisions of section 25A(2);

[S 51(1)(qb) ins by s 2(p)(i)(A) of Act 27 of 2014 w.e.f. 15 May 2015.]

- (r) electioneers in connection with an election contrary to section 50(1) or fails to comply with section 50(2) or section 50(3),

[S 51(1)(r) am by s 2(p)(i)(B) of Act 27 of 2014 w.e.f. 15 May 2015.]

is guilty of an offence.

(2) A bill, placard, poster, pamphlet or circular containing any matter intended or calculated or likely to affect the result of an election shall bear upon its face the name and address of the person who issues it and a person who issues, publishes, posts or distributes a bill, placard, poster, pamphlet or circular to which this subsection applies but which does not comply with this subsection is guilty of an offence.

(3) For the purposes of this section and sections 44, 45 and 47, a person commits an illegal practice where the person—

- (a) directly or indirectly, by that person or by any other person on that person's behalf, gives, lends or agrees to give or lend, offers or promises to procure or to endeavour to procure, any money or valuable consideration to or for any voter or to or for any other person on behalf of a voter or to or for any other person, in order to induce the voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of such voter having voted or refrained from voting at an election.
- (b) directly or indirectly, by that person or by any other person on that person's behalf, gives or procures or agrees to give or procure or to endeavour to procure, any office, place or employment to or for a voter, or to or for any person, in order to induce the voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of the voter having voted or refrained from voting at an election;
- (c) directly or indirectly, by that person or by any other person on that person's behalf, makes any gift, loan, offer, promise, procurement, or agreement referred to in paragraph (b) to or for any person in order to induce such person to

- procure or to endeavour to procure the vote of a voter at an election;
- (d) upon or in consequence of any gift, loan, offer, promise, procurement or agreement referred to in paragraph (a), (b) or (c), procures or engages or promises or endeavours to procure the vote of a voter at an election;
  - (e) directly or indirectly, by that person or by any other person on that person's behalf, advances or pays, or causes to be paid, any money to or for the use of any other person, with the intention that the money, or any part thereof, shall be expended in bribery at an election or who knowingly pays, or causes to be paid, any money to any person in discharge or repayment of any money wholly or in part expended in bribery at an election;
  - (f) before or during an election directly or indirectly by that person or by any other person on that person's behalf, receives, agrees to receive or contracts for any money, gift, loan or valuable consideration, office, place or employment, for that person or for any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at the election;
  - (g) after an election, directly or indirectly, by that person or by any other person on that person's behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting at the election;
  - (h) corruptly, directly or indirectly, by that person or by any other person on that person's behalf, either before, during or after an election, gives, or provides, or pays, wholly or in part, the expense of giving or providing food, drink, entertainment or provision to or for any person for the purpose of influencing that person or any other person to vote or refrain from voting at the election;
  - (i) corruptly accepts or takes any food, drink, entertainment or provision referred to in paragraph (h);
  - (j) directly or indirectly, by that person or by any other person on that person's behalf, makes use of or threatens to make use of, any force, violence or restraint, or inflicts or threatens to inflict by that person or by any other person, any temporal or spiritual injury, damage, harm or loss, upon or against a voter, in order to induce or compel the voter to vote or refrain from voting, at an election or who, by abduction, duress or any fraudulent contrivance, impedes or prevents the free use of the vote by a voter either to give or refrain from giving the vote at an election;
  - (k) impersonates any other person in connection with an election;
  - (l) votes or attempts to vote, or induces or procures some other person to vote, at an election if that person, or if to that person's knowledge the other person, has already voted at the election;
  - (m) at a lawful public meeting held in connection with an election, acts or incites others to act in a disorderly manner for the purpose of preventing the holding of the meeting or the transaction of the business for which the meeting was called.
  - (n) accept a contribution or donation contrary to section 93(6) or section 93(7);  
[S 51(3)(n) ins by s 2(p)(ii) of Act 27 of 2014 w.e.f. 15 May 2015.]
  - (o) accept a contribution or donation higher than the amount specified in section 93(7);  
[S 51(3)(o) ins by s 2(p)(ii) of Act 27 of 2014 w.e.f. 15 May 2015.]
  - (p) use a contribution or donation contrary to section 93(8) or section 93(10);  
[S 51(3)(p) ins by s 2(p)(ii) of Act 27 of 2014 w.e.f. 15 May 2015.]
  - (q) accepts a contribution or donation by contract contrary to section 93(9).  
[S 51(3)(q) ins by s 2(p)(ii) of Act 27 of 2014 w.e.f. 15 May 2015.]

## 52. Penalties.

(1) A person who is guilty of an offence under section 51(a) to (r) or section 51(2) is liable to imprisonment for 3 years and a fine of R20,000:

Provided that if the person is guilty of an offence under section 51(1)(l) which relate to an illegal practice as provided for in section 51(3)(n) to (q), he shall be liable to a fine not exceeding R1,000,000.

[S 52(1) proviso ins by s 2(q) of Act 27 of 2014 w.e.f. 15 May 2015.]

(2) Where a person is convicted of committing an illegal practice, the person shall, in addition to any penalty under subsection (1), be disqualified for a period of 5 years from the date of the conviction from being registered as a voter and from voting at an election or referendum under this Act and the Electoral Commission shall forthwith cause the name of the person to be deleted from the register of voters of the electoral area where the person is registered as a voter.

## 53. Arrest without warrant.

A police officer may, without a warrant, arrest a person whom the police officer suspects upon reasonable ground of having

committed an offence under this Act.

## **PART IV REFERENDUM**

### **54. Reference of issue to Electoral Commission.**

Where any issue is required to be determined at a referendum, the President shall refer the issue to the Electoral Commission for the holding of a referendum.

### **55. Date of referendum.**

(1) The Electoral Commission shall, within seven days of a reference under section 54, appoint by notice in the *Gazette* the date or dates on which a referendum shall be held for the determination of the issue referred to the Commission under that section.

(2) The Electoral Commission may subject to subsection (3) appoint different dates for the holding of the referendum in different electoral areas.

(3) Where the Electoral Commission appoints different dates for the holding of the referendum in different electoral areas, the dates shall be consecutive dates and the period, starting with the earliest date and ending with the last date for the holding of the referendum, shall not exceed 4 days.

### **56. Question for approval at referendum.**

The question to be put to the voters at the referendum shall be determined by the Electoral Commission but shall be clear, precise and so framed that the voters are required to vote in the affirmative, if they approve the issue raised in the question or in the negative, if they do not.

### **57. Polling Station and time of voting.**

Section 17 other than subsection (1)(c) and (d) of that section shall apply to a referendum as it applies to an election.

### **58. Polling for a referendum.**

(1) Subject to subsection (2), polling for a referendum shall be conducted in each polling station specified under section 57.

(2) Section 18(2), (3), (4) and (5) shall apply to a referendum as they apply to an election.

### **59. Power to adjourn voting.**

Section 19 shall apply to a referendum as it applies to an election.

### **60. Polling agents and counting agents.**

(1) There may be present at any one time at each polling station—

- (a) at the time of voting, not more than 2 polling agents; and
- (b) at the time of counting of votes, not more than 2 counting agents,

appointed by each lobby in accordance with subsection (2).

