

CHAPTER 379

THE REPRESENTATION OF THE PEOPLE ACT

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REPRESENTATION OF THE PEOPLE

(31st October, 1975.)

191975.
S.R.O. 46/1981.**Part I****THE FRANCHISE AND ITS EXERCISE**

1. This Act may be cited as the Representation of **Short title.**
the People Act.

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

'at an election' means that period of time beginning with the issue of the writ of election and ending with the return of the said writ in accordance with the provisions of this Act;

"during an election" shall bear the same meaning as "at an election" for the purpose of this Act;

"dwelling house" includes any part of a house where that part is occupied separately as a dwelling house;

"election" means an election of a member or members to the House of Representatives;

"election court" means in relation to an election petition, the High Court having jurisdiction by virtue of the provisions of section 44 of the Constitution or the provisions of this Act;

"election petition" means a petition presented in pursuance of Part III of this Act;

"election officer" means a registration officer, presiding officer, poll clerk or other person appointed to perform duties under this Act;

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“elector” in relation to an election, means any person whose name is for the time being on the register to be used at that election;

“legal incapacity” includes any disqualification imposed by section 40 of the Constitution, by this Act or any other Act;

“Election Rules” means the Election Rules in the First Schedule to this Act;

“Part” means Part of this Act;

“person” does not include any corporation either aggregate or sole, any company established under the Companies Act, any corporation established by statute or any club, society, association or other body of one or more individuals;

“prescribed” save in Part III, means prescribed by regulations made under this Act; and in Part III means prescribed by Rules of the Supreme Court;

“registration duties” includes the duties of a registration officer as such with respect to voting by proxy, with respect to any corrupt and illegal practices list and with respect to the lists to the use of which candidates are entitled under this Act;

“voter” means a person voting at an election and includes a person voting as proxy; and

“vote” (whether noun or verb) shall be construed accordingly, except that in the Election Rules any reference to an elector voting or an elector’s vote shall include a reference to an elector voting by proxy or an elector’s vote given by proxy.

(2) Reference in this Act to any enactment shall, except insofar as the context otherwise requires, be taken as referring to that enactment as amended by any other enactment.

(3) Where the returning officer for an election is required or authorised by this Act to give any public notice,

he shall do so by advertisements or such other means as he thinks best calculated to afford information to the voters.

(4) Any person before whom a declaration is authorised to be made under this Act may take the declaration.

(5) Any power conferred by this Act to make regulations shall, except where this Act otherwise provides, be a power exercisable by the Governor-General.

3. The Supervisor of Elections shall—

**Powers and
duties of
Supervisor of
Elections.**

(a) exercise general direction and supervision over the administrative conduct of elections and enforce on the part of all election officers fairness, impartiality and compliance with the provisions of this Act;

(b) issue to election officers such instructions as from time to time he may deem necessary to ensure effective execution of the provisions of this Act; and

(c) execute and perform all other powers and duties which by this Act are conferred and imposed upon him.

4. (1) The dates for application for registration as an elector under section 40 of the Constitution shall be as provided for in section 9 (1):

**Dates for
registration as an
elector.**

Provided however that in respect of the first registration of electors under the provisions of this Act the date shall be the 17th day of November immediately following the coming into force of this Act and the six days (including the Sunday) immediately succeeding.

(2) If any part of a register is not published within the time required by section 6, then until the day following that on which it is published the corresponding part of the existing register prepared under the provisions of this Act shall continue in use; and where any part of the register used at an election is a part continued in force by this subsection, this Act shall have effect in relation to the election and the area to which that part relates as if the dates by reference to which that part was prepared were the dates for registration.

Residence.

5. (1) Any question as to a person's residence on the dates for application for registration shall be determined in accordance with the general principles applied in determining questions as to a person's residence and, in particular, regard shall be had to the purpose and other circumstances, as well as to the fact, of his presence at, or absence from the address in question.

(2) Without prejudice to the said general principles, a person's residence in a dwelling house shall not be deemed to have been interrupted—

(a) by reason of that person's absence in the performance of any duty arising from or incidental to any office, service or employment held or undertaken by him, if he intends to resume actual residence within six months of giving it up and will not be prevented by the performance of the duty aforesaid; or

(b) by reason of permission being given for its furnished occupation by some other person—

(i) if the permission is given in the expectation that throughout the period for which it is given the person giving it or his wife or her husband will be absent for six months or less in the performance of any such duty as aforesaid; or

(ii) if the first mentioned person intends to resume actual residence within nine weeks of giving it up and will not be prevented by the permission given as aforesaid.

(3) A person who is a patient in any establishment maintained wholly or mainly for the reception and treatment of persons suffering from mental illness or mental defectiveness, or who is detained in legal custody at any place, shall not by reason thereof be treated for the purposes aforesaid as resident there.

Registration of Electors

Registration officers and areas and the register of electors.

6. (1) For the registration of electors there shall be electoral registration officers (in this Act referred to as "registration officers").

(2) There shall be a registration officer for each constituency, and that officer shall be such person, as the Governor-General, by notice published in the Gazette, appoints.

(3) It shall be the duty of every registration officer to prepare and publish in each year a register of electors for each constituency or part of a constituency in the area for which he acts.

(4) The date of the publication of the register shall, subject to the provisions of this Act, be on or before the 22nd day of August in each year:

Provided however that in respect of the first publication under the provisions of this Act the date shall be on or before the 14th day of January immediately following the coming into force of this Act.

7. (1) There shall be electoral revision officers (in this Act referred to as "revising officers") **Revising officers and areas.**

(2) There shall be a revising officer for each constituency and that officer shall be such person as the Governor-General, by notice published in the Gazette, appoints:

Provided that the Governor-General may, if he deems it expedient so to do, appoint the same person to be the revising officer for more than one constituency.

(3) It shall be the duty of each revising officer to hold a tribunal in each constituency for the purpose of hearing and determining claims and objections in respect of the electors list prepared for such constituency by the registration officer appointed for that constituency.

(4) The tribunal to be held in each constituency shall be in public and shall be held at such time and in such place as the Registration Regulations in the Second Schedule, or any amendments thereafter made to such Regulations, may specify.

8. Subject to section 40 (2) of the Constitution, to **Right to vote.** any other provisions contained herein, and to any enactment imposing any disqualification for registration as an elector,

all persons who are registered as electors at elections for which any register is to be used shall be entitled to vote thereat.

Preparation of register.

9. (1) Subject to the proviso to section 4 (1), with a view to the preparation of the register, the registration officer shall—

(a) set up offices in the constituency which shall be open for persons wishing to apply to be registered as electors to attend in person between the hours of 6 a.m. and 8 p.m. on the 1st day of July in each year and during the six days (including the Sunday) immediately succeeding and shall also have sufficient inquiry made as to the persons entitled to be registered; and

(b) have prepared and published electors lists showing the persons appearing to him to be entitled to be registered together with their qualifying addresses.

(2) A person applying to be registered under subsection (1) shall apply in the prescribed form and shall be given the prescribed receipt therefor.

(3) Each revising officer shall hear and determine claims to have names of persons inserted on the electors list, and mistakes rectified and objections to the appearance on the electors list of the names of persons appearing thereon and such hearings shall be held in public at such time, in such place and in such manner as may be appointed under Registration Regulations.

Place and Manner of Voting at Elections

Polling districts and polling places.

10. (1) Every constituency shall be divided into polling districts and, subject to the provisions of this section, there shall be a polling place designated for each district.

(2) It shall be the duty of the registration officer for each constituency to make the division into polling districts and to designate the polling places, and to keep the polling districts and polling places under review, in accordance with the following rules, that is to say—

(a) the registration officer shall exercise the powers conferred by this section with a view to giving all electors

in the constituency such reasonable facilities for voting as are practicable in the circumstances;

(b) each electoral division shall in the absence of special circumstances be a separate polling district;

(c) the polling place for any polling district shall be an area in that district, except where special circumstances make it desirable to designate an area wholly or partly outside the polling district, and shall be small enough to indicate to electors in different parts of the polling district how they will be able to reach the polling station at the polling place;

(d) a polling place need not be designated for any polling district, if the size and other circumstances of the district are such that the situation of the polling stations thereat does not materially affect the convenience of the electors or any body of them.

(3) If not less than thirty electors in a constituency make a representation to the Supervisor of Elections that the powers conferred by this section have not been exercised so as to meet the reasonable requirements of the electors in the constituency or any body of those electors, specifying in what manner the powers have not been properly exercised, the Supervisor of Elections shall consider the representation and may, if he thinks fit,

(a) direct the registration officer by whom the powers are exercisable to make any alterations which the Supervisor of Elections thinks necessary in the circumstances; and

(b) if the registration officer fails to make those alterations within a week after the direction is given, himself make the alterations,

and any alterations made by the Supervisor of Elections under this subsection shall have effect as if they had been made by the registration officer.

(4) On the exercise of any power given by this section the registration officer shall publish in the constituency a notice showing the boundaries of any polling districts or polling places constituted as a result of the exercise of the power, and, unless the power was exercised by the Supervisor

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of Elections, shall also send him a report giving the same information.

(5) Regulations may provide for adapting the register in force for the time being to any alteration of polling districts, and may make special provisions for cases where any alteration of polling districts is made between the publication of any electors lists and the coming into force of the register prepared from those lists but except in cases for which provision is made by regulations an alteration of polling districts shall not be effective until the coming into force of the first register prepared from electors lists published after the alteration is made.

(6) An election shall not be questioned by reason of any non-compliance with the provisions of this section or any informality relative to polling districts or polling places.

**Place and
manner of voting
as elector.**

11. (1) All persons voting as electors at an election shall do so in person at the polling station allotted to them under the Election Rules except in so far as this section makes exceptions for those unable or likely to be unable to do so in person at the polling station for one of the following reasons—

- (i) that person's service as a member of the Antigua and Barbuda Police Force or the Antigua and Barbuda Defence Force;
- (ii) the particular circumstances of that person's employment, on the date of the poll for a purpose connected with the elections by the returning officer;
- (iii) that a person is unable or likely to be unable by reason of blindness to vote unaided.

(2) Any of the persons mentioned in paragraphs (i) and (ii) of subsection (1) may vote by proxy if he applies to be treated as an absent voter and furnishes in such manner as may be prescribed by regulations the name and address of some other person within Antigua and Barbuda whom he wishes to act as proxy for him.

(3) At an election for which a person's application to be treated as an absent voter is allowed, he shall not be entitled to vote in person.

(4) Nothing in this section shall be taken as conferring a right to vote on a person not having the right apart from this section.

Conduct of Elections

12. (1) The proceedings at an election shall be conducted in accordance with the Election Rules in the First Schedule. **Rules for elections.**

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

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

13. (1) The returning officer for an election shall be in each constituency such person as the Governor-General may by notice in the *Gazette* appoint. **Returning officer.**

(2) The execution of the writ for an election shall be the responsibility of and belong to the returning officer as such.

(3) No person shall be subject to any incapacity to vote at an election by reason of his being or acting as returning officer.

14. (1) The duties of the returning officer for elections shall be discharged by the registration officer (or the person authorised to act as registration officer if the registration officer himself is incapable of acting or there is a vacancy) **Discharge of functions of returning officer.**

as acting returning officer if for the time being the returning officer is for any reason incapable of discharging his duties as such, or is under any enactment discharged from personally performing the office by virtue of which he is returning officer.

(2) An acting returning officer, in the discharge of the duties imposed on him by subsection (1), shall have all powers, obligations, rights and liabilities of the returning officer under this Act and this Act shall have effect accordingly.

(3) An acting returning officer shall have power to appoint deputies to discharge all or any of the said duties, but the appointment shall require the approval of the Supervisor of Elections where the powers of the deputy extend—

(a) to matters other than the receipt of nomination papers and matters connected therewith; or

(b) to the taking or deciding of objections to nomination papers.

Payments by and to returning officer.

15. (1) No consideration shall be given by or to a returning officer for the making out, receipt, delivery or return of the writ for an election or, subject to the following provisions of this section, otherwise in connection with the execution thereof:

Provided that nothing in this subsection shall be taken as applying to any inclusive salary payable to a returning officer in respect of the office by virtue of which he becomes returning officer.

(2) The Supervisor of Elections shall, by notice published in the *Gazette*, prescribe a scale of maximum charges in respect of services rendered and expenses incurred by a returning officer for the purposes of or in connection with elections, and may revise the scale as and when he thinks fit.

(3) A returning officer shall be entitled to his reasonable charges, not exceeding the sums specified in the said scale, in respect of services and expenses of several kinds so specified

which have been properly rendered or incurred by him for the purposes of or in connection with an election.

(4) The amount of any such charges shall be charged on and paid out of the Consolidated Fund.

(5) The Minister responsible for finance may make regulations as to the time when and manner and form in which accounts are to be rendered to him for the purpose of the payment of a returning officer's charges.

Supplemental Provisions as to Elections

16. (1) The register of electors shall for the purposes of this Part be conclusive on the following questions— **Effect of registers, etc.**

(a) whether or not a person registered therein was on the dates for application for registration resident at the address shown;

(b) whether or not that address is in any constituency or any particular part of a constituency.

(2) The relevant list prepared under this Act for an election shall, for the purposes of this Part, be conclusive as to whether or not a person's right to vote at the election is exercisable by proxy.

(3) No misnomer or inaccurate description of any person or place named in the register of electors or in any list, record, proxy paper, nomination paper, ballot paper, notice or other documents required for the purposes of this Part shall affect the full operation of the document with respect to that person or place in any case where the description of the person or place is such as to be commonly understood.

17. The registration officer shall in each year make out a corrupt and illegal practices list containing— **Corrupt and illegal practices lists.**

(a) the names and description of the persons who, though otherwise qualified to be registered in the register of electors for each constituency or part of a constituency for which he acts, are not to be so qualified by reason of having been convicted or reported guilty of a corrupt or illegal practice; and

(b) a statement of the offence of which each such person has been found guilty.

Discharge of registration duties.

18. (1) A registration officer shall comply with any general or special directions which may be given by the Supervisor of Elections with respect to the arrangements to be made by the registration officer for carrying out his registration duties.

(2) Any of the duties and powers of a registration officer may be performed and exercised by any deputy for the time being approved by the Supervisor of Elections, and the provisions of this Act shall apply to any such deputy so far as respects any duties or powers to be performed and exercised by him as they apply to the registration officer.

(3) Any acts authorised or required to be done by or with respect to the registration officer may, in the event of his incapacity to act, or of a vacancy, be done by such person as the Governor-General may by notice appoint to act in the event of such incapacity or a vacancy.

Regulations for the registration of electors, etc.

19. (1) The registration of electors, the preparation of an electors' list and the revision of such list shall be conducted in accordance with the Registration Regulations in the Second Schedule.

(2) The Governor-General may by regulations published in the *Gazette* revoke, amend or add to the regulations contained in the Second Schedule and, may in particular make provision—

(a) with respect to the form of the register of electors and of the electors' lists or any special lists or records required by this Act in connection with the register or with any election;

(b) with respect to the procedure to be followed in the preparation of the register, the electors' lists and any such special lists or records as aforesaid, and with respect to the time, place and manner of their publication; and

(c) generally with respect to any matters incidental to the provisions of this Act so far as those provisions relate to the registration of electors.

(3) The said incidental matters shall be taken to include the time and manner of preparation and publication and form of, and the making and determination of claims or objections with respect to, the corrupt and illegal practices lists.

(4) Without prejudice to the generality of the foregoing subsections, regulations made with respect to the matters therein mentioned may contain any such provisions as are mentioned in the Third Schedule.

20. (1) The registration expenses of a registration officer shall be paid out of the Consolidated Fund. **Payment of expenses of registration.**

(2) Any fees or other sums received by the registration officer in respect of his registration duties, other than sums paid to that officer in respect of his registration expenses, shall be accounted for by that officer and paid into the Consolidated Fund.

21. (1) The registration expenses payable to a registration officer shall include all proper and reasonable charges for his own personal remuneration for performing his registration duties and for the remuneration and expenses of any staff employed by him to enable him to perform them. **Ascertainment of amount of registration expenses.**

(2) The Governor-General may by notice published in the *Gazette* specify a scale of registration expenses applicable to all or any class or classes of those expenses, and may at any time alter the scale as and when he thinks fit, and any expenses incurred by a registration officer of a class to which the scale is applicable—

(a) shall be taken to be properly incurred if they do not exceed the maximum amount determined by or in accordance with the scale; and

(b) shall be taken not to have been properly incurred so far as they do exceed that amount, unless the approval of the Supervisor of Elections is specially given for the excess.

(3) Nothing in subsection (2)(a) shall be construed as entitling a registration officer to receive payments in excess of the expenses actually incurred by him, except his proper and reasonable charges for his own personal remuneration.

(4) If any question arises whether any expenses incurred by a registration officer of a class to which no scale framed under this section is applicable have been properly incurred or not, that question shall be referred to the Financial Secretary and his decision thereon shall be final.

Offences

Personation.

22. (1) A person shall be guilty of a corrupt practice if he commits, or aids, abets, counsels or procures the commission of the offence of personation.

(2) A person shall be deemed to be guilty of personation at an election if he votes in person as some other person, and whether that other person is living or dead or is a fictitious person.

(3) For the purposes of this section, a person who has applied for a ballot paper for the purpose of voting in person or as proxy for some other person, shall be deemed to have voted.

Other voting offences.

23. (1) A person shall be guilty of an offence if—

(a) he votes in person either as an elector or as proxy or applies to be treated as an absent voter to vote by proxy at an election, knowing that he is subject to a legal incapacity to vote;

(b) he applies for the appointment of a proxy to vote for him at an election, knowing that he or the person to be appointed is subject to a legal incapacity to vote; or

(c) he votes, as proxy, for some other person at an election, knowing that that person is subject to a legal incapacity to vote.