(2) For the purpose of subsection (1) and this Part, the political parties campaigning for or against the approval of the issue to be determined at a referendum shall constitute themselves into 2 lobbies, a YES lobby and a NO lobby and each lobby shall

- (a) nominate a person for the purposes of all communications in relation to the referendum with the Electoral Commission or Chief Electoral Officer; and
- (b) notify the Electoral Commission and the Chief Electoral Officer of the persons nominated, and may appoint four polling agents and four counting agents.

(3) A lobby may appoint the same person as polling agent and counting agent.

(4) Section 20(2), (3), (4) and (5) shall apply to a referendum as they apply to an election, subject to the substitution of the word “lobby” for the word “candidate” wherever it occurs in those subsections.

(5) Each lobby may, in addition to an appointment made under subsection (2), appoint five representatives for the purposes of this Part and subsection (4) shall apply to a representative as it applies to a polling agent or counting agent.

**61. Arrangement at polling station.**

(1) Section 21, other than subsection (1)(d) and (2) of that section, shall apply to a referendum as it applies to an election.

(2) There shall be displayed at each polling station a notice showing the colour adopted by each of the two lobbies in terms of section 63(2).

**62. Admission to polling station.**

(1) Section 22, other than subsection (1)(b), shall apply to a referendum as it applies to an election.

(2) The Electoral Officer at a polling station shall exclude from the polling station all persons, other than a person wishing to vote at the polling station, a person selected by a voter under section 65, the polling agents of the lobbies, the leaders of political parties campaigning at the referendum, Assistant Electoral Officers, police officers on duty, the Electoral Commission, the Chief Electoral Officer or any person authorised by the Electoral Commission or the Chief Electoral Officer.

[S 62(2) am by s 2(d) of Act 9 of 2011 w.e.f. 18 July 2011.]

**63. Form of ballot paper.**

(1) Subject to subsection (2), the ballot paper shall be white in colour, and the lettering, including the letters of the question to be put to the voters, on the paper shall, subject to subsection (3), be in clearly legible black ink.

(2) In order to facilitate voting, each lobby shall adopt a colour.

(3) The ballot paper shall contain, below the question put to the voter, two rectangular boxes, as described in this subsection, where the voter may indicate the preference of the voter.

WI	YES	OUI		
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NON	NO	NON		
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Notes—

- (a) The outer lines of the YES box shall be bold and coloured in the colour adopted by the YES lobby and each letter in that box shall be printed on a white background in bold print in the colour adopted by that lobby;
- (b) The outer lines of the NO box shall be bold and coloured in the colour adopted by the NO lobby and each letter in that box shall be printed on a white background in bold print in the colour adopted by that lobby.
- (c) The shaded part of the YES box shall be coloured in the colour adopted by the YES lobby and of the NO box in the colour adopted by the NO lobby;
- (d) the blank space on the right hand corner of the box shall be for the use of the voter to mark the voter’s preference;
- (e) in these notes the YES box means the box for the use of a voter voting in the affirmative on the question put to the voter and the NO box means the box for the use of a voter voting in the negative on that question.

**64. Procedure before commencement of voting.**

Section 24 shall apply to a referendum as it applies to an election.

**65. Procedure for voting.**

Section 25, other than subsection (2) of that section, shall apply to a referendum as it applies to an election subject to the substitution of the word “lobby” for the word “candidate” wherever it occurs in that section.

**66. Allegation of irregularities.**

Section 26 shall apply to a referendum as it applies to an election.

**67. Declaration of voter.**

Section 27 shall apply to a referendum as it applies to an election.

## **68. No communication with voter at polling station.**

Section 28 shall apply to a referendum as it applies to an election.

## **69. Procedure on close of poll.**

Section 29(1) and (3) shall apply to a referendum as they apply to an election subject to, in subsection (3) of that section, the repeal of the words “candidates if they are present, and” and the substitution for the words “counting agents of the candidates” of the words “counting agents of each lobby”.

## **70. Electoral areas consisting of islands other than Mahe and Praslin.**

Section 30 shall apply to a referendum as it applies to an election subject to, in subsection 2(b) of that section, the repeal of the words “to the candidates if they are present, and” and the substitution for the and words “counting agent of each of the candidates” of the words “counting agents of each lobby”.

## **71. Enumerator.**

Section 31 shall apply to a referendum as it applies to an election.

## **72. Person who may be present at the counting.**

Section 32 shall apply to a referendum as it applies to an election subject to the substitution of the words “counting agents of each lobby and the leaders of the registered political parties campaigning at the referendum” for the words “candidates, the counting agents of candidates and leaders of registered political party of the candidates.”

## **73. Procedure before counting.**

Section 33 shall apply to a referendum as it applies to an election subject to the substitution of the words “in the presence of the counting agents of each lobby who may be present, examine and offer the counting agents” for the words commencing with the words “in the presence of the candidates” and ending with the words “offer the candidates and the counting agents”.

## **74. Counting.**

(1) The Electoral Officer or the Designated Electoral Officer, as the case may be, shall in the presence of the counting agents of each lobby who may be present with the help of the enumerators examine, count and record the number of ballot papers contained in each ballot box.

(2) Section 34(2), (3), (4), (5), and (6) shall apply to a referendum as they apply to an election subject to the substitution of the words “indication of the preference of the voter” for the words “indication of the candidate whom the voter has voted” wherever they occur, in the subsections (2), (3) and (6) of that section.

## **75. Recount.**

Section 35 shall apply to a referendum as it applies to an election subject to the substitution of the words “The counting agent of each lobby” for the words “A candidate or a counting agent of a candidate” in subsection (1) of that section.

## **76. Conclusion of counting.**

Section 36 shall apply to a referendum as it applies to an election subject to the substitution of the words “the counting agent of each lobby if present” for the words “the candidates, if present or the counting agent of candidates” in subsection (1)(a) of that section and the substitution of the words “counting agent of each lobby” for the words “candidate or the counting agent of a candidate” in subsection (1)(c) of that section.

## **77. Notice of result.**

(1) As soon as is practicable after receiving the statement of the results of the referendum under section 76, the Electoral Commission shall declare the result of the referendum.

(2) As soon as is practicable after announcing the result of the referendum, the Electoral Commission shall, by notice in the *Gazette*, publish the result.

## **78. Disposal of ballot papers.**

Section 39 shall apply to a referendum as it applies to an election.

## **79. Delegation.**

Section 40 shall apply to a referendum as it applies to an election.

### **80. Non attendance of persons.**

Section 41 shall apply to a referendum as it applies to an election subject to the substitution of the words “a representative of each lobby” for the words “of a candidate” where they occur for the first time and of the words “of each lobby” for the words “of a candidate” where they occur for the second time and of the words “of the representative of each lobby” for the words “of the candidate”.

### **81. Right to refuse disclosure of vote.**

Section 42 shall apply to a referendum as it applies to an election.

### **82. Avoidance of referendum.**

The result of a referendum shall not be questioned or subject to review in any court whatsoever except on a referendum petition presented to the Supreme Court.

### **83. Referendum petition.**

- (1) A referendum petition may be presented by—
  - (a) representative of a lobby; or
  - (b) the Attorney-General.
- (2) A referendum petition may claim—
  - (a) a declaration that the referendum is void;
  - (b) a recount of the ballot papers.
- (3) A referendum petition shall be presented to the Supreme Court within 10 days after the date of the publication of the result of the referendum in the *Gazette* under section 77(2) and the petitioner presenting the petition shall notify the Electoral Commission of the presentation of the petition within seven days of the presentation.
- (4) The Supreme Court shall, before hearing a referendum petition, require the petitioner to furnish security of such nature and in such amount as the Court may direct for the payment of costs, charges and expenses that may become payable by the petitioner.
- (5) The Supreme Court may declare a referendum void if the Court is satisfied—
  - (a) that there was a non-compliance with this Act relating to the referendum and the non-compliance affected the result of the referendum; or
  - (b) that an illegal practice was committed in connection with the referendum by or with the knowledge and consent or approval of a lobby or a registered political party campaigning at a referendum or an agent of such party.
- (6) The Supreme Court may order a recount of the ballot papers where the Court is satisfied that there was an irregularity in the counting of the ballot papers that affected the result of the referendum.

### **84. Trial of a referendum petition.**

- (1) A trial of a referendum petition shall, subject to this Act, be held in the same manner as a trial before the Supreme Court in its original jurisdiction.
- (2) The Supreme Court may—
  - (a) by an order, compel any person who appears to be connected in the referendum to attend as a witness at the trial; and
  - (b) examine a witness referred to in paragraph (a) or any person in Court, although the person has not been called as a witness.
- (3) A witness or a person referred to in subsection (2), may be examined or cross examined, as the case may be, by the petitioner and respondent to the referendum petition and the Attorney-General or the representative of the Attorney-General, if present at the trial.
- (4) Where it appears to the Supreme Court on a referendum petition—
  - (a) that an act or omission of a representative of a lobby or the agent of a lobby or any other person, which but for this section would be an illegal practice under this Act, has been done or made in good faith through inadvertence or accidental miscalculation or some other reasonable cause of a like nature; or
  - (b) that upon taking into account all the relevant circumstances it would be just that the representative, agent or other person should not be subject to any of the consequences under this Act for such act or omission,

the Court may make an order allowing the act or omission which would otherwise be an illegal practice under this Act, to be an exception to this Act and the representative, agent or other persons shall not be subject to the consequences under this Act in respect of the act or omission and the referendum shall not, by reason only of that act or omission, be declared to be void.

### **85. Certificate of Court as to validity of referendum.**

(1) At the conclusion of the trial of a referendum petition, the Supreme Court shall determine whether—

- (a) the referendum was valid;
- (b) the referendum was void; or
- (c) a recount of the ballot papers is required or not,

and shall certify the determination to the Electoral Commission.

(2) The determination referred to in subsection (1) shall, subject to an appeal to the Court of Appeal, be final.

(3) Where the Supreme Court determines that the referendum is void, all proceedings with regard to the referendum shall be recommenced.

(4) Where the Supreme Court determines that a recount of ballot papers is required, the Electoral Commission shall—

- (a) cause the ballot papers to be recounted in accordance with this Part and subject to any directions of the Court; and
- (b) declare the result of the recount.

### **86. Report of Supreme Court as to illegal practice.**

Section 47 shall apply to a referendum petition as it applies to an election petition subject to the substitution of the words “Supreme Court” for the words “Constitutional Court” and the words “a representative of a lobby or an agent of the lobby” for the words “a candidate or agent of the candidate”.

### **87. Secrecy.**

Section 48 shall apply to a referendum as it applies to an election subject to the substitution, in subsection (2)—

- (a) of the word “how” for the words “the candidate for whom” in paragraph (a);
- (b) of the word “how” for the words “for whom” in paragraph (b); and
- (c) of the words “cast in the affirmative or in the negative for a lobby before the declaration of the result of the referendum under section 77(1)” for all the words commencing with the words “a candidate has received” in paragraph (e).

### **88. Inaccurate description.**

Section 49 shall apply to a referendum as it applies to an election.

### **89. Referendum campaign.**

(1) Campaigning for a lobby at a referendum shall end at midnight on the third day before the earliest date appointed for the holding of the referendum under section 55.

(2) The representatives of a lobby shall, immediately after the campaigning ends under subsection (1), remove or cause to be removed any bill, placard, poster referred to in section 90(b) in relation to that lobby which have been affixed within a radius of 200 metres of a polling station.

### **90. Offences.**

Section 51 shall apply in connection with a referendum as it applies in connection with an election subject to the substitution—

- (a) in subsection (1)—
  - (i) of the words “a referendum” for the words “a Presidential Election or a National Assembly Election” in paragraphs (d), (i), (l) and (m);
  - (ii) of the words “section 65 or section 66 or section 67” for the words “section 25, section 26 or section 27” in paragraph (j);
  - (iii) of the words “section 87” for the words “section 48(2)” in paragraph (k);
  - (iv) of the following paragraph for paragraph (r)

“(r) campaigns in connection with a referendum contrary to section 89(1) or fails to comply with section 89(2)”.

- (b) in subsection (2) of the words “a referendum” for the words “an election”.
- (c) in subsection (3)—
  - (i) of the words “sections 83, 84, and 86 for the words “sections 44, 45, and 47”;
  - (ii) of the words “a referendum” for the words “an election” in paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (j), (k), (l) and (m).

### **91. Penalties.**

Section 52 shall apply in connection with a referendum as it applies in connection with an election subject to the substitution of the words “section 90” for the words “section 51(1)(a) to (r) or section 51(2)” in subsection (1).

### **92. Arrest without a warrant.**

Section 53 shall apply to a referendum as it applies to an election.

## **PART V MISCELLANEOUS**

### **93. Election expenses.**

- (1) All expenses on account of—
  - (a) holding public meetings or organising any public display;
  - (b) issuing bills, placards, posters, pamphlet, circulars or advertisements; or
  - (c) otherwise presenting to the voters the candidate, the views of the candidate or of the political party which nominated the candidate,

with a view to promoting or procuring the election of the candidate shall be incurred by either the candidate, or an agent of the candidate appointed for the purpose by the candidate in writing or a registered political party which has nominated the candidate and by no other person or body of persons.

(2) Where a candidate appoints an agent for the purpose of subsection (1), the candidate shall as soon as is practicable notify the Electoral Commission of the appointment.

(3) The candidate or an agent of the candidate or the registered political party, as the case may be, shall keep proper accounts of—

- (a) all funds received by the candidate, the agent of the candidate or the registered political party in connection with the election;
- (b) all expenses incurred by the candidate or the agent of the candidate or the registered political party under subsection (1).

(4) A candidate or an agent of the candidate or a registered political party, as the case may be, shall open and maintain a bank account to be called “electioneering fund account” for the purposes of keeping proper accounts of funds received and expenditure incurred during the electioneering period.

[S 93(4) ins by s 2(r) of Act 27 of 2014 w.e.f. 15 May 2015.]

(5) A candidate may, during electioneering period, receive for the purposes of electioneering, contributions or donations from any legal entity or citizen of Seychelles wishing to support the democratic process in Seychelles under a receipt issued in a form prescribed by regulations by the Electoral Commission.

[S 93(5) ins by s 2(r) of Act 27 of 2014 w.e.f. 15 May 2015.]