(2) A person shall be guilty of an offence if—

(a) he votes as elector either—

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- (i) more than once in the same constituency at any election;
 - (ii) in any constituency or in any electoral area when there is in force an appointment of a person to vote as his proxy at the election in some other constituency or electoral district; or
 - (iii) in more than one constituency at a general election;

(b) he votes as elector in person at an election at which he is entitled to vote by proxy.

(3) A person shall be guilty of an offence if he votes as a proxy for the same elector either—

- (i) more than once in the same constituency at any election; or
- (ii) in more than one constituency in a general election.

(4) A person shall also be guilty of an offence if he knowingly induces or procures some other person to do an act which is, or but for that other person's want of knowledge would be, an offence by that other person under subsection (1).

(5) A person shall be guilty of an offence if he votes in a general election or a by-election as proxy for more than one person.

(6) For the purposes of this section a person who has applied for a ballot paper for the purpose of voting in person or by proxy shall be deemed to have voted.

(7) An offence under this section shall be an illegal practice:

Provided that—

(a) the court before whom a person is convicted of any such offence may, if it thinks it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of section 66 or 77; and

(b) a candidate shall not be liable, nor shall his election be declared void, for an illegal practice under this section of any agent of his other than an offence under subsection (5).

Breaches of official duty in connection with elections.

24. (1) If any person to whom this section applies, or who is for the time being under a duty to discharge as deputy or otherwise any of the functions of such a person, is, without reasonable cause, guilty of any act or omission in breach of his official duty, he shall be guilty of an offence and liable on summary conviction to a fine of fifteen hundred dollars.

(2) No person to whom this section applies shall be liable for breach of his official duty to any penalty at common law or under any enactment other than sections 25, 26 or 35 (1) hereof nor shall any action for damages lie in respect of the breach by any such person of his official duty.

(3) The persons to whom this section applies are any registration officer, revising officer, returning officer, presiding officer or clerk or assistant employed by such an officer, in connection with his official duties and the expression "official duty" shall for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by the law relating to elections or the registration of electors.

Tampering with nomination papers, ballot papers, etc.

25. (1) A person shall be guilty of an offence if at an election he—

(a) unlawfully defaces or destroys a nomination paper;

(b) unlawfully defaces or fraudulently destroys any ballot paper, or the official mark on any ballot paper, or any declaration of identity;

(c) without due authority supplies any ballot paper to any person;

(d) unlawfully puts into any ballot box any paper other than the ballot paper which he is authorised by law to put in;

(e) unlawfully takes out of the polling station any ballot paper;

(f) without due authority destroys, takes, opens, or otherwise interferes with any ballot paper then in use for the purposes of the election; or

(g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts.

(2) A person shall be guilty of an offence if at an election—

(a) he forges any nomination paper, delivers to the returning officer any nomination paper knowing it to be forged, or forges or counterfeits any ballot paper or the official mark on any ballot paper;

(b) he signs any nomination paper as candidate or proposer knowing any of the statements contained therein to be false; or

(c) he fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts.

(3) A person guilty of an offence under this section shall be liable, on summary conviction—

(a) if he is a returning officer, a presiding officer or clerk in attendance at a polling station to imprisonment for two years;

(b) if he is any other person, to imprisonment for six months.

26. (1) The following persons, that is to say—

**Requirement of
secrecy.**

(a) every returning officer and every presiding officer or clerk attending at a polling station; and

(b) every candidate or polling agent so attending, shall maintain and aid in maintaining the secrecy of voting and shall not, except for some purpose authorised by law, communicate to any person before the poll is closed any information as to—

(i) the name of an elector who has or has not applied for a ballot paper or voted at a polling station;

(ii) the number on the register of electors of any elector who has or has not applied for a ballot paper or voted at a polling station; or

⁴ (iii) the official mark.

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

(a) ascertain or attempt to ascertain at the counting of the votes the number on the back of any ballot paper;

(b) communicate any information obtained at the counting of the votes as to the candidate for whom any vote is given on any particular ballot paper.

(3) No person whosoever shall—

(a) interfere with or attempt to interfere with a voter when recording his vote;

(b) obtain or attempt to obtain in a polling station information as to the candidate for whom a voter in that station is about to vote or has voted;

(c) communicate at any time to any person information obtained in a polling station as to the candidate for whom a voter in that station is about to vote or has voted, or as to the number on the back of the ballot paper given to a voter at that station;

(d) directly or indirectly induce a voter to display his ballot paper after he has marked it so as to make known to any person the name of the candidate for whom he has or has not voted.

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

(5) If any person acts in contravention of this section he shall be guilty of an offence and liable on summary conviction to imprisonment for six months.

27. (1) No intoxicating liquor shall be sold, offered for sale, or given away at any premises situate in any constituency in which an election is being held to which a licence issued under the Licensing (Intoxicating Liquor) Act, applies at any time between the opening and closing of the poll on polling day.

Intoxicating liquor not to be sold or given on polling day.
Cap. 249.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and shall be liable on summary conviction to a fine of three thousand dollars and to imprisonment for twelve months.

28. (1) Every employer shall, on polling day, allow to every voter in his employ a reasonable period for voting, and no employer shall make any deduction from the pay or other remuneration of any such voter or impose upon or exact from him any penalty by reason of his absence during such period.

Employers to allow employees time to vote.

(2) Any employer who, directly or indirectly, refuses, or by intimidation, undue influence or in any way, interferes with the granting to any voter in his employ, of such period for voting, as in this section provided, shall be guilty of an offence and on summary conviction liable to a fine of three thousand dollars and to imprisonment for twelve months.

Part II

THE ELECTION CAMPAIGN

Propaganda at Elections

29. (1) Any person who either within or without Antigua and Barbuda with intent to influence persons to give or refrain from giving their votes at an election, uses, or aids, abets, counsels or procures the use of, any television or other wireless transmitting station outside Antigua and Barbuda for the transmission of any matter having reference to the election shall be guilty of an offence.

Use of wireless stations abroad.

(2) An offence under this section shall be an illegal practice:

Provided that the court before whom a person is convicted of an offence under this section may, if it thinks it just in the special circumstances of the case, mitigate or

entirely remit any incapacity imposed by virtue of section 66 or 77.

(3) Where any act or omission of an association or body of persons, corporate or unincorporated is an illegal practice under this section, any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or was purporting to act in any such capacity, shall be deemed to be guilty of the illegal practice unless he proves that the act or omission took place without his consent or connivance and that he exercised all such diligence to prevent the commission of the illegal practice as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

**Broadcasting
during Election.**

30. (1) Pending an election, it shall not be lawful for any television or wireless transmitting station to broadcast any item for the purpose of promoting or procuring the election of any candidate or of any political party:

Provided however that this subsection shall not apply—

- (i) to any bona fide report of the election campaign presented in any scheduled news broadcast which gives fair and equitable coverage of all election meetings held within Antigua and Barbuda; or
- (ii) to any announcement, not exceeding two minutes, concerning the intention to hold any election meeting and which said announcement contains only the time, date and venue of the meeting, the names of the persons scheduled to speak, the party or person on whose behalf or to further the candidacy of whom the meeting has been held.

(2) Any person who contravenes the provisions of this section shall be guilty of an illegal practice and where any offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or other officer of the said body corporate or any person purporting to act in

such capacity, he as well as the body corporate shall be guilty of an illegal practice and shall be liable to be dealt with accordingly.

(3) Where it is proved to the satisfaction of the Court that any item has been broadcast from any television or wireless transmitting station within Antigua and Barbuda contrary to the provisions of this section, the Court may order that the licence or permit issued under the provisions of the Telecommunications Act be revoked and that any person who has been convicted under this section be disqualified from holding any licence or permit under the Telecommunications Act for such period, not exceeding five years, as the Court may determine. Cap. 423.

(4) For the purposes of subsection (1) an election shall be deemed to be pending during the period ending with the close of the poll and beginning—

(a) at a general election, with the date of the dissolution of Parliament or any earlier time at which the Governor-General's intention to dissolve Parliament is announced;

(b) at a by-election, with the date of the issue of the writ for the by-election.

31. (1) Any person who at a lawful public meeting to which this section applies acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together shall be guilty of an illegal practice. **Disturbances at election meetings.**

(2) This section applies to a political meeting held in any constituency between the date of the issue of a writ for the return of a member of the House of Representatives for the constituency and the date at which a return to the writ is made.

(3) If any police officer reasonably suspects any person of committing an offence under subsection (1), he may if requested so to do by the chairman of the meeting require that person to declare to him immediately his name and address and, if that person refuses or fails so to declare his name and address or gives a false name and address he shall

be guilty of an offence and liable on summary conviction to a fine of one hundred and fifty dollars, and if he refuses or fails so to declare his name and address or if the police officer reasonably suspects him of giving a false name and address or if the person continues to behave in a disorderly manner, the police officer may without warrant arrest him.

False statements
as to withdrawal
of candidates.

32. Any person who during an election knowingly publishes a false statement of the withdrawal of a candidate at the election for the purpose of promoting or procuring the election of another candidate shall be guilty of an illegal practice.

Corrupt
withdrawal from
candidature.

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

Premises not to
be used as
committee rooms.

34. (1) If a person hires or uses any premises to which this section applies or any part thereof for a committee room for the purpose of promoting or procuring the election of a candidate; or lets any premises to which this section applies or any part thereof knowing that it was intended to use them or that part as a committee room, he shall be guilty of an illegal hiring.

(2) This section applies to any premises—

(a) which are licensed for the sale of any intoxicating liquor for consumption on or off the premises or on which refreshment of any kind (whether food or drink) is ordinarily sold for consumption on the premises; or

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

Provided that this section shall not apply to the hiring, using, letting or permitting the use of any part of premises which is ordinarily let for the purpose of chambers, or offices, or the holding of public meetings or of arbitrations, if that part has a separate entrance and no direct communication

with any part of the premises on which any intoxicating liquor or refreshment is sold or supplied as aforesaid.

35. (1) No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at an election, be made to an elector on account of the exhibition of, or the use of any house, land, building or premises for the exhibition of, any address, bill or notice, unless it is the ordinary business of the elector as an advertising agent to exhibit for payment bills and advertisements and the payment or contract is made in the ordinary course of that business. Payments for exhibition of election notices.

(2) If any payment or contract for payment is knowingly made in contravention of this section either before, during or after an election, the person making the payment or contract, and, unless he establishes that he did not know that it was in contravention of this Act, any person receiving the payment or being a party to the contract, shall be guilty of an illegal practice.

36. (1) A person shall not—

(a) print or publish, or cause to be printed or published, any bill, placard or poster having reference to an election or any printed document distributed for the purpose of promoting or procuring the election of a candidate;

(b) post or cause to be posted any such bill, placard or poster as aforesaid; or

(c) distribute or cause to be distributed any printed document for the said purpose,

unless the bill, placard, poster or document bears upon the face thereof the name and address of the printer and publisher.

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

(3) A candidate acting in contravention of this section shall be guilty of an illegal practice, and any other person

Name and address of printer on election publications.

so acting shall be guilty of an offence and on summary conviction be liable to a fine of fifteen hundred dollars.

Prohibition of paid canvassers.

37. If a person is, either before, during or after an election, for the purpose of promoting or procuring the election of a candidate, engaged or employed for payment or promise of payment as a canvasser, the person so engaging or employing him and the person so engaged or employed shall be guilty of illegal employment.

Bands of music, torches, flags and banners.

38. (1) No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at an election, be made on account of bands of music, torches, flags or banners.

(2) If any payment or contract for payment is made in contravention of this section, either before, during or after an election, the person making the payment and, unless he establishes that he did not know that it was made contrary to law, any person being a party to the contract or receiving the payment shall be guilty of an illegal payment.

Providing money for illegal purposes.

39. Where a person knowingly provides money for any payment which is contrary to the provisions of this Act, or for replacing any money expended in any such payment or expenses, except where the payment or the incurring of the expenses may have been previously allowed in pursuance of section 71 to be an exception, that person shall be guilty of an illegal payment.

Bribery, Treating and Undue Influence

Bribery.

40. (1) A person shall be guilty of a corrupt practice if he is guilty of bribery.

(2) A person shall be guilty of bribery if he, directly or indirectly, by himself or by any other person on his behalf—

(a) gives any money or procures any office to or for any voter or to or for any other person on behalf of any voter or to or for any other person in order to induce any voter to vote or refrain from voting;

(b) corruptly does any such act as aforesaid on account of any voter having voted or refrained from voting; or

(c) makes any such gift or procurement as aforesaid to or for any person in order to induce that person to procure the return of any person at an election or the vote of any voter,

or if upon or in consequence of any such gift or procurement as aforesaid he procures or engages, promises or endeavours to procure the return of any person at an election or the vote of any person at an election or the vote of any voter. For the purposes of this subsection references to giving money shall include references to giving, lending, agreeing to give or lend, offering, promising, or promising to procure or to endeavour to procure any office, place or employment.

(3) A person shall be guilty of bribery if he advances or pays or causes to be paid any money to or to the use of any other person with the intent that that money or any part thereof shall be expended in bribery at any election or knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election.

(4) The foregoing provisions of this section shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of legal expenses incurred in good faith at or concerning an election.

(5) A voter shall be guilty of bribery if before or during an election he directly or indirectly by himself or by any other person on his behalf receives, agrees to or contracts for any money, gift, loan or valuable consideration, office, place or employment for himself or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting.

(6) A person shall be guilty of bribery if after an election he directly or indirectly by himself or by any other person on his behalf receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other to vote or refrain from voting.

(7) In this section the expression "voter" includes any person who has or claims to have a right to vote either as an elector or as proxy.

Treating.

41. (1) A person shall be guilty of a corrupt practice if he is guilty of treating.

(2) A person shall be guilty of treating if he corruptly, by himself or by any other person either before, during or after an election, directly or indirectly gives or provides, or pays wholly or in part the expenses of giving or providing, any meat, drink, entertainment or provision to or for any person—

(a) for the purpose of corruptly influencing that person or any other person to vote or refrain from voting; or

(b) on account of that person or any other person having voted or refrained from voting, or being about to vote or refrain from voting.

(3) Every elector or proxy for an elector who corruptly accepts or takes any such meat, drink, entertainment or provision shall also be guilty of treating.

Undue influence.

42. (1) A person shall be guilty of a corrupt practice if he is guilty of undue influence.

(2) A person shall be guilty of undue influence—

(a) if he, directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm or loss upon or against any person in order to induce or compel that person to vote or refrain from voting, or on account of that person having voted or refrained from voting; or

(b) if, by abduction, duress or any fraudulent device or contrivance, he impedes or prevents the free exercise of the franchise of any elector or proxy for an elector, or thereby compels, induces or prevails upon an elector or proxy for an elector either to vote or to refrain from voting.

Part III**LEGAL PROCEEDINGS****Questioning of an Election**

43. (1) No election and no return to the House of Representatives shall be questioned except by a petition complaining of an undue election or undue return (hereinafter referred to as an election petition) presented in accordance with this Part. **Method of questioning election.**

(2) A petition complaining of no return shall be deemed to be an election petition and the High Court may make such order thereon as it considers expedient for compelling a return to be made or may allow the petition to be heard by an election court as provided with respect to ordinary election petitions.

44. (1) An election petition may be presented by one or more of the following persons— **Presentation and service of election petition.**

(a) a person who voted as an elector at the election or who had a right so to vote;

(b) a person claiming to have had a right to be elected or returned at the election; or

(c) a person alleging himself to have been a candidate at the election.

(2) The member whose election or return is complained of is hereinafter referred to as the respondent, but if the petition complains of the conduct of a returning officer, the returning officer shall for the purposes of this Part be deemed to be a respondent.

(3) The petition shall be in such form as may be prescribed by the Rules of the Supreme Court and shall state the prescribed matter and be signed by the petitioner or all the petitioners if more than one, and shall be presented to the High Court.

(4) The petition shall be presented by delivering it to the prescribed officer or otherwise dealing with it in the prescribed manner; and the prescribed officer shall send a copy of it to the returning officer of the constituency to which

the petition relates, who shall forthwith publish it in the constituency.

(5) The petition shall be served as nearly as may be in the manner in which a writ or summons is served or in such other manner as may be prescribed.

**Time for
presentation or
amendment of
election petition.**

45. (1) Subject to the provisions of this section, an election petition shall be presented within 7 days after the return has been made in respect of the member to whose election the petition relates.

(2) If the petition questions the election or return upon an allegation of corrupt practices and specifically alleges a payment of money or other reward to have been made by the member or on his account or with his privity since the time of the said return in pursuance or in furtherance of the alleged corrupt practice, it may be presented within 14 days of the payment.

(3) An election petition presented within the time limited by subsection (1) or (2) may, for the purpose of questioning the election or return upon an allegation of an illegal practice, be amended with the leave of the High Court.

(4) Subsection (3) shall apply notwithstanding that the act constituting the alleged illegal practice amounted to a corrupt practice.

(5) For the purposes of this section, an allegation that an election is avoided under section 68 shall be deemed to be an allegation of corrupt practice, notwithstanding that the offences alleged are or include offences other than corrupt practices.

(6) The jurisdiction vested by subsection (3) of Section 44 in the High Court shall, subject to rules of court, be exercised by a judge sitting either in court or in chambers.

**Constitution of
election court.**

46. (1) An election petition shall be tried by the High Court and the judge presiding at the trial of an election petition is hereinafter referred to as the election court.

(2) The election court shall, subject to the provisions of this Act, have the same powers, jurisdiction and authority as a judge of the High Court.