(6) Without prejudice to subsection (5), a candidate shall not accept, directly or indirectly, any contributions or donations from—

- (a) any foreign government or its agent;
- (b) any foreign political party or faith based organisation;
- (c) any public institution, statutory body or any other organisation controlled or owned by the government or from any company in which the government holds any capital share;
- (d) any private company performing a public function pursuant to a written law;
- (e) any person who is not tax compliant;
- (f) any foreign individual or any foreign entity, whether or not body corporate; or

(g) any trade union, whether registered or not.

[S 93(6) ins by s 2(r) of Act 27 of 2014 w.e.f. 15 May 2015.]

(7) Each contribution or donation made to a single candidate by a person for the purposes of electioneering shall—

(a) in case of the Presidential election, not exceed R1,000,000; and

(b) in case of the National Assembly election, not exceed R250,000.

[S 93(7) ins by s 2(r) of Act 27 of 2014 w.e.f. 15 May 2015.]

(8) A contribution or donation received for electioneering and accepted by a candidate or agent of a candidate or a registered political party shall be used only for electioneering purposes and shall not be used for the regular operations of the party.

[S 93(8) ins by s 2(r) of Act 27 of 2014 w.e.f. 15 May 2015.]

(9) Where in an electioneering period, in relation to a political party or a candidate any money is lent otherwise than on commercial terms, the money shall be taken to be the amount of contribution or donation, as the case may be.

[S 93(9) ins by s 2(r) of Act 27 of 2014 w.e.f. 15 May 2015.]

(10) Where any contribution or donation received is not identifiable by the candidate, agent of the candidate or the political party, the candidate, agent of the candidate or the political party, as the case may be, shall—

(a) not use the money for electioneering;

(b) make efforts to identify the source of that contribution or donation;

(c) if the donor has used a facility provided by a financial institution, return it to that financial institution; and

(d) if it is not possible to identify the donor, the money so received shall be caused to be paid into the Consolidated Fund.

[S 93(10) ins by s 2(r) of Act 27 of 2014 w.e.f. 15 May 2015.]

(11) Where a contribution or donation which is not identifiable by a candidate, agent of a candidate or the political party, has been knowingly accepted by the candidate or an agent of the candidate or a political party, as the case may be, and not paid to the Consolidated Fund in accordance with subsection (10)(d), the Electoral Commission may order the forfeiture of such contribution or donation, in addition to any other penalty that may be imposed under the Act.

[S 93(11) ins by s 2(r) of Act 27 of 2014 w.e.f. 15 May 2015.]

(12) In this section and section 94—

“contribution” means any sum or gift of money whether wholly or in part or any loan received by or made or provided to a candidate, his or her agent or any other person on his or her behalf, or to a political party and includes any assistance or service provided by any person the value of which exceeds R5,000;

“donation” means any money given to or spent by, or on behalf of, a candidate or a political party in paying any expenses incurred directly or indirectly by the candidate or the political party and includes any assistance or service provided by any person the value of which exceeds R5,000;

“electioneering period” means—

(a) in relation to the Presidential Election and the National Assembly Election a period of 90 days prior to the election day and includes the day of voting; and

(b) in relation to a by-election the period beginning from the day on which the Speaker of the National Assembly informs the Electoral Commission of a vacancy of the seat of an elected member and includes the day of voting;

“expenditure” includes any amount paid to or by a political party towards salaries, administrative expenses, purchase of assets, electoral expenses, loan repayments, bank charges, gifts received but returned or forfeited to the state;

“funds” include contributions and donations received during the electioneering period by a candidate or an agent of the candidate or a registered political party, as the case may be, for the purposes of electioneering.

“income” includes any amount of money received by a political party, subscriptions received from members of a political party during the electioneering period, loans received, returns on investments, proceeds from the sale of assets, public funds, if any, provided from the Consolidated Fund by the State.

[S 93(12) ins by s 2(r) of Act 27 of 2014 w.e.f. 15 May 2015.]

## **94. Limitation on expenses.**

(1) A candidate or an agent of a candidate or a political party, as the case may be, who receives any funds or incurs any expenditure in connection with an election, shall prepare separately and deliver to the Electoral Commission, during a electioneering period, monthly statements of funds received or expenditure incurred, giving the details of the number of persons and the amount of funds received and the expenditure incurred.

[S 94(1) rep and subs by s 2(s)(i) of Act 27 of 2014 w.e.f. 15 May 2015.]

(2) Without prejudice to subsection (1), a candidate, an agent of the candidate or a registered political party, as the case may be, shall, within 45 days after the day on which the result of the election is declared under section 38, prepare a consolidated statement of the funds received and the expenses incurred, during the electioneering period, by the candidate, agent of the candidate or the political party, as the case may be.

[S 94(2) rep and subs by s 2(s)(i) of Act 27 of 2014 w.e.f. 15 May 2015.]

(3) Within 60 days after the day on which the result of an election is declared under section 38, the candidate, the agent of the candidate or the registered political party, as the case may be, shall deliver to the Electoral Commission a statement prepared under subsection (2) certified as a true statement by the candidate, agent of the candidate or the registered political party, as the case may be.

[S 94(3) rep and subs by s 2(s)(i) of Act 27 of 2014 w.e.f. 15 May 2015.]

(3A) The candidate, the agent of the candidate or the registered political party, as the case may be, shall disclose in the statement prepared under subsection (1) or (2)—

- (a) the identity of the person or source who or which provided the funds; and
- (b) the identity of the person in respect of whom the expenditure was incurred.

[S 94(3A) ins by s 2(s)(i) of Act 27 of 2014 w.e.f. 15 May 2015.]

(3B) The Electoral Commission, chairman or a member, or any person under the control, of the Electoral Commission shall not reveal to any person or publish in any manner the identity of the person disclosed under subsection (3A), except for the purposes of prosecution of an offence under section 51(3)(n) to (q) or subsection (3C).

[S 94(3B) ins by s 2(s)(i) of Act 27 of 2014 w.e.f. 15 May 2015.]

(3C) Any person who contravenes subsection (3B) is guilty of an offence and is liable to imprisonment for 2 years and a fine of R500,000.

[S 94(3C) ins by s 2(s)(i) of Act 27 of 2014 w.e.f. 15 May 2015.]

(3D) Upon the receipt of a statement under subsection (1) or (2), the Electoral Commission shall, not later than 21 days, issue the candidate, agent of the candidate or the political party, as the case may be, a certificate for receipt of statement.

[S 94(3D) ins by s 2(s)(i) of Act 27 of 2014 w.e.f. 15 May 2015.]

(3E) Submission of monthly statements under subsection (1) does not absolve the candidate, agent of the candidate or the political party from the responsibilities of preparing and delivering the statement under subsections (2) and (3).

[S 94(3E) ins by s 2(s)(i) of Act 27 of 2014 w.e.f. 15 May 2015.]

(3F) The Electoral Commission shall publish its findings on the consolidated statements on funds received and expenditure incurred during the electioneering period by the candidates, agents of the candidates and political parties within 60 days after receiving the statement under subsection (3).

[S 94(3F) ins by s 2(s)(i) of Act 27 of 2014 w.e.f. 15 May 2015.]

(4) Where a candidate, agent of the candidate or the registered political party—

- (a) fails to comply with subsections (1), (2) and (3); or

[S 94(4)(a) am by s 2(s)(ii)(A) of Act 27 of 2014 w.e.f. 15 May 2015.]

- (b) in a statement delivered under subsections (1) and (3), knowingly includes any incorrect or false particulars,

[S 94(4)(b) am by s 2(s)(ii)(B) of Act 27 of 2014 w.e.f. 15 May 2015.]

the candidate, agent of the candidate or the registered political party is guilty of an offence and is liable to imprisonment for 3 years and a fine of R20,000.

(5) Where a registered political party commits an offence under subsection (4), every office bearer of that party shall be

deemed to commit the offence unless it is proved—

- (a) that the office bearer did not know of the act or omission constituting the offence; or
- (b) that the offence is not attributable to the negligence of the office bearer.

#### **95. Right to campaign and right to broadcast in respect of an election.\***

Every registered political party nominating candidates for an election and every candidate at an election shall, during the period commencing on nomination day and ending on the third day before the election day, have the right—

- (i) to campaign in the election;
- (ii) to broadcast matter relating to the election,

with a view to promote or procure the election of any candidate nominated by that party or of the candidate, as the case may be.

#### **96. Public meetings.\***

(1) In the exercise of the right to campaign under section 95(i) every registered political party and every candidate may, subject to the Public Order Act, hold public meetings with a view to promote or procure the election of any candidate nominated by the political party or of the candidate, as the case may be.

(2) In granting permits for the holding of public meetings under subsection (1), the Commission of Police shall, subject to subsection (3), afford equal opportunities to each registered political party or candidate.

(3) Where an application for a permit to hold a public meeting at the same venue at the same time is made by two or more registered political parties or two or more candidates, the Commission of Police shall, subject to the Public Order Act, permit the political party or the candidate whose application was received first to hold the meeting.

#### **97. Political Broadcasts.\***

(1) For the exercise of the right to broadcast under section 95(ii), the Electoral Commission shall, in consultation with the Seychelles Broadcasting Corporation established by the Seychelles Broadcasting Corporation Act, 1992 (hereafter referred to as the “Corporation”), allocate free broadcasting time to each registered political party and each candidate.

(2) In allocating free broadcasting time under subsection (1), the Electoral Commission shall—

- (a) in the case of Presidential Election to each candidate nominated to contest a Presidential Election, equal broadcast time;
- (b) in the case of the National Assembly Election—
  - (i) to each registered political party contesting the election, equal broadcast time; and
  - (ii) to each candidate, equal broadcast time;
- (c) in the case of the referendum to each lobby, equal broadcast time; and
- (d) in the case of a by-election—
  - (i) to each registered political party contesting the election, equal broadcast time; and
  - (ii) to each candidate, equal broadcast time.

[S 97(2) rep and subs by s 2(t)(i) of Act 27 of 2014 w.e.f. 15 May 2015.]

(2A) The maximum time that may be allocated by the Electoral Commission under subsection (2) for free political broadcast shall—

- (a) in the case of the Presidential Election for each candidate, not exceed 134 minutes on television and 149 minutes on radio;
- (b) in the case of the National Assembly Election for each candidate, not exceed 5 minutes on television and 5 minutes on radio;
- (c) in the case of the referendum for each lobby, not exceed 134 minutes on television and 149 minutes on radio;
- (d) in the case of a by-election—
  - (i) for each registered political party contesting the election, not exceed 26 minutes on television and 26 minutes on radio;
  - (ii) for each candidate, not exceed 15 minutes on television and 15 minutes on radio.

[S 97(2A) ins by s 2(t)(i) of Act 27 of 2014 w.e.f. 15 May 2015.]

(3) The Electoral Commission shall decide by draw of lots the order in which—

- (i) each registered political party shall utilise the broadcasting time; and
- (ii) each candidate shall utilise the broadcasting time.

(4) The Electoral Commission shall inform each registered political party and each candidate the broadcasting time allocated to each such political party and candidate and the order in which such time is to be utilised.

(5) Any registered political party or candidate which or who fails to utilise the broadcasting time allocated under subsection (1) shall forfeit the right to broadcast.

(6) Each registered political party and each candidate shall not less than 24 hours before each broadcasting time allocated to that party or candidate submit to the Corporation a text of the broadcast.

(7) The Corporation may, where it has reasonable grounds to believe that the text of any broadcast submitted to it under subsection (6) is likely to give rise to a claim for damages against the Corporation or is not in good taste or is contrary to the public interest, security, peace or morality—

- (i) not less than 12 hours before broadcasting time, request the political party or the candidate to revise the text on the matters referred to in the request and submit the revised text to it within such time as may be specified in the request;
- (ii) where the political party or the candidate fails to revise the text or the revised text submitted is not acceptable to the Corporation, reject the text and the revised text and accordingly the political party or the candidate shall forfeit the right to broadcast.

(8) For the purposes of this section, “text” in relation to a broadcast by a candidate or a political party during electioneering period, means the copy of the typed or printed or recorded statement or speech to be read over or made or telecast by a candidate or an authorised representative of a political party, through radio or television, during the time allocated to the candidate or political party, as the case may be.

[S 97(8) ins by s 2(t)(ii) of Act 27 of 2014 w.e.f. 15 May 2015.]

(9) The Electoral Commission may make regulations in respect of regulation of broadcasts on the television and radio during electioneering period.

[S 97(9) ins by s 2(t)(ii) of Act 27 of 2014 w.e.f. 15 May 2015.]

\*Sections 94A, 94B, 94C inserted by Act 19 of 1996, were numbered as Sections 95, 96, 97 in the 1996 Ed.

## **98. Rules of Court.**

(1) The Chief Justice may, by rules of Court, provides for the practice and procedure of the Supreme Court in relation to an election petition or a referendum petition under the Act.

(2) The President of the Court of Appeal may, by rules of the Court, provide for the practice and procedure in relation to an appeal under this Act.

## **99. Regulations.**

(1) The Electoral Commission may make regulations for carrying into effect of the purposes and provisions of this Act.

[S 99 renumbered as 99(1) by s 2(u) of Act 27 of 2014 w.e.f. 15 May 2015.]

(2) In making regulations under subsection (1), the Electoral Commission may amend any provisions of “Schedule 1”, “Schedule 2” or “Schedule 3”.

[S 99(2) ins by s 2(u) of Act 27 of 2014 w.e.f. 15 May 2015; am by s 2(b) of Act 8 of 2015 w.e.f. 25 September 2015.]

## **100. Savings and transitional.**

(1) All acts done, decisions taken, authorisations or permissions granted by the Electoral Commissioner which were validly done, taken or granted under any written law shall continue to have effect and shall be continued by the Electoral Commission.

(2) All suits and other legal proceedings pending or which could have been instituted by or on behalf or against the Electoral Commissioner shall be continued or instituted as if the Electoral Commission was a party thereto.

[S 100 ins by s 2(e) of Act 9 of 2011 w.e.f. 18 July 2011.]

[Note: “Commissioner” was not changed to “Commission”.]

## **SCHEDULE 1**

[Sch 1 ins by Act 4 of 2011 w.e.f. 9 May 2011.]