Procedure on **all** election petitions

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

(2) The security specified in subsection (1) shall be an amount of one thousand dollars or such higher amount as the election court may direct and shall be given in the prescribed manner by the recognisance entered into by any number of sureties not exceeding four or by a deposit of money or partly in one way and partly in the other.

(3) Within five days after the presentation of the petition, the petitioner shall serve on the respondent a notice of the presentation of the petition, and of the nature of the proposed security, and a copy of the petition.

(4) Within five days after service of the notice, the respondent may object in writing to any recognisance on the ground that any surety is insufficient or is dead or cannot be found or ascertained for want of sufficient description in the recognisance, or that a person named in the recognisance has not duly acknowledged the recognisance.

(5) An objection to a recognisance shall be decided in the prescribed manner.

(6) If the objection is allowed, the petitioner may within five days, remove it by a deposit in the prescribed manner of such sum of money as will, in the opinion of the court or officer having cognizance of the matter, make the security sufficient.

(7) If no security is given as required by this section or any objection is allowed and not removed as aforesaid, no further proceedings shall be had on the petition.

Petition at issue.

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

List of petitions.

49. (1) The prescribed officer shall, as soon as may be, make out a list of all election petitions at issue presented, placing them in the order in which they were presented, and shall keep at his office a copy of the list, open to inspection in the prescribed manner.

(2) The petitions shall, so far as conveniently may be, be tried in the order in which they stand in the list.

(3) Where more petitions than one are presented relating to the same election, all those petitions shall be bracketed together in the election list and shall be dealt with as one petition, standing, unless the election court otherwise direct, in the election list in the place where the last of them would have stood if it had been the only petition presented.

Trial of petition.

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

(2) The election court may in its discretion adjourn the trial from time to time, but the trial shall so far as is practicable, consistently with the interests of justice in respect of the trial, be continued from day to day on every lawful day until its conclusion.

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

(4) On the trial of a petition complaining of undue election and claiming the seat for some other person, the respondent may give evidence to prove that that other person was not duly elected, in the same manner as if he had presented a petition against the election of that other person.

(5) If the petition relates to an election conducted under the Election Rules and it appears that there is an equality of votes between any candidates at the election, and that the addition of a vote would entitle any of those candidates to be declared elected, then the court shall forthwith make an order for the holding of a new election which election shall be held in accordance, *mutatis mutandis*, with the provisions of the Election Rules relating to an election in which the death of a candidate has occurred after nomination and before the poll is held.

51. (1) Witnesses shall be summoned and sworn in ^{Witnesses.} the same manner as nearly as circumstances admit as in an action tried at the assizes.

(2) At the trial, the election court may, by order under the hand of the judge, require any person who appears to him to have been concerned in the election to attend as a witness, and any person refusing to obey the order shall be guilty of contempt of court.

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

(4) A witness may, after his examination by the court, be cross-examined by or on behalf of the petitioner and respondent, or either of them.

(5) The Director of Public Prosecutions shall obey any direction given him by the election court with respect to the summoning and examination of any witness to give evidence at the trial.

(6) The Director of Public Prosecutions shall without any direction from the court cause any person appearing to him to be able to give material evidence as to the subject of the trial to attend the trial and shall, with the leave of the court, examine him as a witness.

(7) A person called as a witness respecting an election before any election court shall not be excused from answering any question relating to any offence at or connected with the election, on the ground of privilege:

Provided that—

(a) a witness who answers truly all questions which he is required by the election court to answer shall in the discretion of the court be eligible to receive a certificate of indemnity under the hand of the court stating that the witness has so answered; and

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

(8) The giving or refusal to give a certificate of indemnity to a witness by an election court trying a petition questioning an election shall be final and conclusive.

(9) Where a person has received a certificate of indemnity in relation to an election, and any legal proceeding is at any time instituted against him for any corrupt or illegal practice committed by him previously to the date of the certificate at or in relation to the election, or any illegal payment, employment or hiring or offence under section 36 or section 55 so committed, the court having cognizance of the case shall on production of the certificate stay the proceeding, and may in its discretion award to the said person such costs as he may have been put to in the proceeding.

(10) Nothing in this section shall be deemed to relieve a person receiving a certificate of indemnity from any incapacity under this Act or from any proceedings to enforce that incapacity other than a criminal prosecution.

(11) The reasonable expenses incurred by any person in appearing to give evidence at the trial of an election petition, according to the scale allowed to witnesses on the trial of civil actions, may be allowed to him by a certificate of the election court or of the prescribed officer, and if the witness was called and examined by virtue of subsection (2) shall be deemed part of the expenses of providing a court, but otherwise shall be deemed costs of the petition.

52. (1) At the conclusion of the trial of an election petition, the election court shall determine whether the member whose election or return is complained of, or any and what other person, was duly returned or elected or whether the election was void or whether there was an equality of votes at that election, and shall forthwith certify in writing the determination to the Speaker, and the determination so certified shall be final to all intents and purposes.

Conclusion of trial of election petition.

(2) Where any charge is made in the petition of any corrupt or illegal practice having been committed at the election the court shall, in addition to giving a certificate, and at the same time, make a report to the Speaker as required by sections 64 and 66 also stating whether corrupt or illegal practices have, or whether there is reason to believe that corrupt or illegal practices have, extensively prevailed at the election.

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

(4) Every report sent to the Speaker under this section shall be signed by the judge of the election court.

(5) The House of Representatives, on being informed by the Speaker of a certificate and any report of an election court, shall order the certificate and report (if any) to be entered in the report of the House and shall give the necessary direction for confirming or altering the return, or for the issue of a writ for a new election, or for carrying the determination into execution, as the circumstances may require; and where the court make a special report, the House of Representatives may make such order in respect of that report as they think proper.

53. (1) A petitioner shall not withdraw an election petition without the leave of the election court on special application.

Withdrawal of petition.

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

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

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

Evidence
required for
withdrawal of
petition.

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

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

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

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

(5) The jurisdiction vested by subsection (1) in the High Court in matters relating to elections shall, subject to rules of court, be exercised by a judge sitting either in court or at chambers.

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

Punishment for corrupt withdrawal.

56. (1) On the hearing of the application for leave to withdraw, any person who may have been eligible to be a petitioner in respect of the election may apply to the court to be substituted as a petitioner, and the court may, if it thinks fit, substitute him accordingly.

Substitution of a new petitioner.

(2) If the proposed withdrawal is in the opinion of the court the result of any agreement, terms or undertaking prohibited by the last foregoing section or induced by any corrupt bargain or consideration, the court may by order direct that the security given on behalf of the original petitioner shall remain as security for any costs that may be incurred by the substituted petitioner, and that, to the extent of the sum named in the security, the original petitioner and his sureties shall be liable to pay the costs of the substituted petition.

(3) If the court does not so direct, then security to the same amount as would be required in the case of a new petition, and subject to the like conditions, shall be given on behalf of the substituted petitioner before he proceeds with his petition and within the prescribed time after the order of substitution.

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

57. (1) In every case of the withdrawal of an election petition, the court giving leave for the withdrawal shall make a report to the Speaker as required by subsection (2).

Report on withdrawal.

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

Withdrawal after double return at election.

58. Where—

(a) a petition complains of a double return to a writ for an election;

(b) the respondent has given notice to the prescribed officer that he does not intend to oppose the petition;

(c) no party has been admitted under the following provisions to defend the petition; and

(d) there is no petition complaining of the other member returned on the double return,

the petitioner may withdraw by notice addressed to the prescribed officer who upon receipt of the notice shall report the fact of the withdrawal to the Speaker; and the House of Representatives shall thereupon give the necessary direction for amending the double return by striking out the certificate by which the respondent declining to oppose the petition was returned, or otherwise as the case may require.

Abatement of petition.

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

(2) The abatement shall not affect the liability of the petitioner or any other person to the payment of costs previously incurred.

(3) On the abatement the prescribed notice thereof shall be given in the constituency to which the petition relates; and within the prescribed time after the notice is given, any person who might have been a petitioner in respect of the election may apply to the election court or in the prescribed manner and at the prescribed time and place to be substituted

as a petitioner; and the court may, if it thinks fit, substitute him accordingly.

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

60. (1) If before the trial of an election petition a respondent other than a returning officer gives the prescribed notice that he does not intend to oppose the petition or dies, notice thereof shall be given in the constituency to which the petition relates, and, within the prescribed time after notice is given, any person who might have been a petitioner in respect of the election may apply to the election court to be admitted as a respondent to oppose the petition and shall be admitted accordingly, except that the number of persons so admitted shall not exceed three.

Withdrawal and substitution of respondents before trial.

(2) A respondent who has given the prescribed notice that he does not intend to oppose the petition shall not be allowed to appear or act as a party against the petition in any proceedings thereon, and he shall not sit or vote in the House of Representatives until the House of Representatives has been informed of the report on the petition.

(3) Where a respondent to an election petition has given the said notice in the prescribed time and manner the election court shall report that fact to the Speaker.

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

Costs of petition.

Further provision
as to costs of
petition.

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

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

Appeals and
Jurisdiction.

63. The High Court shall, subject to the provisions of this Act, have the same powers, jurisdiction and authority with respect to an election petition and the proceedings thereon as if the petition were an ordinary action within its jurisdiction.

Consequences of finding by Election Court of corrupt or illegal practice

Report as to
candidate guilty
of a corrupt or
illegal practice.

64. (1) The report of an election court under section 52 shall state whether any corrupt or illegal practice has or has not been proved to have been committed by or with the knowledge and consent of any candidate at the election, and the nature of the corrupt or illegal practice.

(2) For the purposes of the next two following sections, if it is reported that a corrupt practice other than treating or undue influence was committed with the knowledge and consent of a candidate, he shall be treated as having been reported personally guilty of that corrupt practice, and if it is reported that an illegal practice was committed with the

knowledge and consent of a candidate at an election, he shall be treated as having been reported personally guilty of that illegal practice.

(3) The report shall also state whether any of the candidates has been guilty by his agents of any corrupt or illegal practice in reference to the election; but if a candidate is reported guilty by his agents of treating, undue influence or any illegal practice, and the court further reports that the candidate has proved to the court—

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

(b) that all reasonable means for preventing the commission of corrupt and illegal practices at the election were taken by and on behalf of the candidate;

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

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

then the candidate shall not be treated for the purposes of the next following section as having been reported guilty by his agents of the offences mentioned in the report.

(4) The provisions of the next two following sections as to consequences of the report that a candidate was guilty by his agents of a corrupt or illegal practice shall have effect subject to the express provisions of this Act relating to particular acts which are declared to be corrupt or illegal practices.

65. (1) If a candidate who has been elected is reported by an election court personally guilty or guilty by his agents of any corrupt or illegal practice his election shall be void.

Avoidance of election and incapacity of candidate reported guilty of a corrupt or illegal practice.

(2) A candidate at an election shall also be incapable from the date of the report of being elected to and sitting in the House of Representatives for the constituency for which

the election was held or any constituency which includes the whole or any part of the area of the first-mentioned constituency as constituted for the purpose of the election—

* (a) if reported personally guilty of a corrupt practice, for five years;

(b) if reported guilty by his agents of a corrupt practice or personally guilty of an illegal practice, for three years; or

(c) if reported guilty by his agents of an illegal practice, during the Parliament for which the election was held, or for two years, whichever period shall be the shorter.

**Provisions
applying to all
persons reported
personally guilty
of a corrupt or
illegal practice.**

66. (1) The report of the election court under section 52 shall state the name of all persons (if any) who have been proved at the trial to have been guilty of any corrupt or illegal practice and whether they have been furnished with certificates of indemnity, but, in the case of someone who is not a party to the petition nor a candidate on behalf of whom the seat or office is claimed by the petition, the court shall first cause notice to be given to him, and if he appears in pursuance of the notice, shall give him an opportunity of being heard by himself and of calling evidence in his defence to show why he should not be so reported.

(2) The report shall be laid before the Director of Public Prosecutions with a view to his instituting or directing a prosecution against such persons as have not received certificates of indemnity, if the evidence should in his opinion, be sufficient to support a prosecution.

(3) A candidate or other person reported by an election court personally guilty of a corrupt practice shall for five years from the date of the report be incapable—

(a) of being registered as an elector or voting at any election in Antigua and Barbuda;

(b) of being elected to and sitting in the House of Representatives; and

(c) of holding any public or judicial office, and, if already elected to the House of Representatives or

holding such office, shall from the said date vacate the seat or office.

(4) A candidate or other person reported by an election court personally guilty of an illegal practice shall for five years from the date of the report be incapable of being registered as an elector or voting at any election held for or within the constituency for which it was held or for or within any constituency area wholly or partly within the area of the first-mentioned constituency as constituted for the purpose of the election.

67. (1) Where a barrister, solicitor or any person who belongs to any profession the admission to which or practise of which is regulated by law is reported by an election court to have been guilty of any corrupt practice in reference to an election, whether he had obtained a certificate of indemnity or not, it shall be the duty of the Director of Public Prosecutions to bring the matter before the court, tribunal or professional disciplinary body having power to take cognizance of any misconduct of the person in his profession; and the court, tribunal or professional disciplinary body may deal with him as if the corrupt practice were misconduct by him in his profession.

Disciplinary
action on report
of corrupt
practice.

(2) If it appears to an election court that a person holding a licence under the Licensing (Intoxicating Liquor) Act had knowingly suffered any bribery or treating in reference to any election to take place upon his licensed premises—

(a) the court shall, after affording him such rights as are conferred on those about to be reported under subsection (1) of section 66 report the fact; and

(b) whether that person has obtained a certificate of indemnity or not, it shall be the duty of the Director of Public Prosecutions to bring the report before the licensing authority from whom or on whose certificate, that person obtained his licence, and the licensing authority shall cause the report to be entered in the proper register of licences.

(3) The entry of the report in the said register shall be taken into consideration by the licensing authority in

determining whether they will or will not grant a renewal of the licence or certificate of the person reported and may be a ground, if the authority thinks fit, for refusing the renewal thereof or for withdrawing such licence.

Further provision as to avoidance of
Elections and striking off votes

Avoidance of
election for
general
corruption, etc.

68. (1) Where on an election petition it is shown that corrupt or illegal practices or illegal payments, employments or hiring committed in reference to the election for the purpose of promoting or procuring the election of any person thereat have so extensively prevailed that they may be reasonably supposed to have affected the result, his election, if he has been elected, shall be void and he shall be incapable of being elected to fill the vacancy or any of the vacancies for which the election was held.

(2) An election shall not be liable to be avoided, otherwise than under this section by reason of general corruption, bribery, treating or intimidation.

Avoidance of
election for
employing
corrupt agent.

69. If at an election a candidate personally engages as a canvasser or agent for the conduct or management of the election any person whom he knows or has reasonable grounds for supposing to be subject to an incapacity to vote at the election by reason of his having been convicted or reported of any corrupt or illegal practice within the meaning of this Act, the candidate shall be incapable of being elected to fill the vacancy or any of the vacancies for which the election is held.

Votes to be
struck off for
corrupt or illegal
practices.

70. (1) Where, on an election petition claiming the seat for any person, a candidate is proved to have been guilty by himself, or by any person on his behalf, of bribery, treating or undue influence in respect of any person who voted at the election there shall, on a scrutiny, be struck off from the number of votes appearing to have been given to the candidate one vote for every person who voted at the election and is proved to have been so bribed, treated or unduly influenced.

(2) If any person who is guilty of a corrupt or illegal practice or of illegal payment, employment or hiring at an election votes at the election, his vote shall be void.

(3) If any person who is subject under any enactment whether under this Act or otherwise relating to corrupt or illegal practices to an incapacity to vote at an election votes at that election, his vote shall be void.

71. (1) An application for relief under this section may be made to an election court.

Power to except innocent act from being illegal practice, payment, employment or hiring.

(2) If it is shown to the court by such evidence as to the court seems sufficient—

(a) that any act or omission of any person would apart from this section by reason of being in contravention of this Act be an illegal practice, payment, employment or hiring;

(b) that the act or omission arose from inadvertence or from accidental miscalculation or from some other reasonable cause of a like nature and in any case did not arise from any want of good faith; and

(c) that such notice of the application has been given in the constituency for which the election was held, as to the court seems fit, and under the circumstances it seems to the court to be just that either that or any other person should not be subject to any of the consequences under this Act of the act or omission, the court may make an order allowing the act or omission to be an exception from the provisions of this Act making it an illegal practice, payment, employment or hiring and thereupon no person shall be subject to any of the consequences under this Act of the said act or omission.

72. (1) A corrupt practice shall be an offence which shall be punishable on conviction on indictment or on summary conviction, including conviction under section 75 by an election court.

Prosecutions for corrupt practices.

(2) A person convicted on indictment of a corrupt practice, other than personation or aiding, abetting, counselling or procuring the commission of the offence of

personation, shall be liable to imprisonment for one year and to a fine of three thousand dollars.

(33) A person who commits the offence of personation or of aiding, abetting, counselling, procuring the commission of the offence of personation shall be guilty of an offence and liable on conviction therefor on indictment to imprisonment for two years.

(4) A person shall be liable if summarily convicted of a corrupt practice—

(a) by a magistrate's court, to a fine of fifteen hundred dollars and to imprisonment for three months;

(b) by an election court, to a fine of three thousand dollars and to imprisonment for six months.

(5) A person charged with personation shall not be convicted by a court of summary jurisdiction or, save under section 75, committed for trial except on the evidence of not less than two credible witnesses.