North East Point Home for the Elderly

North East Point Hospital

## **SCHEDULE 2**

[Sch 2 ins by Act 4 of 2011 w.e.f. 9 May 2011.]

### **Essential Services**

Purse Seiners

Air Seychelles Aircraft

Security for President and Ex-Presidents

Health Services

Security Personnel at the Electoral Commissioner's office

The Prison Service

Meteorological Services

Voting stations

Airport Services or Air Traffic Control

Seychelles Fire and Rescue Services Agency (SFRSA)

Public Utilities Corporation

## **SCHEDULE 3**

[Sections 8(1C), 15(1) and (14) and 99(2)]

[Sch 3 ins by s 2(v) of Act 27 of 2014 w.e.f. 15 May 2015.]

### **CHAPTER I**

#### **PROCEDURE IN RESPECT OF REGISTRATION OF VOTERS**

1. The Electoral Commission shall open such Registration Centres for receiving application for registration of voters and transfer of voter from one electoral area to another electoral area.
2. The Electoral Commission shall notify the Registration Centres by notice published in the *Gazette* and at least in one daily newspaper and invite applications for registration as voters from qualified citizens.
3. The Electoral Commission shall ensure that there is present at the Registration Centres, a Registration Officer or an Assistant Registration Officer for the purpose of receiving an application for registration as a voter or transfer from one electoral area to another electoral area or objection.
4. Every application for registration as a voter or transfer from one electoral area to another electoral area or objection under section 8(3) of the Act shall be submitted in triplicate, in the Form appended to this Schedule, at the Registration Centre of the electoral area to which the application relates.
5. An acknowledgement of receipt of the forms shall be issued on every application received.
6. A verification in respect of claim for registration as a voter or transfer from one electoral area to another electoral area or objection shall be done to ensure the veracity of the details in the application.
7. If the applicant is not found in the residence during the first visit of the officer concerned, the officer shall leave or paste a notice at conspicuous place of the residence informing the applicant that the residence shall be visited on a subsequent date mentioned in the notice for the purposes of verification.
8. If the applicant is not available at his residence during the second visit, a notice shall be pasted at a conspicuous place at the residence of the applicant requiring him to appear before the officer at the Registration Centre for verification.
9. If the applicant does not appear before the officer as required in the notice under paragraph 8, his application shall be

rejected.

10. Notwithstanding paragraph 8, if the applicant satisfies the Registration Officer concerned that there were sufficient reasons which prevented him or her from appearing before the officer, his or her application shall be considered for registration as voter or, as the case may be, transfer from one electoral area to another electoral area.

11. A list of applications for registration as voter or transfer from one electoral area to another electoral area or objection received during a month and verified in accordance with this Chapter shall be published by the Electoral Commission in the first week of the subsequent month inviting objections.

12. Any person may file, within 7 days from the publication of the list of applications under paragraph 10, any objection in respect of an application for registration as a voter or transfer from one electoral area to another electoral area or objection, as the case may be.

13. If any objection on the application is received within the period specified under paragraph 11, the Registration Officer concerned shall consider the same after giving both the parties an opportunity of being heard.

14. After considering the claims of applicant and objections, if any, the Registration Officer shall take an appropriate decision either to—

- (a) proceed with the registration of voter in respect of registration; or
- (b) transfer the name from one electoral area to another electoral area, in respect of transfer; or
- (c) delete the name of the person in respect of whom an objection was made from the register of voters; or
- (d) reject the application,

for reasons to be recorded in writing.

15. A written intimation in respect of the decision on the application shall be issued to every applicant within a period as the Electoral Commission may fix.

16. The name of the applicants whose application for registration or transfer has been allowed under this Chapter shall be included in the register of voters for the electoral area concerned.

17. The applicant whose application has been rejected may make an appeal in accordance with section 8(7) of the Act and the appeal shall be decided in accordance with section 8(8) of the Act.

18. The Registration Officer of each electoral area shall forward to the Chief Registration Officer all claims and objections made under section 8(3) of the Act together with the decision made thereon by each such officer.

19. The Chief Registration Officer shall make the registers of voters, without demographic data of persons, available to the public for inspection.

20. A copy of the register of voters, excluding biographic data, shall be—

- (a) provided to the National Library;
- (b) provided to every registered political party; and
- (c) kept at every administrative district and other locations as may be considered necessary for public reference.

21. A copy of registers of voters as certified under section 9(1) of the Act shall be made available to the Electoral Officers at the polling stations for the purposes of use on the election day.

## **CHAPTER II**

### **PROCEDURE FOR NOMINATION**

22. The Electoral Commission shall publish the notice as required under section 14(1) of the Act and open the nomination centres at the places, date and time notified in the notice for facilitating candidates to file their nomination papers.

23. The nomination of a candidate under section 15(1) of the Act shall be made in the nomination paper provided by the Electoral Commission for the purpose.

24. The Electoral Commission shall make available sufficient number of nomination papers at the nomination centre.

25. The Chief Electoral Officer or, as the case may be, the Electoral Officer shall facilitate the candidates in making the deposit in accordance with section 15(4) of the Act.

26. After closure of the nomination time specified in the notice under section 15(1) of the Act, the Chief Electoral Officer or, as the case may be, the Electoral Officer shall make a preliminary verification of nomination papers received within the time specified in the notice, to determine whether to accept or reject the nomination paper.
27. The Chief Electoral Officer or, as the case may be, the Electoral Officer shall make available the nomination papers of the candidates to other candidates for examination to file objections, if any.
28. On receipt of any objection under section 15(8) of the Act, the Chief Electoral Officer or, as the case may be, the Electoral Officer shall after giving an opportunity of hearing to the candidate and the other candidate who submitted the objection, take a decision in accordance with section 15(9) of the Act.
29. The Chief Electoral Officer or, as the case may be, the Electoral Officer shall communicate in writing his decision under section 15(9) of the Act to the candidate and the other candidate who submitted objection and publish a final list of all candidates in accordance with section 17(1) of the Act.
30. The Chief Electoral Officer or, as the case may be, the Electoral Officer shall complete the nomination process on the nomination day itself.
31. The Chief Electoral Officer or, as the case may be, the Electoral Officer shall inform the candidate in writing the decision taken under section 15(6) of the Act.
32. On acceptance of the nomination paper under section 15(6) of the Act, the Chief Electoral Officer or, as the case may be, the Electoral Officer shall publish the list of candidates by displaying the list of accepted nominations at a conspicuous place at the nomination centre.

### **CHAPTER III PROCEDURE FOR POLLING**

33. The Chief Electoral Officer shall publish notices of names of candidates and polling stations in the *Gazette* and a local newspaper as provided in section 17(1) of the Act.
34. The Chief Electoral Officer shall provide adequate voting facilities for voters at all polling stations under section 18(2) of the Act.
35. The Chief Electoral Officer shall, if considered necessary make adequate arrangements for polling in the Outer Islands so any voter may vote pursuant to section 18(3) of the Act.
36. The Chief Electoral Officer shall make available the ballot papers to for voting by officials and police officers on duty at a polling station to vote pursuant to section 18(4) of the Act.
37. The Chief Electoral Officer shall ensure that the ballot papers voted under section 18(3) and (4) of the Act are kept in sealed ballot bags and are opened at respective polling stations for counting of votes.
38. In case of any dispute as to the identity of a voter, the polling agents may verify the details of the voter with the copy of register of voters available with the Electoral Officer.

### **CHAPTER IV PROCEDURE FOR COUNTING**

39. On the close of the poll, as soon as practicable—
- (a) the Electoral Officer shall make adequate arrangements for counting of votes at the polling station and give notice of the time of counting under section 29(3) of the Act, in case of Mahe and Praslin; and
  - (b) the Designated Electoral Officer shall give notice of place and time under section 30(2) of the Act in case of the islands other than Mahe and Praslin and make adequate arrangements for counting of votes at such place.
40. The counting of votes shall commence at the place and time specified in the notice referred to in paragraph 39.
41. The Electoral Officer or, as the case may be, the Designated Electoral Officer shall not permit any person other than referred to in section 32 of the Act, to be present at the respective places of counting.
42. The Electoral Officer or, as the case may be, the Designated Electoral Officer shall examine and allow the persons referred to in section 33 of the Act to examine the seals of all ballot boxes and sealed bags.
43. The Electoral Officer or, as the case may be, the Designated Electoral Officer shall ensure—

- (a) examination, counting and recording of the number of ballot papers in each ballot box in accordance with in section 34(1) of the Act;
- (b) sorting of ballot papers as provided in section 34(2) of the Act and endorsing as “rejected” or “rejection objected to”, as the case may be;
- (c) sorting of ballot papers, other than those rejected, counting and recording the number of ballot papers as provided in section 34(3) and (4) of the Act;
- (d) preparing statement showing the number of ballot papers rejected and allowing copying of the statement as provided in section 34(6) of the Act;
- (e) recounting of the vote if required as provided under section 35 of the Act; and
- (f) verifying the ballot paper account referred to in section 29(1)(d) of the Act and sealing in separate packets the counted, rejected and unused ballot papers, preparing a statement and allowing copying the statement as provided in section 36(1) of the Act.

44. The Electoral Officer or, as the case may be, the Designated Electoral Officer shall transmit the statement of the result to the Electoral Commission, as provided in section 36(2) of the Act.

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**Application for registration or transfer of voter or objection: *EL001.pdf***

## **SUBSIDIARY LEGISLATION**

### **Presidential Election and National Assembly Election (Election Petition) Rules, 1998**

[Section 95(1)]

#### **Arrangement of Rules**

1. Citation.
2. Interpretation.
3. Practice and procedure of the Court.
4. Constitution of the Court.
5. Security for costs.
6. Fees and costs.
7. Particulars of an election petition.
8. Failure to comply with the Elections Act, 1995 and Rules.
9. Registrar to issue notice.
10. Preliminary objection.
11. Withdrawal of an election petition.
12. Evidence required for withdrawal of an election petition.
13. Consolidation of election petitions.
14. Priority in hearing.
15. Determination of Court.

SI 10 of 1998.

[Date of commencement: 24<sup>th</sup> March 1998]

#### **1. Citation.**

These Rules may be cited as the Presidential Election and National Assembly Election (Election Petition) Rules, 1998.

#### **2. Interpretation.**

In these Rules—

“Court” means the Constitutional Court constituted under Article 129 of the Constitution;

“Election Petition” means a petition presented to the Court for the determination of the question as to whether a person has been validly elected to the office of President or as a directly elected member of the National Assembly, as the case may be;

“Registrar” means the registrar of the Supreme Court.

### **3. Practice and procedure of the Court.**

(1) These Rules provide for the practice and procedure of the Court in relation to an election petition.

(2) Where any matter is not provided for in these Rules, the provisions of the Seychelles Code of Civil Procedure shall apply to the practice and procedure to be observed in connection with the presentation and hearing of an election petition as they apply to civil proceedings before the Supreme Court.

### **4. Constitution of the Court.**

(1) The jurisdiction and powers of the Court in respect of an election petition shall, subject to subrule (2), be exercised by two judges of the Supreme Court sitting together.

(2) The Chief Justice may determine that the jurisdiction and power of the Court in relation to any matter referred to in subrule (1) be exercised by more than two Judges of the Supreme Court sitting together.

### **5. Security for costs.**

(1) Except where an election petition is presented by the Attorney-General, a petitioner shall furnish security in a sum of R50,000 for costs, charges and expenses that may become payable by the petitioner.

(2) The security shall be furnished at the time the petition is presented to Court.

### **6. Fees and costs.**

(1) The provisions of the Court Fees (Supreme Court) and Costs Act shall apply in relation to the fees and taxation of costs of an election petition as they apply to proceedings in the Supreme Court in respect of civil proceedings before the Supreme Court.

(2) For the purpose of subrule (1), the value of the subject matter of an election petition shall be deemed to be R50,000.

### **7. Particulars of an election petition.**

(1) An election petition shall contain a concise statement of the material facts on which the petitioner relies and the relief which the petitioner claims.

(2) Where the petitioner alleges that an illegal practice has been committed in relation to the election, the petition shall contain the name and particulars of the person alleged to have committed the illegal practice and the date and place of the commission of the illegal practice.

(3) The Court shall not permit an amendment of an election petition which seeks to include any new matter not pleaded in the petition.

(4) Where the petitioner is not the Attorney-General, the Attorney-General shall be made a respondent to the petition.

(5) The petitioner shall file in the registry as many copies of the petition as there are respondents.

### **8. Failure to comply with the Elections Act, 1995 and Rules.**

(1) Where an election petition has not been presented within the time specified in section 44(3) and (4) of the Elections Act or where the petitioner has failed to comply with the provisions of the Elections Act, 1995 or these Rules, the registrar shall submit the petition for an order of Court.

(2) The Court shall hear the petitioner before making an order under subrule (1).

### **9. Registrar to issue notice.**

Where an election petition has been presented within the time referred to in rule 8 and the petitioner has complied with the Elections Act 1995 and these Rules, the registrar shall issue notice on the respondents fixing the date and time for their appearance.

### **10. Preliminary objection.**

The respondent may before filing a defence to an election petition raise any preliminary objection to the election petition and the Court shall hear the parties before making an order on the objection.

#### **11. Withdrawal of an election petition.**

(1) A petitioner shall not withdraw an election petition without leave of the Court, on special application made to the Court.

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

#### **12. Evidence required for withdrawal of an election petition.**

(1) Before leave for withdrawal of an election petition presented by any person other than the Attorney-General is granted, there shall be produced affidavits by all the parties to the election petition but the Court may on cause shown dispense with the affidavit of any particular person if it seems to the Court upon special ground, to be just so to do.

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

(3) The affidavit of the petitioner shall further state the ground on which the election petition is sought to be withdrawn.

(4) Where the deponent of an affidavit is a registered political party, the affidavit shall be made by the leader of that party.

(5) Copies of the affidavits shall be delivered to the Attorney-General at a reasonable time before the hearing of the application for withdrawal, and the Court may hear the Attorney-General in opposition to the allowance of the withdrawal of the election petition, and shall have power to receive evidence on oath of any person whose evidence the Attorney-General considers material.

(6) For the purposes of these Rules an agreement made with respect to the withdrawal of an election petition shall be deemed to be unlawful, if such agreement is made or entered into for the withdrawal of the election petition in consideration of any payment of any sum to any person, or in consideration of the withdrawal or non-presentation of any other election petition.