Cap. 249. (6) If it appears to the court by which any person holding a licence or certificate under the Licensing (Intoxicating Liquor) Act is convicted of the offence of bribery or treating that the offence was committed on his licensed premises, the court shall direct the conviction to be entered in the proper register of licences, and the entry shall be taken into consideration by the licensing authority in determining whether they will or will not grant a renewal of the licence or certificate and may be a ground, if the authority thinks fit, for refusing the renewal thereof.

Prosecutions for illegal practices.

73. An illegal practice shall be an offence which shall be punishable on summary conviction, including conviction under section 75 by an election court, to a fine of fifteen hundred dollars; and on a prosecution for an illegal practice it shall be sufficient to allege that the person charged was guilty of an illegal practice.

Conviction of illegal practice on charge of corrupt practice, etc.

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

illegal practice may be found guilty of that offence notwithstanding that the act constituting the offence amounted to a corrupt practice.

75. (1) The Director of Public Prosecutions, if it appears to him that any person who has not received a certificate of indemnity has been guilty of a corrupt or illegal practice, may prosecute that person for that offence before the election court, or if he thinks it expedient in the interests of justice, before any other competent court.

Prosecution of offences disclosed on election petition.

(2) Where a person prosecuted before an election court appears before that court, that court shall proceed to try him summarily unless the court thinks it expedient in the interests of justice that he should be tried before some other court:

Provided that in the case of a corrupt practice the court before proceeding to try him summarily shall give him the option of being tried by a jury.

(3) The Magistrate's Code of Procedure Act, shall, so far as is consistent with the tenor thereof, apply to the prosecution of an offence summarily before an election court, in like manner as if it were an offence punishable only on summary conviction, and accordingly the attendance of any person may be enforced, the case heard and determined, and any summary conviction by such court carried into effect and enforced, and the costs thereof paid, and the record thereof dealt with under that Act in like manner as if the court were a magistrate's court.

Cap. 255.

(4) Where—

(a) the person prosecuted does not appear before the Court;

(b) the court thinks it expedient in the interests of justice that he should be tried before some other court; or

(c) the person prosecuted elects under subsection (2) of this section to be tried by a jury,

and the court is of opinion that the evidence is sufficient to put that person upon his trial for the offence, the court shall order that all papers and documents relating to the offence be delivered to the Director of Public Prosecutions

with a view to his instituting proceedings either on indictment or before a magistrate's court as the case may require, for the offence and thereupon shall proceed as directed by subsections (6), (7), (8) and (9) of this section:

Provided that, except where the accused has elected to be tried by a jury, a corrupt practice shall not for the purposes of the following provisions of this section, be deemed to be an indictable offence if the election court thinks that it should be prosecuted summarily.

(5) The election court may name the court before whom the person is to be prosecuted and for all purposes preliminary to and of and incidental to the prosecution of the offence shall be deemed to have been committed within the jurisdiction of the court so named.

(6) If the accused is present before the court and the offence is an indictable offence, the enactments relating to charges against persons for indictable offences shall, so far as is consistent with the tenor thereof, apply and the court shall commit him for trial.

(7) If the accused is present before the court and the offence is not an indictable offence, the election court shall order him to be brought before the magistrate's court before whom he is to be prosecuted or cause him to give bail to appear before that magistrate's court.

(8) If the accused is not present before the court, the court shall as circumstances require issue a summons for his attendance, or a warrant to apprehend him and bring him before the magistrate's court.

(9) The magistrate's court before whom he attends or is brought shall—

(a) if the offence is an indictable offence, on proof only of the summons or warrant and the identity of the accused, commit him for trial; and

(b) if the offence is not an indictable offence, proceed to hear the case or, if the magistrate's court is not the court before whom he is directed to be prosecuted, order him to be brought before that court.

76. (1) Where a person is acquitted on any indictment brought by a private prosecutor for any corrupt practice in Antigua and Barbuda, and the person acquitted has not been committed to or detained in custody or bound by recognisance to answer the indictment, the court before which the person acquitted is tried may order the prosecutor to pay the whole or any part of the costs incurred in or about the defence, including any proceedings before the magistrate's court, as taxed by the proper officer of the court.

Costs in prosecutions of corrupt practices.

In this subsection the expression "prosecutor" includes any person who appears to the court to be a person at whose instance the prosecution has been instituted or under whose conduct the prosecution is at any time carried on.

(2) An order under subsection (1) may be enforced by the person to whom the costs are ordered to be paid in the same manner as an order for the payment of costs made by the High Court in civil proceedings, or as a civil debt in manner provided by the Magistrate's Code of Procedure Act.

(3) Where a person has been committed for trial and is not ultimately tried, the court to which he is committed shall have power to order payment of costs under subsection (1) as if the defendant had been tried and acquitted.

(4) Any criminal court in Antigua and Barbuda, before which a prosecution is instituted on indictment for a corrupt practice, may, on conviction, order the defendant to pay the prosecutor's reasonable costs of the prosecution.

(5) Neither the Director of Public Prosecutions nor any representatives of his shall be deemed to be a private prosecutor for the purposes of this section.

(6) Subject to the foregoing provisions of this section, where a prosecution on indictment for a corrupt practice is instituted in Antigua and Barbuda the costs of the prosecution shall, so far as they are not paid by the defendant, be paid in like manner as costs are paid in the case of a criminal prosecution.

Incapacities on conviction of corrupt or illegal practice.

77. In addition to any punishment as provided by the foregoing provisions—

(a) a person convicted of a corrupt practice on indictment or by an election court shall be subject to the incapacities imposed by subsection (3) of section 66 as if at the date of the conviction he had been reported personally guilty of that corrupt practice; and

(b) a person convicted of an illegal practice shall be subject to the incapacities imposed by subsection (4) of the said section 66 as if at the date of the conviction he had been reported personally guilty of the illegal practice.

Illegal payments, employments or hirings

Illegal payments, employments or hirings.

78. (1) A person guilty of an offence of illegal payment, employment or hiring shall be guilty of an offence and liable on summary conviction to a fine of fifteen hundred dollars; and on a prosecution for such an offence it shall be sufficient to allege that the person charged was guilty of an illegal payment, employment or hiring as the case may be.

(2) If an offence of illegal payment, employment or hiring is committed by a candidate personally or with his knowledge and consent, the candidate shall be guilty of an illegal practice.

(3) Any person charged with an offence of illegal payment, employment or hiring may be found guilty of that offence, notwithstanding that the act constituting the offence amounted to a corrupt or illegal practice.

General provisions as to prosecutions

Time limit for prosecutions.

79. (1) A proceeding against a person in respect of any offence to which this section applies shall be commenced within one year after the offence was committed, and the time so limited by this section shall be substituted for any limitation of time contained in any other Acts.

(2) For the purposes of this section, the issue of a summons, warrant or other process shall be deemed to be a commencement of a proceeding.

(3) This section applies to any corrupt or illegal practice, any illegal payment, employment or hiring and any offence under section 36 or section 55.

80. Where any corrupt or illegal practice or any illegal payment, employment or hiring or any offence under section 41 is committed by an association or body of persons, corporate or unincorporate, the members of the association or body who have taken part in the commission of the offence shall be liable to any fine or punishment imposed for that offence by this Act. **Offences by corporations.**

81. On any prosecution for a corrupt or illegal practice or for any illegal payment, employment or hiring, the certificate of the returning officer at an election that the election mentioned in the certificate was duly held and that the person named in the certificate was a candidate at the election shall be sufficient evidence of the facts therein stated. **Evidence by certificate of holding of elections.**

82. (1) Where information is given to the Director of Public Prosecutions that any corrupt or illegal practice has occurred in reference to any election, it shall be his duty to make such inquiries or cause to be made inquiries therein and institute such prosecutions as the circumstances of the case appear to him to require. **Provisions as to Director of Public Prosecutions.**

(2) The Director of Public Prosecutions by himself or by his assistant or by his representative shall attend the trial of every election petition.

General

83. Any power conferred by the provisions of this Act to make an Order shall be exercisable by statutory instrument, and any such instrument shall be published in the *Gazette*. **Power to make orders.**

84. (1) The Constitution and Elections Ordinance (hereinafter in this section referred to as the repealed Ordinance), the Legislative Council Standing Orders, the Supreme Court (Registration of Voters Appeals) Rules, the Constitution and Elections (Remuneration and Allowances **Repeals and savings.**

of Officers) Regulations, and the Antigua Constitution and Elections Regulations, are hereby repealed:

Cap. 224. Provided that without prejudice to the provisions of the Interpretation Act this subsection shall have effect subject to the following provisions of this section.

(2) Nothing in this repeal shall affect any Order in Council, rule, order, regulation or other instrument other than those specified in subsection (1) made or any other thing whatsoever done under the repealed Ordinance, and every such instrument or other thing shall continue in force and, so far as it could have been made or done under this Act shall have effect as if made or done under the corresponding provisions of this Act.

(3) Nothing in this repeal shall affect the terms and conditions on and subject to which any person held office or served before the commencement of this Act.

(4) Nothing in this repeal shall affect any incapacity imposed by or subsisting under the repealed Ordinance and any such incapacity shall for the purposes of this Act be treated as having been imposed under the corresponding provision of this Act.

(5) Any document referring to any Act, Ordinance or enactment repealed by this Act or any provision of the repealed Ordinance shall be construed as referring to this Act or the corresponding enactment in this Act.

(6) Notwithstanding the provisions of subsections (1) to (5) inclusive, all lists of electors and Registers of Electors prepared under any of the enactments specified in this section shall from the date of the coming into force of this Act be void and of no effect.

FIRST SCHEDULE

ELECTION RULES

Arrangement of Rules

Rule

Part I

1. Timetable.
2. Computation of Time.

Part II

3. Issue of writ.
4. Writs under public seal.
5. Notice of election.
6. Nomination of candidates.
7. Subscription of nomination papers.
8. Consent to nomination.
9. Deposit.
10. Place for delivery of nomination papers.
11. Right to attend nomination.
12. Decisions as to validity of nomination papers.
13. Withdrawal of candidates.
14. Publications of nominations.
15. Adjournment of nomination proceedings in case of riot, etc.
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Part III

17. Poll to be taken by ballot.
18. The ballot papers.
19. The official mark.
20. Prohibition of disclosure of vote.
21. Use of schools and public rooms.
22. Notice to Poll.
23. Death of candidate.
24. Provision of polling stations.
25. Appointment of presiding officers and clerks.
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29. Declaration of secrecy.
30. Admission to polling station.
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34. Challenge of voter.
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37. Electors to immerse appropriate digit in black electoral ink.
38. Meaning of "appropriate digit", etc. in relation to an elector.
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41. Meaning of "appropriate digit", etc. in relation to a proxy.
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43. Non-application of rules 36, 37, 39 and 40, to proxies or electors with no hands; etc.
44. Votes marked by presiding officer.
45. Voting by blind persons.
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49. Procedure on close of poll.
50. Attendance at counting of votes.
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Part IV

56. Declaration of result.
57. Return to writ.
58. Record of returns.
59. Return or forfeiture of candidates' deposits

Part V

60. Verification of ballot paper account.
61. Delivery of documents to Supervisor of Elections.
62. Orders for production of documents.
63. Retention and public inspection of documents.
64. Citation.

Appendix to Election Rules

FIRST SCHEDULE**SECTION 12****ELECTION RULES****Part I****PROVISIONS AS TO TIME**

1. The proceedings at the election shall be conducted in accordance with the following Table.

TIMETABLE

TIME		Proceedings.
In the case of a general election, as soon as practicable after the dissolution of Parliament.	In the case of a by-election as soon as practicable after the seat has become vacant.	Issue of writ.
In the case of a general election or a by-election, not later than four in the afternoon on the day after that on which the writ is received by the Returning Officer.		
In the case of a general election, between the hours of 8 a.m. and 6 p.m. on the fifth day after the date of issue of the writ.	In the case of a by-election, the same as in the case of a general election.	Delivery of nomination papers.
Within the time for the delivery of nomination papers at the election.		Delivery of notices of withdrawals of candidatures.
In the case of a general election or a by-election, during the hours allowed for delivery of nomination papers on the day for the delivery thereof and the hour following:		The making of objections to nomination papers.
Provided that no objection may be made between 6 p.m. and 7 p.m. of the said day except to a nomination delivered between 5 p.m. and 6 p.m.		
In the case of a general election or a by-election, at the close of the time for making objections to nomination papers or as soon thereafter as any objections are disposed of.		Publication of statement of persons nominated.

Polling.	In the case of a general election, between the hours of 6 a.m. and 6 p.m. on the ninth day after the day for delivery of nomination papers.	In the case of a by-election between the hours of 6 a.m. and 6 p.m. on the day fixed by the returning officer, which shall not be earlier than the ninth day after the day for delivery of nomination papers.
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Computation of time. **2.** (1) In computing any period of time for the purpose of the Timetable, a Sunday or Public Holiday shall be disregarded, and any such day shall not be treated as a day for the purpose of any proceedings up to the completion of the Poll.

Cap. 354. (2) In this rule the expression "public holiday" means a holiday appointed as such by the Public Holidays Act or any proclamation made thereunder.

Part II

STAGES COMMON TO CONTESTED AND UNCONTESTED ELECTIONS

Issue of writ. **3.** (1) The Supervisor of Elections may, by Order—

(a) specify the manner in which writs which shall be in Form 1 in the Appendix hereto, are to be conveyed, and make different provisions for different classes of writs; and

(b) provide for the giving of receipts for writs by persons to whom they are delivered or who may receive them in the course of their conveyance.

(2) Delivery of the writ to a person for the time being authorised by law to act as deputy for the officer who by virtue of his office is returning officer shall be as good as delivery to the returning officer.

(3) An Order under this rule may require a returning officer to furnish an address to which writs are to be conveyed and any change of that address, and may provide for recording addresses so furnished, and delivery of a writ to a person found in, and for the time being in charge of, a place so recorded as the office of a returning officer shall be as good as a delivery to that returning officer.

(4) The person to whom the writ is delivered shall endorse the date of receipt on the writ.

(5) An Order under this rule may provide for any incidental or supplementary matters and may revoke or vary an Order previously made.

4. (1) For the purpose of every general election of members to the House of Representatives and for the purpose of the election of members to supply vacancies caused by death, resignation or otherwise, the Governor-General shall issue writs under the Public Seal addressed to the returning officers of the respective constituencies, by the title of his office as returning officer and not by his name, for which members are to be returned. Such writs shall be forwarded to the Supervisor of Elections for transmission to the several returning officers.

**Writs under
public seal.**

(2) Every such writ shall specify the day and place of nomination of candidates, the day on which, if necessary, the poll shall be taken, and the day on which such writ shall be returnable to the Governor-General.

(3) Upon receipt of such writ every returning officer shall proceed to hold the election in the manner hereinafter provided.

5. The returning officer shall publish notice of the election, in Form 2 in the Appendix hereto stating—

**Notice of
election.**

(a) the place and times at which nomination papers are to be delivered; and

(b) the date of the poll in the event of a contest;

and the notice shall state that forms of nomination paper as set out in the Appendix may be obtained at the place and time aforesaid.

6. (1) Each candidate shall be nominated by a separate nomination paper, in Form 3 in the Appendix hereto, delivered by the candidate himself, or his proposer or seconder, to the returning officer at the place fixed for the purpose.

**Nomination of
candidates.**

(2) The nomination paper shall state the full names, place of residence and description of the candidate and the surname shall be placed first in the list of names.

(3) The description shall not exceed six words in length, and need not refer to his rank, profession or calling so long as, with the other particulars of the candidate, it is sufficient to identify him.

7. (1) The nomination paper shall be subscribed by two electors as proposer and seconder, and by eight other electors.

**Subscription of
nomination
papers.**

(2) Where a nomination paper bears the signatures of more than the required number of persons as proposing, seconding or assenting to the nomination of a candidate, the signature or signatures (up to the required number) appearing first on the paper in each category shall be taken into account to the exclusion of any others in that category.

(3) The nomination paper shall give the electoral number of each person subscribing it.

(4) The returning officer shall supply any elector with a form of nomination paper at the place and during the time for delivery of nomination papers and shall, at the request of any elector, prepare a nomination paper for signature; but it shall not be necessary for a nomination to be on a form supplied by the returning officer.

(5) No person shall subscribe more than one nomination paper at the same election and if he does, his signature shall be inoperative on any paper other than the one first delivered:

Provided that a person shall not be prevented from subscribing a nomination paper by reason only of his having subscribed that of a candidate who has died or withdrawn before delivery of the first mentioned paper.

(6) In this rule—
the expression "elector" means a person who is registered as an elector in the constituency in the register to be used at the election or who, pending the publication of that register, appears from the electors list therefor as corrected by the registration officer to be entitled to be so registered. The expression "electoral number" means a person's number in the said register or, pending the publication of the register, his number (if any) in the electors lists therefor.

Consent to nomination.

8. A person shall not be validly nominated unless his consent to nomination, given in writing, in Form 4 in the Appendix hereto, on the day fixed as the day for the delivery of nomination papers and attested by one witness, is delivered at the place and within the time for the delivery of nomination papers.

Deposit.

9. A person shall not be validly nominated unless the sum of five hundred dollars in legal tender is deposited by him or on his behalf with the returning officer at the place and during the time for delivery of nomination papers.

10. The returning officer shall fix the place within the constituency at which nomination papers are to be delivered to him, and shall attend there during the time for the delivery thereof and for the making of objections thereto.

Place for delivery of nomination papers.

11. (1) Except for the purpose of delivering a nomination paper or of assisting the returning officer, no person shall be entitled to attend the proceedings during the time for the delivery of nomination papers or making objections thereto unless he is a person standing nominated as a candidate or is a proposer or seconder of such a person.

Right to attend nomination.

(2) Where a person stands nominated by more than one nomination paper, only the persons subscribing, as proposer and seconder, such one of those papers as he may select or, in default of any such selection, that one of those papers which is first delivered, shall be entitled to attend as his proposer and seconder.

(3) The right to attend conferred by this rule shall include the right to inspect, and to object to the validity of, any nomination paper.

12. (1) Where a nomination paper and the candidate's consent thereto are delivered and a deposit is made in accordance with the rules, the candidate shall be deemed to stand nominated unless proof is given to the satisfaction of the returning officer of the candidate's death, or the candidate withdraws.

Decisions as to validity of nomination papers.

(2) The returning officer shall be entitled to hold a nomination paper invalid only on one of the following grounds, that is to say—

(a) that the particulars of the candidate or the persons subscribing the paper are not as required by law; and

(b) that the paper is not subscribed as so required.

(3) The returning officer shall give his decision on any objection to a nomination paper as soon as practicable and in any event not later than one hour after it is made.

(4) Where he decides that a nomination paper is invalid, he shall forthwith endorse and sign on the paper the fact and the reasons for his decision.

(5) The decision of the returning officer that a nomination paper is valid shall not be questioned in any proceeding whatsoever, other than by an election petition.

Withdrawal of candidates.

13. (1) A candidate may withdraw his candidature by notice of withdrawal signed by him and attested by one witness and delivered to the returning officer at the place for delivery of nomination papers.

(2) In the case of a candidate who is outside Antigua and Barbuda, a notice of withdrawal signed by his proposer and accompanied by a written declaration also so signed of the candidate's absence from Antigua and Barbuda shall be of the same effect as a notice of withdrawal signed by the candidate:

Provided that where the candidate stands nominated by more than one nomination paper a notice of withdrawal under this paragraph shall be effective if, but only if,

(a) it and the accompanying declaration are signed by all the proposers except any who is, and is stated in the said declaration to be, outside Antigua and Barbuda; or

(b) it is accompanied, in addition to the said declaration, by a written statement signed by the candidate that the proposer giving the notice is authorised to do so on the candidate's behalf during his absence from Antigua and Barbuda.

Publications of nominations.

14. (1) The returning officer shall prepare and publish a statement showing the persons who have been and stand nominated and any other persons who have been nominated, with the reason why they no longer stand nominated.

(2) The statement shall show the names, addresses, and descriptions of the persons nominated as given in their nomination papers, together with the names of the persons subscribing those papers.

(3) The statement shall show the persons standing nominated arranged alphabetically in the order of their surnames, and, if there are two or more of them with the same surname, of their other names.

(4) In the case of a person nominated by more than one nomination paper, the returning officer shall take the particulars required by the foregoing provisions of this rule from such one of the papers as the candidate, or the returning officer in default of the candidate, may select.

Adjournment of nomination proceedings in case of riot, etc.

15. Where the proceedings for or in connection with nomination are on any day interrupted or obstructed by riot or open violence or by the occurrence of any earthquake, hurricane,

flood, fire, out-break of pestilence or other calamity the proceedings shall be abandoned for that day, and the proceedings shall be continued on the next day as if that were the day for the delivery thereof, (subject however to any further application of this rule in the event of interruption or obstruction on that day):

Provided that where proceedings are abandoned by virtue of this rule nothing may be done after they are continued, if the time for doing it had passed at the time of the abandonment, nor shall anything done before the abandonment be invalidated by reason thereof.

16. (1) If the statement of persons nominated shows more than one person standing nominated, a poll shall be taken in accordance with Part III of these rules. **Method of election.**

(2) If the statement of persons nominated shows only one person standing nominated, that person shall be declared to be elected in accordance with Part IV of these rules.

Part III

CONTESTED ELECTIONS

17. The votes at the poll shall be given by ballot, the result shall be ascertained by counting the votes given to each candidate and the candidate to whom the majority of votes have been given shall be declared to have been elected. **Poll to be taken by ballot.**

18. (1) The ballot of every voter shall consist of a ballot paper, and the persons shown in the statement of persons nominated as standing nominated, and no other shall be entitled to have their names inserted in the ballot paper. **The ballot papers.**

(2) Every ballot paper shall be in Form 5 in the Appendix hereto, and shall be printed in accordance with the directions therein, and

(a) shall contain the names and other particulars of the candidates as shown in the statement of persons nominated;

(b) shall be capable of being folded up;

(c) shall have a number printed on the back; and

(d) shall have attached a counterfoil with the same number printed on the face.

(3) The order of the names in the ballot paper shall be the same as in the statement of persons nominated.

The official mark.

19. (1) Every ballot paper shall be marked with an official mark, which shall be either embossed or perforated.

(2) The official mark shall be kept secret, and an interval of not less than seven years shall intervene between the use of the same official mark at elections for the same constituency.

Prohibition of disclosure of vote.

20. No person who has voted at the election shall, in any legal proceeding to question the election or return, be required to state for whom he voted.

Use of schools and public rooms.

21. (1) The returning officer may use, free of charge, for the purpose of taking the poll—

(a) a room in a government school; and

(b) a room, the expense of maintaining which is payable out of the Consolidated Fund.

(2) The returning officer shall make good any damage done to, and defray any expense incurred by the persons having control over, any such room as aforesaid by reason of its being used for the purpose of taking the poll.

Action to **be** Taken Before the Poll

Notice of Poll.

22. (1) The returning officer shall in the statement of persons nominated include a notice of the poll stating the day on which and hours during which the poll will be taken.

(2) The returning officer shall also give public notice (which may be combined with the statement of persons nominated) of the situation of each polling station and the description of voters entitled to vote thereat and of the mode in which voters are to vote.

Death of candidate.

23. (1) If after the publication of the statement of persons nominated and before the poll is commenced proof is given to the satisfaction of the returning officer of the death of one of the persons shown as standing nominated, the returning officer shall countermand notice of the poll, and all proceedings with reference to the election shall be commenced afresh in all respects as if the writ had been received on the day on which proof was given to the returning officer of the death:

Provided that no fresh nomination shall be necessary in the case of a person shown in the statement as standing nominated.

(2) Where by reason of the death of a candidate proceedings at an election are commenced afresh under this rule, then in the case of a general election, as in the case of a by-election, the time

for delivery of nomination papers and the time for polling shall be **determined** in accordance with the third column in the Timetable specified in rule 1 with the modification required by the foregoing sub-rule of any reference to the date on which the writ is received.

(3) Where the poll is abandoned by reason of the death of a candidate, the proceedings at or consequent on that poll shall be interrupted, and the presiding officer at any polling station shall take the like steps (so far as not already taken) for the delivery to the returning officer of ballot boxes and of ballot papers and other documents as he is required to take on the close of the poll in due course, and the returning officer shall dispose of ballot papers and other documents in his possession as he is required to do on the completion in due course of the counting of the votes; but—

(a) it shall not be necessary for any ballot paper account to be prepared or verified; and

(b) the returning officer, without taking any step or further step for the counting of the ballot papers, or of the votes, shall seal up all the ballot papers, whether the votes on them have been counted or not, and it shall not be necessary to seal up counted and rejected ballot papers in separate packets.

(4) The provisions as to the inspection, production, retention and destruction of ballot papers and other documents relating to a poll at an election shall apply to any such documents relating to a poll abandoned by reason of the death of a candidate, with the following modifications—

(a) ballot papers on which the votes were neither counted nor rejected shall be treated as counted ballot papers; and

(b) no order shall be made for the production or inspection of any ballot paper or for the opening of a sealed packet of counterfoils or certificates as to employment on duty on the day of the poll unless the order is made by a court with reference to a prosecution.

24. (1) The returning officer shall provide a sufficient number of polling stations and, subject to the following provisions of this rule, shall allot the electors to the polling stations in such manner as he thinks most convenient.

**Provision of
polling stations.**

(2) One or more polling stations may be provided in the same building.

(3) The polling station allotted to electors from any polling district shall be in the polling place for that district.

(4) The returning officer shall provide each polling station with such number of compartments as may be necessary in which the voters can mark their votes screened from observation.

Appointment of presiding officers and clerks.

25. (1) The returning officer shall appoint and pay a presiding officer to attend at each polling station and such clerks as may be necessary for the purpose of the election, but he shall not appoint any person who has been employed by or on behalf of a candidate in or about the election.

(2) The returning officer may, if he thinks fit, preside at a polling station and the provisions of these rules relating to a presiding officer shall apply to a returning officer so presiding with the necessary modifications as to things to be done by the returning officer or by the presiding officer to the returning officer.

(3) The clerks appointed to assist the presiding officer may do any act, including the asking of questions, which the presiding officer is required or authorised by these rules to do at a polling station except order the arrest, exclusion or removal of any person from the polling station.

Proxy list.

26. (1) The returning officer shall as soon as practicable, and in any case not later than three days before any polling day, prepare a list of proxies giving—

- (i) the names and numbers on the register of the electors for whom proxies have been appointed; and
- (ii) the names and addresses of the persons appointed, and shall also place against the name of any elector on the register of electors on behalf of whom a proxy has been appointed to vote the letter "p" in any copy of the register or part thereof provided for a polling station.

(2) Such list of proxies shall be used only for the purposes of the election next following the preparation of the list.

Equipment of polling station.

27. (1) The returning officer shall provide each presiding officer with such number of ballot boxes and ballot papers as in the opinion of the returning officer may be necessary.

(2) Every ballot box shall be so constructed that the ballot papers can be put therein, but cannot be withdrawn therefrom, without the box being unlocked.

(3) The returning officer shall provide each polling station with—

- (a) materials to enable voters to mark the ballot papers;
- (b) instruments for stamping thereon the official mark;
- (c) copies of the register of electors or such part thereof as contains the names of the electors allotted to the station;
- (d) the parts of any list of proxies prepared for the election corresponding to the register of electors or part thereof provided under the last foregoing sub-paragraph;
- (e) a blank poll book which shall be in Form 6 in the Appendix hereto;
- (f) a copy of the Act and these rules;
- (g) a sufficient supply of black and red electoral ink; and
- (h) such other things as may be necessary for conducting the election in the manner directed by the Act and these rules.

(4) A notice in Form 7 in the Appendix hereto, giving directions for the guidance of the voters in voting, shall be printed in conspicuous characters and exhibited inside and outside every polling station.

(5) In every compartment of every polling station there shall be exhibited a notice as follows—

"The voter may vote for not more than one candidate."

28. (1) Each candidate may, before the commencement of the poll, appoint polling agents to attend at polling stations for the purpose of detecting personation and counting agents to attend at the counting of the votes:

**Appointment of
polling and
counting agents.**

Provided that the returning officer may limit the number of counting agents, so however that the number shall be the same in the case of each candidate and the number allowed to a candidate shall not (except in special circumstances) be less than the number obtained by dividing the number of clerks employed on the counting by the number of candidates.

(2) Notice in writing of the appointment, stating the names and addresses of the persons appointed, shall be given by the candidate to the returning officer and, in the case of counting agents, shall be so given not later than the second day, computed like any period of time in the Timetable in rule 1, before the day of the poll.

(3) If an agent dies, or becomes incapable of acting, the candidate may appoint another agent in his place, and shall forthwith give to the returning officer notice in writing of the name and address of the agent appointed.

(4) In the following provisions of these rules references to polling and counting agents shall be taken as references to agents whose appointments have been duly made and notified and, where the number of agents is restricted, who are within the permitted number.

(5) Any notice required to be given to a counting agent by the returning officer may be delivered at or sent by post to the address stated in the notice of appointment.

(6) A candidate may himself do any act or thing which any polling or counting agent of his, if appointed, would have been authorised to do.

(7) Where by these rules any act or thing is required or authorised to be done in the presence of the polling or counting agents, the non-attendance of any agents or agent at the time and place appointed for the purpose, shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

**Declaration of
secrecy.**

29. (1) Before the opening of the poll a declaration of secrecy in the form in subrule (4) hereof, or in a form as near thereto as circumstances admit, shall be made by—

(a) the returning officer and the presiding officers;

(b) every officer or clerk authorised to attend at a polling station or the counting of the votes;

(c) every candidate attending at a polling station or at the counting of the votes;

(d) every candidate's wife or husband attending at the counting of the votes;

(e) every person permitted by the returning officer to attend within the designated restricted area at the counting of the votes though not entitled to do so.

(2) Notwithstanding anything in subrule (1) hereof, the following persons attending at the counting of the votes, that is to say,

(a) any candidate;

(b) any candidate's wife, or husband attending by virtue of the rule authorising candidates' wives or husbands to attend as such;

(c) any person permitted by the returning officer to attend, though not entitled to do so; and

(d) any clerk making the declaration in order to attend at the counting of the votes,

need not make the declaration before the opening of the poll but shall make it before he or she is permitted to attend the counting, and a polling or counting agent appointed after the opening of the poll shall make the declaration before acting as such agent.

(3) The returning officer shall make the declaration in the presence of a magistrate, and any other person shall make the declaration in the presence either of a magistrate or of the returning officer, and subsections (1), (2), (3) and (5) of section 26 shall be read to the declarant by the person taking the declaration or shall be read by the declarant in the presence of that person.

(4) The declaration shall be as follows— "I solemnly promise and declare that I will not do anything forbidden by subsections (1), (2), (3) and (5) of section 26 of the Representation of the People Act which have been read to/by me."

30. (1) The presiding officer shall regulate the number of voters to be admitted to the polling station at the same time, and shall exclude all other persons except—

**Admission to
Polling station.**

(a) the candidates;

(b) the polling agents appointed to attend at the polling station;

(c) the clerks appointed to attend at the polling station;

(d) the police officers or members of the Antigua and Barbuda Defence Force on duty; and

(e) the companions of blind voters

(2) Not more than one polling agent shall be admitted at the same time to a polling station on behalf of the same candidate.

31. (1) It shall be the duty of the presiding officer to keep order at his polling station.

**Keeping of order
in station.**

(2) If a person misconducts himself in a polling station, or fails to obey the lawful orders of the presiding officer, he may immediately, by order of the presiding officer, be removed from

the polling station by a police officer in or near the station or by any other person authorised in writing by the returning officer to remove him, and the person so removed shall not, without the permission of the presiding officer, again enter the polling station during the day.

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

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

Sealing of ballot boxes.

32. Immediately before the commencement of the poll, the presiding officer shall show the ballot box empty to such persons, if any, as are present in the polling station, so that they may see that it is empty, and shall then lock it up and place his seal on it in such manner as to prevent its being opened without breaking the seal, and shall place it in his view for the receipt of ballot papers, and keep it so locked and sealed.

Questions to be put to voters.

33. (1) The presiding officer may, and if required by a candidate or his polling agent shall, put to any person applying for a ballot paper at the time of his application, but not afterwards, the following questions, or either of them, that is to say—

- (a) in the case of a person applying as an elector—
 - (i) "Are you the person registered in the register of electors of this election as follows (read the whole entry from the register)?"
 - (ii) "Have you already voted, here or elsewhere, at this by-election/general election otherwise than as proxy for some other person?"; and
- (b) in the case of a person applying as proxy—
 - (i) "Are you the person whose name as A.B. in the list of proxies for this election as entitled to vote as proxy on behalf of C.D.?"
 - (ii) "Have you already voted here or elsewhere at this by-election/general election as proxy on behalf of C.D.?"

(2) In the case of a person applying as proxy, the presiding officer may, and if required as aforesaid shall, put the following

additional question: "Have you at this election already voted as proxy on behalf of any other person?"

(3) A ballot paper shall not be delivered to any person required to answer the above questions or any of them unless he has answered the question satisfactorily.

(4) Save as by this rule authorised, no inquiry shall be permitted as to the right of any person to vote.

34. (1) If at the time a person applies for a ballot paper for the purpose of voting in person, or after he has applied for a ballot paper for that purpose and before he has left the polling station, a candidate or his polling agent declares to the presiding officer that he has reasonable cause to believe that the applicant has committed an offence of personation and undertakes to substantiate the charge in a court of law, the presiding officer may order a police officer or member of the Antigua and Barbuda Defence Force to arrest the applicant, and the order of the presiding officer shall be sufficient authority for the police officer or member of the Antigua and Barbuda Defence Force so to do. **Challenge of voter.**

(2) A person against whom a declaration is made under this rule shall not by reason thereof be prevented from voting.

(3) A person arrested under the provisions of this rule shall be dealt with as a person taken into custody by a police officer or member of the Antigua and Barbuda Defence Force for an offence, without a warrant.

35. (1) A ballot paper shall be delivered to a voter who applies therefor, and immediately before delivery— **Voting procedure.**

(a) the ballot paper shall be stamped with the official mark, either embossed or perforated;

(b) the number, name and description of the elector as stated in the copy of the register of electors shall be called out;

(c) the number of the elector shall be marked on the counterfoil;

(d) a mark shall be placed in the register of electors against the number of the elector to denote that a ballot paper has been received but without showing the particular ballot paper which has been received; and

(e) in the case of a person applying for a ballot paper as proxy, a mark shall also be placed against his name in the list of proxies.

(2) The voter, on receiving the ballot paper, shall forthwith proceed into one of the compartments in the polling station and there secretly mark his paper and fold it up so as to conceal his vote, and shall then show to the presiding officer the back of the paper, so as to disclose the official mark, and after the provisions of rules 36 to 38 and rules 39 to 41, as the case may be, have been complied with, put the ballot paper so folded up into the ballot box in the presence of the presiding officer.

(3) The voter shall vote without undue delay, and shall leave the polling station as soon as he has put his ballot paper into the ballot box.

Ballot papers not to be delivered to elector unless no marks of black electoral ink appear on elector.

36. (1) Subject to the provisions of rule 43, the presiding officer shall refuse to deliver any ballot paper to any elector unless he is satisfied that there does not appear—

(a) upon the appropriate digit of such elector; or

(b) in the case of an elector who the presiding officer is satisfied is suffering from an injury to the appropriate digit, upon any of the digits of such elector,

any mark of black electoral ink.