#### **13. Consolidation of election petitions.**

Where the Court is of opinion that it would be for its convenience and that of all the parties concerned that two or more election petitions be consolidated, the Court may, of its own motion or on application of any party, direct that the petitions be consolidated and treated as one petition.

#### **14. Priority in hearing.**

The hearing of an election petition on any day shall take priority over other business of the Court listed for hearing on that day.

#### **15. Determination of Court.**

(1) The Court may declare an election void if the Court is satisfied—

- (a) that there was a non-compliance with the provisions of law relating to the election and the non-compliance affected the result of the election; or
- (b) that an illegal practice was committed in connection with the election by or with the knowledge and consent or approval of a candidate at the election or of any of the agents of the candidate; or
- (c) that the candidate at the time of the election was not a person qualified to be elected as President or a directly elected member of the National Assembly, as the case may be.

(2) The Court may order a recount of ballot papers where the Court is satisfied that there was an irregularity in the counting of ballot papers that affected the result of the election.

## **Elections Regulations, 2006**

[Section 96]

### **Arrangement of Regulations**

1. Citation.
2. Use of Government vehicles.
3. Displaying support.
4. Use of bulletin boards etc. For communication.
5. Cloth banners.
6. Use of paint of posters on certain property.
7. Offence and penalty.

SI 20 of 2006,  
24 of 2006.

[Date of commencement: 4<sup>th</sup> July 2006]

### **1. Citation.**

These Regulations may be cited as the Elections Regulations, 2006.

### **2. Use of Government vehicles.**

(1) No person shall use a Government vehicle to transport voters to polling stations.

(2) A person going to a polling station by a Government vehicle to perform official functions or a person having the use of a Government vehicle using it strictly for that person or a member of the person's family to go to the polling station shall be deemed not to be a breach of subregulation (1)

(3) For the purpose of this regulation, a "Government vehicle" means a motor vehicle of a Ministry or Department of Government or of the Defence Forces or the Police Force.

### **3. Displaying support.**

No person other than a candidate shall, on a polling day and within a distance of 200 metres of a polling station, wear or display on any property any cloth, banner, insignia, logo, bill or board calculated to show support for a candidate or a political party:

[Reg 3 am by reg 2(i) of SI 24 of 2006 w.e.f. 24 July 2006.]

Provided that the wearing of clothing of any colour other than the colour of any political party or candidate shall not by itself be a breach of these regulations.

[Reg 3 proviso rep and subs by reg 2(ii) of SI 24 of 2006 w.e.f. 24 July 2006.]

### **4. Use of bulletin boards etc. For communication.**

(1) Display of any notice, advertisement or announcement by a candidate or a political party in connection with an election shall be effected by affixing it on a bulletin board or a hoarding.

(2) For the purpose of subregulation (1), bulletin boards and hoardings shall be erected at places approved by the Electoral Commission in consultation with the Land Transport Division, Police (Traffic Section) and the Planning Authority.

(3) The size of a bulletin board or hoarding on any public land shall be 4ft x 8ft.

(4) Poster in A2 format affixed on plywood or other sheets of the same size may be placed on electricity poles at the rate of one poster per pole per candidate.

(5) Boards shall be erected after nomination and notice etc. displayed thereon shall be removed within 14 days after the polling day by the person who caused them to be displayed.

### **5. Cloth banners.**

Any person who intends to display a cloth banner connection with an election shall obtain the prior permission of the Land Transport Division and the Police (Traffic Section) Police (Traffic Section) and remove any such banner within 14 days after the polling date.

### **6. Use of paint of posters on certain property.**

- (1) No person shall—
- (a) Paste or affix a poster or other paper; or
  - (b) Use paint (liquid or spray) to mark or paint anything,
- on a road, pavement, telephone or electricity post, wall or fence whether on public or private property in connection with election.

### **7. Offence and penalty.**

A person who knowingly acts in breach of any of these regulations commits an offence and shall, on conviction be liable to a fine of R20,000 or a term of imprisonment not exceeding 2 years.

## **Elections Advisory Board Regulations, 2010**

[Section 99]

### **Arrangement of Regulations**

1. Citation.
2. Establishment of the Board.
3. Object of the Board.
4. Composition of the Board.
5. Meeting, rules and proceedings.
6. Disclosure of interest.
7. Decision by majority.
8. Procedure.
9. Confidentiality.
10. Honorarium.

SI 86 of 2010.

[Date of commencement: 6<sup>th</sup> December 2010]

### **1. Citation.**

These Regulations may be cited as the Elections Advisory Board Regulations, 2010.

### **2. Establishment of the Board.**

There shall be an Elections Advisory Board constituted in accordance with these Regulations.

### **3. Object of the Board.**

The object of the Elections Advisory Board shall be to advise and assist the Electoral Commission in the performance of the Electoral Commission's functions generally and in relation to—

- (a) the registration of voters;
- (b) the delimitation of boundaries;
- (c) organisation of elections and the setting of election date;
- (d) consultation of members of the public in respect of election matters;
- (e) liaising with relevant public authorities and stakeholders in delimitating boundaries;
- (f) reviewing electoral laws as and when necessary; and
- (g) other measures to ensure good governance and transparency in the management of elections.

### **4. Composition of the Board.**

- (1) Subject to subregulation (2), the Elections Advisory Board shall consist of the following members—
- (a) the Electoral Commissioner;

- (b) the Chief Registration Officer;
- (c) the person who last functioned as the Chief Electoral Officer;
- (d) three other persons with knowledge and experience in the conduct of elections and delimitating electoral boundaries, nominated by the Electoral Commission.

(2) Notwithstanding subregulation (1), during the period between the nomination day and the polling day of an election, a representative of each Presidential candidate shall be appointed to the Elections Advisory Board in the case of a Presidential election, and a representative of each political party shall be appointed to the Board in the case of a National Assembly election. At any election aforesaid a representative in respect of one or more independent candidates shall be appointed to the Board.

#### **5. Meeting, rules and proceedings.**

(1) The Electoral Advisory Board shall meet at such time and place as may be notified by the Electoral Commission provided that it shall meet at least three times during a year.

(2) Three members shall constitute a *quorum* for a meeting.

(3) A member who fails to attend three consecutive meetings shall cease to be a member.

#### **6. Disclosure of interest.**

A member who has a personal interest in any matter to be discussed by the Electoral Advisory Board at any meeting shall inform the person chairing the meeting of that fact prior to the meeting and shall not take part in the deliberations of that meeting, and such disclosure shall be recorded in the minutes of that meeting.

#### **7. Decision by majority.**

A decision taken by the Electoral Advisory Board shall be by the majority vote of the members present at the meeting and in the case of an equality of votes, the person chairing the meeting shall have an additional vote.

#### **8. Procedure.**

Subject to the Regulations, the Board shall regulate its own proceedings and shall keep records and minutes of the proceedings.

#### **9. Confidentiality.**

The members shall treat all proceedings of the Electoral Advisory Board as confidential for such period as the Board may determine.

#### **10. Honorarium.**

Members other than the Electoral Commission and the Chief Registration Officer shall be paid an honorarium as determined by the Electoral Commission.