(2) For the purpose of satisfying himself in the manner required by subrule (1) of this rule, the presiding officer shall in the presence of the poll clerk and of the sworn agents of the candidates or the candidates in the polling station, as the case may be, inspect the appropriate digit of each elector or all of the digits of each elector, as the case may require.

(3) Every presiding officer who refuses to deliver any ballot paper to any elector under the provisions of this rule shall make an entry in the poll book setting out the facts in relation to such refusal.

(4) Every person who applies as an elector for any ballot paper at any time when there is upon any of his digits any mark of black electoral ink shall be guilty of personation within the meaning of the Act.

Electors to immerse appropriate digit in black electoral ink.

37. (1) The presiding officer shall before permitting any elector to put his folded ballot paper in the ballot box in accordance with rule 35 (2), if the elector has an appropriate digit, satisfy himself that there does not appear upon such digit any substance which in his opinion is likely to prevent the adhesion of black electoral ink and cause the elector to immerse such digit in the black electoral ink:

Provided that where the presiding officer is satisfied that the elector is suffering from some injury to his appropriate digit which is of such nature as to render it undesirable for him to immerse such digit in the black electoral ink the presiding officer may require him to immerse in such black electoral ink any other digit upon which the presiding officer is satisfied that there is no substance which is likely to prevent the adhesion of black electoral ink.

(2) If any elector on being required so to do fails or refuses to immerse his appropriate digit in black electoral ink the presiding officer shall take possession of and destroy the ballot paper of such an elector and make an entry in the poll book setting out the particulars in relation to the destruction of such ballot paper:

Provided that nothing in this rule shall prohibit an elector who has failed or refused to immerse his appropriate digit in black electoral ink from returning to the polling station in order to vote as an elector and to immerse his appropriate digit in black electoral ink.

38. In rules 36 and 37 "appropriate digit" means in the case of an elector—

- (i) who has a right hand upon which there are any digits that finger of the right hand which is nearest to the right thumb, or if the elector as no right thumb the right thumb socket, or if the elector has a right thumb but has no fingers on the right hand, the right thumb and upon which digit there does not appear any sign of red electoral ink;
- (ii) who has no right hand or who has a right hand but has no digits upon such hand, the finger on the left hand which is nearest to the left thumb, or if the elector has no left thumb to the left thumb socket, or if he has a left thumb but no fingers upon his left hand the left thumb and upon which digit there does not appear any sign of red electoral ink;

Meaning of "appropriate digit", etc. in relation to an elector.

"digit" includes both fingers and thumb;

"black electoral ink" means the black ink whether composite or consisting of two or more separate solutions, supplied by the Supervisor of Elections for use in accordance with these rules.

Ballot papers not to be delivered to person voting as proxy for elector unless no marks of red electoral ink appear on proxy.

39. (1) Subject to the provisions of rule **43**, the presiding officer shall refuse to deliver any ballot paper to any person voting as proxy for an elector unless he is satisfied that there does not appear—

(a) upon the appropriate digit of such proxy; or

(b) in the case of a proxy who the presiding officer is satisfied is suffering from an injury to the appropriate digit, upon any of the digits of such proxy,

any mark of red electoral ink.

(2) For the purpose of satisfying himself in the manner required by subrule (1), the presiding officer shall in the presence of the poll clerk and of the sworn agents of the candidates or the candidates in the polling station, as the case may be, inspect the appropriate digit of each proxy or all of the digits of each proxy, as the case may require.

(3) Every presiding officer who refuses to deliver any ballot paper to any proxy under the provisions of this rule shall make an entry in the poll book setting out the facts in relation to such refusal.

(4) Every person who applies as a proxy for any ballot paper at any time when there is upon any of his digits any mark of red electoral ink shall be guilty of personation within the meaning of the Act.

Proxies to immerse appropriate digit in red electoral ink.

40. (1) The presiding officer shall before permitting any person voting as proxy to put his folded ballot paper in the ballot box in accordance with rule **35** (2) if the proxy has an appropriate digit, satisfy himself that there does not appear upon such digit any substance which in his opinion is likely to prevent the adhesion of red electoral ink and cause the proxy to immerse such digit in the red electoral ink:

Provided that where the presiding officer is satisfied that the proxy is suffering from some injury to his appropriate digit which is of such nature as to render it undesirable for him to immerse such digit in the red electoral ink the presiding officer may require him to immerse in such red electoral ink any other digit upon which the presiding officer is satisfied that there is no substance which is likely to prevent the adhesion of red electoral ink.

(2) If any proxy on being required so to do fails or refuses to immerse his appropriate digit in red electoral ink the presiding officer shall take possession of and destroy the ballot paper of such

a proxy and make an entry in the poll book setting out the particulars in relation to the destruction of such ballot paper.

Provided that nothing in this rule shall prohibit a proxy who has failed or refused to immerse his appropriate digit in red electoral ink from returning to the polling station in order to vote as a proxy and to immerse his appropriate digit in red electoral ink.

41. In rules 39 and 40 "appropriate digit" means in the case of a proxy—

Meaning of "appropriate digit", etc. in relation to a proxy.

- (i) who has a left hand upon which there are any digits that finger of the left hand which is nearest to the left thumb, or if the proxy has no left thumb to the left thumb socket, or if the proxy has a left thumb but has no fingers on the left hand, the left thumb and upon which digit there does not appear any sign of black electoral ink;
- (ii) who has no left hand or who has a left hand but has no digits upon such hand, the finger on the right hand which is nearest to the right thumb, or if the elector has no right thumb, to the right thumb socket, or if he has a right thumb but no fingers upon his right hand, the right thumb and upon which digit there does not appear any sign of black electoral ink;

"digit" includes both fingers and thumb;

"red electoral ink" means the red ink, whether composite or consisting of two or more separate solutions, supplied by the Supervisor of Elections for use in accordance with these rules.

42. Subject to the provisions of rule 43 of these rules, every presiding officer who fails or neglects to perform any duty imposed upon him by rule 36, 37, 39 or 40 of these rules shall be guilty of an offence against this rule and shall be liable on summary conviction to a fine of one thousand dollars and to imprisonment for six months.

Penalty for failure of presiding officer to carry out provisions of rules 36, 37, 39 or 40.

43. The provisions of rules 36, 37, 39, 40 and 42 of these rules shall not apply in relation to any elector or proxy who has no hands or who has only one digit, and is entitled to vote both as an elector and as a proxy and who has already voted in one of such capacities.

Non-application of rules 36, 37, 39 and 40 to proxies or electors with no hands; etc.

**Votes marked by
presiding officer.**

44. (1) The presiding officer, on the application of—

(a) a voter who is incapacitated by blindness or other physical cause from voting in manner directed by these rules; or

(b) a voter who declares orally that he is unable to read, shall, in the presence of the polling agents, cause the vote of the voter to be marked on a ballot paper in the manner directed by the voter, and the voter having complied with the other provisions of these rules, the ballot paper to be placed in the ballot box.

(2) The name and number on the register of electors of every voter whose vote is marked in pursuance of this rule, and the reason why it is so marked, shall be entered on a list (in these rules called "the list of votes marked by the presiding officer").

In the case of a person voting as a proxy for an elector, the number to be entered together with the name of the voter shall be the number of the elector.

**Voting by blind
persons.**

45. (1) If a voter makes an application to the presiding officer to be allowed on the ground of blindness to vote with the assistance of another person by whom he is accompanied, in these rules referred to as "the companion", the presiding officer shall require the voter to declare orally whether he is so incapacitated by his blindness as to be unable to vote without assistance.

(2) If the presiding officer is satisfied that the voter is so incapacitated and is also satisfied by a written declaration made by the companion, in these rules referred to as "the declaration made by the companion of a blind voter", that the companion is a qualified person within the meaning of this rule and has not previously assisted any other blind person to vote at the election, the presiding officer shall grant the application, and thereupon anything which is by these rules required to be done to or by the said voter in connection with the giving of his vote may be done to, or with the assistance of, the companion.

(3) For the purpose of this rule, a person shall be qualified to assist a blind voter to vote, if that person is either—

(a) a person who is entitled to vote as an elector in that constituency at the election; or

(b) the father, mother, brother, sister, husband, wife, son or daughter of the blind voter and has attained the age of eighteen years.

(4) The name and number in the register of electors of every voter whose vote is given in accordance with this rule and the name and address of the companion shall be entered by the presiding officer on a list in these rules referred to as "the list of blind voters assisted by companions."

In the case of a person voting as proxy for an elector, the number to be entered together with the name of the voter shall be the number of the elector.

(5) The declaration made by the companion—

(a) shall be in Form 8 in the Appendix hereto;

(b) shall be made before the presiding officer at the time when the voter applies to vote with the assistance of a companion and shall forthwith be given to the presiding officer who shall attest and retain it.

(6) No fee or other payment shall be charged in respect of the declaration.

46. (1) If a person, representing himself to be—

Tendered ballot papers.

(a) a particular elector named on the register and not named in the absent voters list; or

(b) a particular person named in the list of proxies as proxy for an elector,

applies for a ballot paper after another person has voted in person either as the elector or his proxy, the applicant shall, on satisfactorily answering the questions permitted by law to be asked at the poll, be entitled, subject to the following provisions of this rule, to mark a ballot paper in these rules referred to as "a tendered ballot paper" in the same manner as any other voter.

(2) A tendered ballot paper shall—

(a) be of a colour differing from the other ballot papers;

(b) instead of being put into the ballot box, be given to the presiding officer and endorsed by him with the name of the voter and his number in the register of electors, and set aside in a separate packet.

(3) The name of the voter and his number on the register of electors shall be entered on a list in these rules referred to as the "tendered votes list."

(4) In the case of a person voting as proxy for an elector, the number to be endorsed or entered together with the name of the voter shall be the number of that elector.

Spoilt ballot papers.

47.^d A voter who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper may, on delivering it to the presiding officer and proving to his satisfaction the fact of the inadvertence, obtain another ballot paper in the place of the ballot paper so delivered in these rules referred to as "a spoilt ballot paper" and the spoilt ballot paper shall be immediately cancelled.

Adjournment of poll in case of riot, etc.

48. (1) Where the proceedings at any polling station are interrupted or obstructed by riot or open violence, or by the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence or other calamity, the presiding officer shall adjourn the proceedings till the following day and shall forthwith give notice to the returning officer.

(2) Where the poll is adjourned at any polling station—

(a) the hours of polling on the day to which it is adjourned shall be the same as for the original day; and

(b) references in this Act to the close of the poll shall be construed accordingly.

(3) Where the poll is adjourned under the preceding provisions of this rule the presiding officer shall either—

(a) secure and seal the polling station, having first ascertained that no persons remain upon the premises; or

(b) having first sealed each ballot box with his own seal, remove the ballot boxes and all other papers relating to the poll to some other secure place and in such latter event the polling agent of any candidate may upon request accompany and remain with such papers at such secure place until the resumption of the poll.

Procedure on close of poll.

49. (1) As soon as practicable after the close of the poll, the presiding officer shall, in the presence of the polling agents, make up into separate packets, sealed with his own seal and the seal of such polling agents as desired to affix their seals—

(a) each ballot box in use at the station, sealed so as to prevent the introduction of additional ballot papers and unopened, but with the key attached;

(b) the unused and spoilt ballot papers placed together;

(c) the tendered ballot papers;

(d) the marked copies of the register of electors and of the list of proxies;

(e) the counterfoils of the used ballot papers and the certificates as to employment on duty on the day of the poll;

(f) the tendered votes list, the list of blind voters assisted by companions, the list of voters marked by the presiding officer, a statement of the number of voters whose votes are so marked by the presiding officer under the heads "physical incapacity" and "unable to read", the declarations made by the companions of blind voters, and the poll book,

and shall, accompanied by two police officers, deliver the packets personally to the returning officer to be taken charge of by him:

Provided that a polling agent of each candidate may, upon request, accompany the presiding officer from the polling station until he delivers the packets to the returning officer.

(2) The marked copies of the register of electors and of the list of proxies shall be in one packet but shall not be in the same packet as the counterfoils of the used ballot papers and the certificates as to employment on duty on the day of the poll.

(3) The packet shall be accompanied by a statement (in these rules referred to as "the ballot paper account") made by the presiding officer showing the number of ballot papers entrusted to him, and accounting for them under the heads of ballot papers issued and not otherwise accounted for, unused, spoilt and tendered ballot papers.

50. (1) The returning officer shall make arrangements for counting the votes in the presence of the counting agents as soon as practicable after the close of the poll, and shall give to the counting agents notice in writing of the time and place at which he will begin to count the votes, and shall designate a portion of such place to be a reserved area, within which the actual counting of votes will take place.

Attendance at counting of votes.

(2) No person other than—

(a) the returning officer and his clerks;

(b) the candidates; and

(c) the counting agents,

may be present within the reserved area at the counting of the votes, unless permitted by the returning officer to attend.

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

(4) In particular, where the votes are counted by sorting the ballot papers according to the candidate for whom the vote is given and then counting the number of ballot papers for each candidate, the counting agents shall be entitled to satisfy themselves that the ballot papers are correctly sorted.

The count.

51. (1) The returning officer shall not count any tendered ballot paper.

(2) The returning officer, while counting and recording the number of ballot papers and counting the votes, shall keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers printed on the back of the ballot papers.

(3) The returning officer shall verify each ballot paper account by comparing it with the number of ballot papers recorded by him, and the unused and spoilt ballot papers in his possession and the tendered votes list opening and resealing the packets containing the unused and spoilt ballot papers and the tendered votes list and shall draw up a statement as to the result of the verification, which any counting agent may copy.

(4) The returning officer shall, so far as practicable, proceed continuously with counting the votes.

Recount.

52. (1) A candidate, if present when the counting or any re-count of the votes is completed, may require the returning officer to have the votes re-counted or again re-counted but the returning officer may refuse to do so if in his opinion the request is unreasonable.

(2) No step shall be taken on the completion of the counting or any re-count of votes until the candidates at the completion thereof have been given a reasonable opportunity to exercise the right conferred by this rule.

Rejected ballot papers.

53. (1) Any ballot paper—

(a) which does not bear the official mark;

(b) on which votes are given for more than one candidate;

(c) on which anything is written or marked by which the voter can be identified; or

(d) which is unmarked or void for uncertainty,

shall, subject to the provisions of the next following subrule be void and not counted.

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

(a) elsewhere than in the proper place;

(b) otherwise than by means of a cross; or

(c) by more than one mark,

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

(3) The returning officer shall endorse the word "rejected" on any ballot paper which under this rule is not to be counted, and shall add to the endorsement the words "rejection objected to" if an objection is made by a counting agent to his decision.

(4) The returning officer shall draw up a statement showing the number of ballot papers rejected under the several heads of—

(a) want of official mark;

(b) voting for more than one candidate;

(c) writing or mark by which voter could be identified;

(d) unmarked or void for uncertainty,

and any counting agent may copy the statement.

54. The decision of the returning officer on any question arising in respect of a ballot paper shall be final, but shall be subject to review on an election petition. **Decisions on ballot papers.**

55. (1) Where, after the counting of the votes, including any recount, is completed, an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of these candidates to be declared elected then the returning officer shall forthwith make a declaration under rule 56 that an equality of votes has been ascertained and that no candidate has been elected and shall endorse the writ to that effect and deliver the certified writ to the Supervisor of Elections. **Equality of votes.**

(2) Upon receipt of the writ certified as in subrule (1) the Supervisor shall declare that a fresh election for that constituency shall be held and all proceedings with reference to that election shall be commenced afresh in all respects as if the writ had been received on the day on which the Supervisor of Elections makes the declaration:

Provided that no fresh nomination shall be necessary in the case of a person standing nominated and with an equality of votes.

Part IV

FINAL PROCEEDINGS IN CONTESTED AND UNCONTESTED ELECTIONS

Declaration of result.

56. (1) In a contested election, when the result of the poll has been ascertained, the returning officer shall forthwith either—

- (a) (i) declare to be elected the candidate to whom the majority of votes has been given; and
- (ii) return his name to the Supervisor of Elections; or
- (b) (i) declare that there has been an equality of votes and that no candidate has been elected; and
- (ii) return the fact that there has been an equality of votes to the Supervisor of Elections,

and in either case give public notice of his name or their names and of the total number of votes given for each candidate together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers.

(2) In an uncontested election, the Statement of Persons Nominated, in addition to showing the person standing nominated, shall also declare that person elected, and the returning officer shall forthwith return his name to the Clerk to Parliament and the Supervisor of Elections.

Return to writ.

57. (1) The returning officer shall return the name of the member elected by endorsing on the writ a certificate in Form 1 in the Appendix hereto.

(2) Any provision of the Constitution, any rule or law or enactment as to the effect of, or manner of dealing with, the return of a member to serve in the House of Representatives shall apply to the certificate.

(3) The returning officer shall deliver the writ with the certificate endorsed thereon to the Supervisor of Elections.

58. (1) The Supervisor of Elections shall from the certificate on each writ returned to him enter the name of the member returned in a book to be kept by him at his office. **Record of returns.**

(2) The Supervisor of Elections shall also enter in the book any declaration of equality of votes, any double return and any alteration or amendment made by him in the certificate endorsed on any writ.

(3) The book shall be open to public inspection at reasonable times and any person may, on payment of a reasonable fee, take copies from the book.

59. (1) Subject to the provisions of subrules (4) and (5) of this rule, the deposit made under rule 9 shall either be returned to the person making it or his personal representatives or be forfeited to Antigua and Barbuda. **Return or forfeiture of candidates' deposits.**

(2) Except in the cases hereinafter mentioned in this rule, the deposit shall be returned as soon as practicable after the result of the election is declared.

(3) If the candidate is not shown as standing nominated in the statement of persons nominated, or if the poll is countermanded or abandoned by reason of his death, the deposit shall be returned as soon as practicable after the publication of the statement or after his death, as the case may be.

(4) Subject to the last foregoing subrule the deposit shall be forfeited if a poll is taken and, after the counting of the votes by the returning officer (including any re-count) is completed, the candidate is found not to have polled more than one-eighth of the total number of votes polled by all the candidates.

(5) Notwithstanding anything in the three last foregoing subrules, if at a general election a candidate is shown as standing nominated in more than one constituency in the statements of persons nominated, not more than one of the deposits shall be returned and, if necessary, the Supervisor of Elections shall direct which it is to be.

Part V

DISPOSAL OF DOCUMENTS

Verification of
ballot paper
account.

60. (1) On the completion of the counting at a contested election the returning officer shall seal up in separate packets the counted and rejected ballot papers.

(2) The returning officer shall then in the presence of the counting agents verify each ballot paper account by comparing it with the number of ballot papers recorded by him, and the unused and spoilt ballot papers in his possession and the tendered votes list (opening and resealing the packets containing the unused and spoilt papers and the tendered votes list) and shall draw up a statement as to the result of the verification, which any counting agent may copy.

(3) The returning officer shall not open the sealed packets of tendered ballot papers or of counterfoils and certificates as to employment on duty on the day of the poll, or of marked copies of the register of electors and lists of proxies.

Delivery of
documents to
Supervisor of
Elections.

61. (1) The returning officer shall then forward to the Supervisor of Elections the following documents, that is to say—

(a) the packets of ballot papers in his possession;

(b) the ballot paper accounts and the statements of rejected ballot papers and of the result of the verification of the ballot papers accounts;

(c) the tendered votes lists, the lists of blind voters assisted by companions, the lists of votes marked by the presiding officer and the statements relating thereto, and the declarations made by the companions of blind voters;

(d) the packets of counterfoils and certificates as to employment on duty on the day of the poll;

(e) the packets containing marked copies of registers and of lists of proxies,

endorsing on each packet a description of its contents, the date of the election to which they relate, and the name of the constituency for which the election was held.

(2) The returning officer shall forward the documents by delivering them personally to the Supervisor of Elections.

(3) The Supervisor of Elections shall on receiving the documents give a receipt to the person delivering them, and shall

register them in the books of his office specifying the date and time of receipt.

(4) Any receipt to be given for the documents shall show the date and time of their receipt.

62. (1) An Order—

(a) for the inspection or production of any rejected ballot papers in the custody of the Supervisor of Elections; or

(b) for the opening of a sealed packet of counterfoils and certificates as to the employment on duty on the day of the poll or the inspection of any counted ballot papers in his custody may be made—

(i) by the House of Representatives;

(ii) if satisfied by evidence on oath that the Order is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of an election petition, by the High Court (whether sitting as an election court or not).

(2) An order for the opening of a sealed packet of counterfoils and certificates or for the inspection of any counted ballot papers in the said custody may be made by an election court.

(3) An Order under this rule may be made subject to such conditions as to persons, time, place and mode of inspection, production or opening as the House of Representatives or court making the order may think expedient:

Provided that in making and carrying into effect an order for the opening of a packet of counterfoils and certificates or for the inspection of counted ballot papers, care shall be taken that the way in which the vote of any particular elector has been given shall not be disclosed until it has been proved that his vote was given and that the vote has been declared by a competent court to be invalid.

(4) Any power given under this rule to the High Court may be exercised by any judge of the Court otherwise than in open court.

(5) Where an order is made for the production by the Supervisor of Elections of any document in his possession relating to any specified election, the production by him or his agent of the document ordered, in such manner as may be directed by that order shall be conclusive evidence that the document relates

**Orders for
production of
documents.**

to the specified election; and any endorsement on any packet of ballot papers so produced shall be *prima facie* evidence that the ballot papers are what they are stated to be by the endorsement.

(6) The production from proper custody of a ballot paper purporting to have been used at any election, and of a counterfoil marked with the same printed number and having a number marked thereon in writing, shall be *prima facie* evidence that the elector whose vote was given by that ballot paper was the person who at the time of the election has affixed to his name in the register of electors the same number as the number written on the counterfoil.

(7) Save as by this rule provided, no person shall be allowed to inspect any rejected or counted ballot papers in the possession of the Supervisor of Elections or to open any sealed packets of counterfoils and certificates.

**Retention and
public inspection
of documents.**

63. (1) The Supervisor of Elections shall retain for a year all documents relating to an election forwarded to him in pursuance of these rules by a returning officer, and then, unless otherwise directed by order of the House of Representatives or the High Court, shall cause them to be destroyed.

(2) The said documents, except ballot papers, counterfoils and certificates as to employment on duty on the day of the poll, shall be open to public inspection at such time and subject to such conditions as may be prescribed by the Supervisor of Elections with the consent of the Speaker of the House of Representatives.

(3) The Supervisor of Elections shall on request, supply copies of or extracts from the documents open to public inspection on payment of such fees and subject to such conditions as may be sanctioned by him.

Citation.

64. These rules may be cited as the Election Rules.

APPENDIX TO ELECTION RULES

Note — The forms contained in this Appendix may be adapted so far as circumstances require.

FORM No. 1.

Rule 3(1)

Form of Writ for Elections

Elizabeth the Second, by the Grace of God, Queen of Antigua and Barbuda and of Her other Realms and Territories, Head of the Commonwealth, to the Returning Officer for the Constituency, Greeting:

Whereas by Section 61 (1) of the Constitution it is provided that a general election of Members of the House of Representatives shall be held at such time within three months after every dissolution of Parliament as the Governor-General, acting in accordance with the advice of the Prime Minister, shall appoint;

AND WHEREAS Parliament was dissolved on the _____ day of _____, 19____

AND WHEREAS the _____ day of _____, 19____ has been appointed as the date on which the said general election shall be held

NOW THEREFORE I, _____, Governor-General of Antigua and Barbuda command you that, due notice being first given, you do cause election to be made according to law of a Member to serve in the House of Representatives for the said _____ Constituency and that you do cause the name of such member when so elected, whether he be present or absent, to be certified to me without delay.

Given under my hand and the Public Seal this _____ day of _____ and in the _____ Year of Our Reign, and in the Year of Our Lord 19____

Governor-General

Label or direction of writ

To the Returning Officer for the _____ Constituency.
A Writ of a new Election of a Member for the said Constituency.

Endorsement

Received the within Writ on the _____ day of _____, 19____

(Signed)

Returning Officer.

Certificate endorsed on writ

I hereby certify, that the Member elected for the Constituency in pursuance of the within written Writ is of

(Signed)
Returning Officer.

FORM No. 2.

Rule 5

Form of notice of election

ELECTION FOR THE CONSTITUENCY

1. An election is to be held of a Member to serve in the House of Representatives for the said Constituency.

2. Nomination papers may be delivered by the candidate or his proposer or seconder to the returning officer at between the hours of 8 a.m. and 6 p.m. on the day of , 19

3. Forms of nomination papers may be obtained at the place and times aforesaid. The returning officer will at the request of any elector prepare for signature a nomination paper.

4. If the election is contested, the poll will take place on the day of , 19

(Signed)
Returning Officer.

NOTE

1. The attention of candidates and electors is drawn to the rules for filling up nomination papers and other provisions relating to nomination contained in the Election Rules in the First Schedule to the Representation of the People Act.

2. Every person guilty of a corrupt or illegal practice will, on conviction, be liable to the penalties imposed by the Representation of the People Act.

3. Electors and their proxies should take note that applications to be treated as an absent voter and other applications and notices about proxy voting must reach the registration officer by the day of next, if they are to be effective for this election.

FORM No. 3.

Rule 6

Form of nomination for parliamentary election

Election of a Member to serve in the House of Representatives for the
Constituency

We, the undersigned, being electors for the said Constituency, do hereby nominate the under-mentioned person as a candidate at the said election, and we certify that to the best of our belief he is qualified for election as a member of the House of Representatives.

Candidate's surname	Other names in full	Description	Home Address in full
BROWN	John Edward	Merchant	St. John's

Signatures	Electoral Number (See note 2)
Proposer.1.....
Secunder.
<p>We, the undersigned, being electors for the said Constituency, do hereby assent to the foregoing nomination.</p>	
1.
2.
3.
4.
5.
6.
7.
8.

NOTE

1. The attention of candidates and electors is drawn to the rules for filling up nomination papers and other provisions relating to nomination contained in the Election Rules in the First Schedule to the Representation of the People Act.

2. A person's electoral number is his number in the register to be used at the election except that before publication of the register his number (if any) in the electors lists for that register shall be used instead.

3. An elector may not subscribe more than one nomination paper for the same election.

FORM No. 4.

Rule 8

Consent to Nomination

I, _____, of _____, hereby consent to my nomination as a candidate for election as a member of the House of Representatives for the Constituency of _____

Witness my hand this _____ day of _____, 19____

Signature of Witness

Signature of Candidate

FORM No. 5.

Rule 18(2)

Form of Ballot Paper
Form of Front of Ballot Paper

Counterfoil
No.

The Counter-foil is to have a number to Correspond with that on the back of the Ballot Paper.

	BROWN
1.	(JOHN EDWARD Brown of 52 West Street, St. John's, Merchant)
	BROWN
2.	(THOMAS WILLIAM Brown, of Sidney Hill, Parham, salesman.)
	JONES
3.	(William David Jones, of Welsh Harbour, unemployed.)
	SMITH
4.	(Mary Smith, of 72 High Street, All Saints, married woman.)

Form of Back of Ballot Paper

No.

Election for the

2

Constituency on the _____ day of _____, 19

Note: The number on the back of the ballot paper is to correspond with that on the Counterfoil.

Directions as to printing the ballot paper

1. Nothing is to be printed on the ballot paper except in accordance with these instructions.

2. So far as practicable, the following arrangements shall be observed in the printing of the ballot paper—

(a) no word shall be printed on the face except the particulars of the candidates;

(b) no rule shall be printed on the face except the horizontal rules separating the particulars of the candidates from one another and the vertical rules separating those particulars from the numbers on the left-hand side and the spaces on the right where the vote is to be marked;

(c) the whole space between the top and bottom of the paper shall be equally divided between the candidates by the rules separating their particulars.

3. The surname of each candidate shall in all cases be printed itself in large capitals, and his full particulars shall be set out below it and shall be printed in ordinary type except that small capitals shall be used—

(a) if his surname is the same as another candidate's, for his other names; and

(b) if his other names are also the same as the other candidate's, either for his residence or for his description unless each of them is the same as that of another candidate with the same surname and other names.

FORM No. 6

Poll Book

Rule 27 (3)

Particulars of Voter							Particulars of persons applying for Ballot Papers after another person has voted as such person			Objections if any made on behalf of any candidates	Remarks	
Name of voter	Occupation	Address	Consecutive No. of voter on list of voters	Questions if any, voter is required to answer	Record of how voter replied	Record that voter has voted *	Name	Consecutive No. of voter on list of voters	Questions if any, voter is required to answer			Record of how voter replied

*When Ballot put into Ballot Box insert "Voted"

FORM No. 7.

Rule 27(4)

Form of directions for the guidance of the voters in voting

1. The voter should see that the ballot paper, before it is handed to him, is stamped with the official mark.
2. The voter will go into one of the compartments and, with the pencil provided in the compartment, place a cross on the right-hand side of the ballot paper, opposite the name of the candidate for whom he votes, thus ‘‘X’’.
3. The voter will then fold up the ballot paper so as to show the official mark on the back, and leaving the compartment will, without showing the front of the paper to any person, show the official mark on the back to the presiding officer, and then, in the presence of the presiding officer, having first immersed such digit as the presiding officer shall direct in the appropriate electoral ink, put the paper into the ballot box, and forthwith leave the polling station.
4. If the voter inadvertently spoils a ballot paper he can return it to the officer, who will, if satisfied of such inadvertence, give him another paper.
5. If the voter votes for more than one candidate, or places any mark on the paper by which he may afterwards be identified, his ballot paper will be void, and will not be counted.
6. If the voter fraudulently takes a ballot paper out of a polling station or fraudulently puts into the ballot box any paper other than the one given to him by the officer, he will be guilty of an offence and liable on conviction to the penalties laid down by law.

FORM No. 8.

Rule 45(5)(a)

Form of declaration to be made by the companion of a blind voter at an election

I A.B., of _____, having been requested to assist C.D. (in the case of a blind person voting as proxy add "voting as proxy for M. N.") whose number on the register is _____, to record his vote at the election now being held in this constituency, hereby declare that (I am entitled to vote as an elector at the said election) (I am the _____ of the said voter and have attained the age of eighteen years), and that I have not previously assisted any blind person to vote at the said election.

(Signed) A.B.,

this _____ day of _____ 19____

I, the undersigned, being the presiding officer for the polling station for the _____ Constituency, hereby certify that the above declaration, having been first read to the above-named declarant, was signed by the declarant in my presence.

(Signed) G.H.,

this _____ day of _____ 19 ____ .

NOTE If the person making the above declaration knowingly and wilfully makes therein a statement false in a material particular, he will be guilty of an offence.

SECOND SCHEDULE

REGISTRATION REGULATIONS

Arrangement of Regulations

Regulation

1. Citation.
2. Interpretation.
3. Separate part of register for each registration unit.
4. Separate letters for registration units.
5. Order of names.
6. Marking of names to indicate manner of voting.
7. Form of electors lists.
8. Publication of the electors lists.
9. Notice of claims and objections.
10. Time for making claims and objections.
11. Form of claims and objections.
12. Entry and preliminary disposal of claims and objections.
13. Tribunal to revise list.
14. Procedure of tribunal revising list.
15. Hearing of claims and objections.
16. Sitting of tribunal.
17. Appeals.
18. Correction to the electors lists.
19. Revised list to be certified and deemed Register of Voters
20. Publication of register.
21. Free copies of register.
22. Sale of register.
23. Declaration as to age and nationality.
24. Power of registration officer to delegate his duties.
25. Information from householders.

26. Adaptation of electors lists and register in consequence of altered polling districts.
27. Corrupt and illegal practices lists.
28. Application to be treated as an absent voter.
29. Record and list of absent voters and proxies.
30. Validity of proxies.
31. Appeals.
32. Forms.
33. Sending of notices, etc.
34. Publication of documents.
35. Misnomer.
36. Penalties.

SECOND SCHEDULE

SECTION 19

REGISTRATION REGULATIONS

Part I

GENERAL

Citation. **1.** These regulations may be cited as the Registration Regulations.

Interpretation. **2.** (1) In these regulations, unless the context otherwise requires—

 "the Act" means the Representation of the People Act.

 "proxy" means a person entitled to vote as proxy at an election; and

 "the registration officer" means an electoral registration officer appointed for a particular constituency.

(2) A reference in these regulations to a regulation shall be construed as a reference to a regulation contained in these regulations.

(3) A reference in these regulations to the record and list of absent voters and proxies shall be taken as referring to the records and lists prepared for elections.

Part II
REGISTRATION

3. (1) The register shall be prepared in separate parts for each registration unit in the constituency. **Separate part of register for each registration unit.**

(2) A registration unit shall be such portion or portions of the constituency as the registration officer has declared to be an electoral district in each constituency.

4. There shall be a separate letter or letters in the register for each registration unit and such letters or letter shall be deemed to form part of an elector's number in the register. **Separate letters for registration units.**

5. (1) The names in each registration unit shall be arranged in alphabetical order of surnames of electors and if more than one elector has the same surname shall be arranged in alphabetical order of their other names. **Order of names.**

(2) The names in the register shall be numbered so far as is reasonably practicable consecutively; and there shall be a separate series of numbers (beginning with the number one) for each polling district.

(3) Each name in the register shall be followed by the address and occupation of the person whose name appears.

6. To indicate the manner in which an elector is entitled vote at an election, there shall be placed by such person and such time as may be prescribed by the Election Rules, against the name of any elector on behalf of whom a proxy is entitled to vote the letter "p" in any copy of the register, or part thereof, provided for a polling station. **Marking of names to indicate manner of voting.**

7. (1) The electors lists shall be prepared in separate parts for each registration unit in the constituency. **Form of electors lists.**

(2) The electors lists for a registration unit shall consist of—

List A — a copy of the register in force for the unit;

List B — a list of new electors, that is to say, persons who have applied for registration as electors in respect of addresses for which they are not registered in the register in force; and

List C — a list to be prepared by the registration officer of persons who have ceased to be qualified as electors or whose qualifications have been altered, that is to say, persons who,

being registered in the register in force, have ceased to be qualified for registration in such registration unit:

Provided that in respect of the first electors list to be prepared after the coming into force of these regulations the foregoing provisions of this subregulation shall not apply and there shall be one list consisting of the names of electors who have applied to be placed on the register in accordance with the provisions of the Act:

And further provided that where the area of a registration unit differs from the area of that unit as constituted for the purposes of the register in force, the registration unit may be treated as having the same area as it had for the purposes of the register in force.

(3) Notwithstanding the provisions of subregulations (2) and (4) hereof but subject to the first proviso to subregulation (2) the electors lists for a registration unit may, with the consent of the Supervisor of Elections, be prepared as a draft register so as to show only the persons appearing to the registration officer to be entitled to be registered, together with their qualifying addresses, and to comply with the provisions of the preceding regulations:

Provided that the names in the draft register need not be numbered.

(4) Any person whose name appears upon List A and whose name does not appear upon List C or whose name appears on a draft register prepared under the provisions of subregulation (3) shall be deemed to have made due application for registration under the Act and these regulations.

**Publication of
the electors lists.**

8. (1) The registration officer shall publish the electors lists by—

(a) making a copy thereof available for inspection at his office;

(b) as soon as practicable making copies of the part of the electors lists relating to each electoral district available for inspection at such place or places to which the public have access in or near that electoral district;

(c) publishing a notice (to be combined with the notice of claims and objections referred to in regulation 9) specifying the said place or places.

(2) The electors lists shall be published on or before the 15th day after the last day for application for registration under the

provisions of the Act, and shall be kept published till the publication of the register prepared from those lists.

9. (1) The registration officer shall at the time of publishing the electors lists publish a notice in the prescribed Form or, in the case of electors lists to which regulation 7 (3) applies, in such other prescribed Form specifying the manner in which and the time within which claims and objections in respect of electors lists may be made. **Notice of claims and objections.**

(2) The said notice shall be published in the way the registration officer thinks best calculated to bring the said notice to the attention of the electors.

10. A claim or objection in respect of the electors lists which is delivered to the registration officer after the 31st day after the last day for application for registration under the provisions of the Act shall be disregarded: **Time for making claims and objections.**

Provided that an objection to a claim shall not be disregarded if it is delivered to the registration officer within three days after the claim has been entered in the list of claims.

11. (1) A claim shall be in the prescribed Form and may be made by a person either on his own behalf or by any registered elector in that constituency on his behalf. **Form of claims and objections.**

(2) An objection shall be in the prescribed form and may be made by any person eligible to apply to be registered for that constituency or who is a registered elector in that constituency.

(3) Claims and objections shall be made available for inspection in the registration officer's office till completion of the hearing of claims and objections.

12. (1) The registration officer shall keep separate lists of claims and objections and shall on receipt of a claim or objection, forthwith enter in the appropriate list the name and qualifying address and description of the claimant or the person in respect of whom the objection is made. **Entry and preliminary disposal of claims and objections.**

(2) If the registration officer is of the opinion—

(a) that the particulars given in a claim or objection are insufficient, he may ask for further information and take no further action until such information is supplied;

(b) that a claim may be allowed without a hearing, he may allow the claim, provided that no objection is made thereto, and shall so inform the person making the claim;

(c) that the objector is not entitled to object, he may disallow the objection and shall so inform the objector;

(d) that a claim or objection cannot be allowed because—

(i) the matter has been concluded by the decision of a court, or

(ii) the particulars given in a claim or objection do not entitle the claimant or objector to succeed,

he may send to the person making the claim or objection a notice stating his opinion and the grounds thereof and that he intends to disallow the claim or objection unless that person gives him notice within three days from the date of delivery of the first mentioned notice that he requires the claim or objection to be heard by the revising officer and, if he receives no such notice within the said time, he may disallow the claim or objection.

(3) The registration officer, shall, unless he allows the claim or disallows the objection under subregulation (2) hereof, send a notice, in the case of a claim, to the person making the claim, and in the case of an objection, to the objector and the person objected to, stating the time and place at which the revising officer proposes to hear the claim or objection; and the notice sent to a person objected to shall also state the name and address of the objector and the grounds of the objection.

(4) The registration officer shall make available for inspection at his office till completion of the hearing of claims and objections the lists of claims and objections together with the time and place at which the revising officer proposes to hear any claim or objection.

**Tribunal to
revise list.**

13. (1) A tribunal shall be held in one or more places in each constituency by and before a revising officer for the purpose of revising the electors lists and the determination of claims or objections.

(2) The said tribunal shall be held at such time and such day as may be fixed by the revising officer and three days notice in the prescribed Form of the holding of such tribunal and of the place at which the same is to be held shall be given in the *Gazette*, in one or more of the newspapers published or circulating in Antigua and Barbuda, and by posting such notice on the outer doors of the Court House, Treasury and the police stations in

Antigua and Barbuda, and at such other places within the constituency as he thinks best suited so that the notice may be brought to the attention of the public.

14. Upon the production at the tribunal by the registration officer of a polling division of a constituency of the list of claims and objections received by such registration officer the revising officer shall go through the same and shall insert in the electors list the name of every person who is proved to his satisfaction to be entitled to have his name inserted therein, rectify any mistake in such electors list of which he is satisfied, and shall strike out of such electors list the name of every person who, upon the application of an objector, is proved to the satisfaction of the revising officer to be disentitled to have his name retained on the electors list.

**Procedure of
tribunal revising
list.**

15. (1) On the hearing of a claim, the person making the claim, on the hearing of an objection, the objector and the person objected to and, on the hearing of either, any other person who appears to the revising officer to be interested shall be entitled to appear and be heard.

**Hearing of
claims and
objections.**

(2) The right to appear and be heard includes the right to lodge with the revising officer any written representations that he may wish.

(3) Any person entitled to appear and be heard may do so either in person or by counsel or by any other person on his behalf.

(4) If the objector appears neither in person nor by counsel, nor by some person duly authorized by him in that behalf the objection shall be overruled, and the name of the person objected to shall be retained in the electors list for that constituency.

(5) The revising officer may, at the request of any person entitled to appear and be heard or, if he thinks fit, without such a request, require that the evidence tendered by any person shall be given on oath and may administer an oath for the purpose.

(6) Every revising officer holding a tribunal under these regulations shall have power to adjourn the same to such time and as often as may be necessary and shall have the same powers for the keeping of order in his court as are given to a magistrate under the Magistrate's Code of Procedure Act.

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16. (1) The revising officer shall at the sitting of the tribunal which shall be held in public, determine all claims or objections, and shall write his initials against any name struck out of the electors list or inserted therein, and against any mistake or omission

**Sitting of
tribunal.**

corrected, and shall sign his name to every page of the electors list when the same is finally settled.

(2) If the revising officer is of the opinion that the claim or objection of any person is without foundation or is frivolous he may order such person to pay the actual costs of the inquiry including the costs of witnesses, and such costs shall be recoverable by an action before any court of competent jurisdiction.

Appeals.

17. Any person aggrieved by a decision of the revising officer may appeal to a judge of the High Court in accordance with Part IV hereof.

Correction to the electors lists.

18. Any further alteration to the electors lists which is required—

(a) to carry out the revising officer's decision with respect to any claim or objection;

(b) to correct any clerical error; or

(c) to correct any misnomer or inaccurate description, shall be made by the registration officer.

Revised list to be certified and deemed Register of Voters.

19. (1) On the completion of the revision of the electors list of the polling divisions of each constituency and the necessary alterations having been made under regulation 18, the revising officer shall after signing such lists cause them to be printed and bound separately in respect of each constituency.

(2) The revising officer shall certify such bound lists and shall thereupon transmit one copy thereof to the returning officer for the constituency to which it relates and one copy to the Supervisor of Elections.

(3) The copy of the lists-transmitted to the Supervisor of Elections shall be deemed to be the Register of Electors for that constituency and shall remain in force until the next lists of electors have been revised and certified in accordance with the provisions of the Act and these regulations.

(4) If as the result of an appeal from a decision of the revising officer, or for other sufficient cause, the insertion of any name in the Register of Electors or the deletion of any name therefrom shall be necessary, such insertion or deletion shall be made by the Supervisor of Elections who shall number any name inserted with the same number as the preceding name followed by a letter or letters.

20. (1) The registration officer shall publish the register by making a copy available for inspection at his office and by making copies of the part of the register relating to each electoral district available for inspection as soon as practicable at the place at which copies of the part of the electors lists relating to that electoral district have been made available for inspection.

(2) The register shall be kept published until the coming into force of the next register.

21. The registration officer shall on request supply without fee— **Free copies of register.**

(a) four copies of the register for the constituency and four copies of lists B and C of the electors lists thereof, or, in the case of electors lists to which regulation 7 (3) applies to the draft register therefor, so long as the lists are kept published, to any person who satisfies the registration officer that he requires them for use in connection with his own or some other person's prospective candidature at an election for that constituency:

Provided that, not more than one person in respect of the same candidature shall be so supplied; and

(b) two copies of the register for the constituency to each candidate at an election for that constituency and two to the returning officer.

22. The registration officers shall supply to any person copies of any part or parts of the register in force or of any electors lists therefor so long as there are sufficient copies available after allowing for the number which may be required for the purposes of any election (including the purposes of regulation 21) on payment of such fee per copy as may be determined by the Supervisor of Elections. **Sale of register.**

23. (1) The registration officer before registering any person may, if he thinks it necessary— **Declaration as to age and nationality.**

(a) require that person either to produce a birth certificate or to make a statutory declaration as to the date of his birth;

(b) require that person either to produce a certificate of naturalisation or other evidence to the satisfaction of the registration officer that he is qualified to be registered as a voter under section 40 of the Constitution or make a statutory declaration that he is so qualified.

(2) Any such declaration shall be made available for inspection in the registration officer's office till completion of the hearing of claims and objections by the revising officer.

Power of registration officer to delegate his duties.

24. The registration officer may delegate to any person to perform on his behalf all or any of his registration duties so far as they relate to the preparation and publication of the electors lists for any registration unit including the duty of carrying out sufficient inquiry as to the persons entitled to be registered, and to give information required for the purposes of his registration duties.

Information from house-holders.

25. The registration officer may require any householder or person owning or occupying any premises within the area for which he acts or the agent of any such person to give information required for the purposes of his registration duties.

Adaptation of electors lists and register in consequence of altered polling districts.

26. (1) Where the Supervisor of Elections makes any alterations of polling districts, he may also direct that—

- (a) the register in force be adapted to the alteration; and
- (b) if the alteration takes place between the publication of any electors lists and the coming into force of the register prepared from those lists, the form of that register be in accordance with the alterations.

(2) Where an alteration of polling districts is made otherwise than by virtue of section 10 (3) of the Act (which relates to powers exercisable by the Supervisor of Elections), the registration officer shall make the adaptations set out in subregulation (1).

(3) Except as otherwise provided by this regulation an alteration of polling districts shall not be effected until the coming into force of the first register prepared from the electors lists published after the alteration is made.

Corrupt and illegal practices list.

27. (1) The registration officer shall, at the same time as he publishes the electors lists, prepare and publish the corrupt and illegal practices list (if any) required by section 17 of the Act by making a copy thereof available for inspection at the same places as he makes available copies of the electors lists or any part thereof.

(2) A person named in the corrupt and illegal practices list may claim to be omitted therefrom and any person may object to the omission of any person from such list and regulations 10, 11, 12 and 13 shall apply to any such claim and objection as they apply to a claim or objection in respect of the electors lists.

(3) A claim may be made by a person either on his own behalf or by another elector in that constituency on his behalf and shall give particulars of the grounds on which the person concerned should be omitted, and objection to the omission of any person shall give the name and address of the objector and the person in respect of whom the objection is made and the grounds on which such person should be entered in the corrupt and illegal practices list including particulars of the alleged report of any election court.

(4) The registration officer shall make such alterations to the corrupt and illegal practices list as are required to carry out the revising officer's decision on any claims or objections or to correct any clerical error, misnomer or inaccurate description.

(5) Where it appears to the registration officer that a person not named in the corrupt and illegal practices list should be entered therein, he shall send to that person a notice that he intends to enter him therein and shall give him an opportunity within five days from the date of such notice of objecting and being heard in accordance with the provisions of regulation 13, and after the said five days he shall make such alteration as seems to him to be necessary.

(6) The registration officer shall publish the revised corrupt and illegal practices list (if any) at the same time as he publishes the register and in the same manner as he publishes each part of the register.

(7) The corrupt and illegal practices list as first published and as revised shall be kept published for the same length of time as the electors list and the register.

Part III

ABSENT VOTERS AND PROXIES

28. (1) An application to be treated as an absent voter shall be made in the prescribed form and shall be made in person before the returning officer.

Application to be treated as an absent voter.

(2) An application to be treated as an absent voter shall be allowed by the returning officer if the application is accompanied by a certificate in the prescribed form signed by the Commissioner of Police, Commanding Officer of the Antigua and Barbuda Defence Force, or Supervisor of Elections as the case may be certifying that the applicant will by virtue of his official duties be unable to vote in person on polling day and such certificates shall be retained by the returning officer and forwarded by him

to the presiding officer in charge of the polling station at which the proxy is entitled to vote.

(3) An application to be treated as an absent voter shall be disregarded for the purposes of an election if it is received by the returning officer after the third day before the day of the poll at that election.

Record and list of absent voters and proxies.

29. (1) Subject to the provision of this regulation the record and list of absent voters and of proxies appointed shall be in such a form as appears to the returning officer to be convenient. The letter "p" shall be placed opposite the name of the absent voter in the register of electors.

(2) As soon as the absent voters and proxies list has been prepared, the returning officer shall publish it by making a copy thereof available for inspection at his office.

(3) As soon as practicable after the preparation of the absent voters and proxies list, the returning officer shall, on request and without fee, supply to each candidate a copy of the absent voters list.

Validity of proxies.

30. An appointment of a proxy shall be valid only for the election immediately following the date on which the proxy is appointed.

Part IV

SUPPLEMENTARY

Appeals.

31. (1) A person desiring to appeal against the decision of a revising officer must give notice of appeal to the revising officer and to the opposite party (if any) when the decision is given up, or within seven days thereafter, specifying the grounds of appeal.

(2) The revising officer shall file any such notice in the High Court without fee or stamp duty together in each case with a statement of the material facts which in his opinion have been established in the case and of his decision upon the whole case and on any point which may be specified as a ground of appeal, and shall also furnish to the court any further information which the court may require and which he is able to furnish.

(3) Where it appears to the revising officer that any notices of appeal given to him are based on similar grounds, he shall inform the High Court of the fact for the purposes of enabling the court (if it thinks fit) to consolidate the appeals or select a case as a test case.

(4) The hearing of such appeal shall be heard as nearly as possible in the same manner as appeals from the Magistrate's Court save that the matter shall be heard by a single judge.

32. The prescribed forms are such as shall be prescribed **Forms.** by regulation. Forms substantially to the like effect may be used for the purposes stated therein with such variations as the circumstances may require.

33. (1) Any application, notice, claim or objection which is required by these regulations to be made to the registration officer or returning officer or revising officer shall be in writing and sent by post or delivered to his office or to the address specified by him for the purpose. **Sending of notices, etc.**

(2) Where the registration officer or returning officer or revising officer is required by these regulations to notify any person, such notifications shall be in writing and may be sent by post or delivered to the address furnished by that person for the purpose of such notification or of any record, or if there is no such address, to the last known place of abode of that person.

34. (1) Any failure to publish a document in accordance with these regulations shall not invalidate the document, but this provision shall not relieve the appropriate officer from any penalty for such failure. **Publication of documents.**

(2) A document which is made available for inspection in pursuance of these regulations shall be made available during ordinary business hours.

(3) Where a document is made available for inspection, any person may make a copy of, or take extracts from, such document.

35. No misnomer or inaccurate description of any person or place in any notice, electors list, list of claims or objections, corrupt and illegal practices list, absent voters and proxies list, special list or register shall prejudice the operation of that document with respect to that person or place in any case where the description of the person or place is such as to be commonly understood. **Misnomer.**

36. (1) If any person fails to comply with or gives false information in pursuance of any such requirement of the registration officer as is mentioned in regulation 23 or 25 he shall be liable on summary conviction to a fine of seven hundred and fifty dollars and to imprisonment for three months. **Penalties.**

(2) If any person without lawful authority destroys, mutilates, defaces or removes any notice published by the registration officer or revising officer in connection with their duties or any copies of a document which have been made available for inspection in pursuance of those duties, he shall be liable on summary conviction to a fine of three hundred dollars.

THIRD SCHEDULE

Provisions which may be contained in Regulations as to Registration etc.

- 1.** Provisions authorising a registration officer to require any householder or person owning or occupying any land or premises within the area for which he acts or the agent or factor of any such person, to give information required for the purpose of his registration duties.
- 2.** Provisions laying down a timetable for the preparation of the register and other matters, and providing that notices and other documents received by the registration officer out of time may be or shall be disregarded either altogether or for the purposes of a particular register or election.
- 3.** (1) Provisions as to the evidence of age or nationality which may be required in connection with a person's registration and provisions exempting statutory declarations made for that purpose from stamp duty, and requiring any fee payable in connection with the making of such declaration to be paid to the registration officer.

(2) Provisions as to the evidence which shall or may be required, or be deemed sufficient or conclusive evidence, in connection with a person's application to be treated as an absent voter.
- 4.** Provisions as to the cases in which a claim or objection may be determined by the registration officer without a hearing, and as to a person's right in any such cases to make written representations to him.
- 5.** Provisions authorising a registration officer to require any person's evidence at a hearing before him to be given on oath and to administer oaths for the purpose.
- 6.** Provisions requiring copies of the electors lists, register and other documents or prescribed parts thereof to be available for inspection by the public at such places as may be prescribed.

7. Provisions authorising or requiring the registration officer to supply to such persons as may be prescribed copies of the electors lists, register and other documents or prescribed parts thereof, whether free of charge or on payment of a prescribed fee.

8. (1) Provisions imposing pecuniary penalties (not exceeding fifteen hundred dollars for any offence) on persons summarily convicted—

(a) of having failed to comply with, or given false information in pursuance of, any such requisition of the registration officer as is mentioned in paragraph 1 of this Schedule;

(b) of having, without lawful authority, destroyed, mutilated, defaced or removed any notice published by the registration officer in connection with his registration duties, or any copies of a document which have been made available for inspection in pursuance of those duties.

(2) Any other provisions incidental or supplementary to those mentioned in the foregoing paragraphs of this Schedule.
