PARLIAMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

ELECTIONS (SPECIAL PROVISIONS) ACT, No. 14 OF 2004

[Certified on 18th November, 2004]

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Elections (Special Provisions) Act, No. 14 of 2004

[Certified on 18th November, 2004]

L.D.—O. 23/2004.

AN ACT TO PROVIDE FOR THE REQUIREMENT THAT A VOTER PRODUCES A VALID IDENTITY DOCUMENT IN PROOF OF IDENTITY ; AND TO AMEND THE PARLIAMENTARY ELECTIONS ACT, NO. 1 OF 1981, THE PRESIDENTIAL ELECTIONS ACT, NO. 15 OF 1981, THE PROVINCIAL COUNCILS ELECTIONS ACT, NO. 2 OF 1988, THE LOCAL AUTHORITIES ELECTIONS ORDINANCE (CHAPTER 262), AND THE REFERENDUM ACT, NO. 7 OF 1981 ; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :—

Short title and date of operation.

1. This Act may be cited as the Elections (Special Provisions) Act, No. 14 of 2004 and shall subject to the provisions of section 2, come into operation at the expiry of a period of one year from the date of Certification of this Act as an Act of Parliament in terms of the provisions of the Constitution.

PART I

GENERAL

Certification by Election Commission.

2. (1) The Election Commission shall, prior to the provisions of this Act coming into operation, satisfy itself that all the administrative arrangements have been made in respect of the issue of identity cards under section 14 of the Registration of Persons Act, No. 32 of 1968 in order to ensure that all persons entitled to vote are not precluded from obtaining identity cards and exercising their franchise, and certify such fact and publish such certification in the Gazette :

Provided however, the Election Commission shall prior to such certification, give due consideration to the views of the representatives of the political parties represented in Parliament in respect of the administrative arrangements that have been made for the issue of identity cards.

(2) Prior to the publication of the certification under subsection (1), the Election Commission shall require the Commissioner for the Registration of Persons, appointed

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under section 3 of the Registration of Persons Act, No. 32 of 1968, to confirm to the Commission by the issue of a Certificate, the fact that the administrative arrangements envisaged in terms of this section have been made. The Certificate of the Commissioner for the Registration of Persons shall be based on reports received by him in relation to all electoral districts stating that the administrative arrangements envisaged in terms of this section have been made.

Requirement to produce a valid identity document.

3. Notwithstanding the provisions of any other law to the contrary, every person qualified to be—

(*a*) an elector at any election held for the election of members to Parliament under the Parliamentary Elections Act, No. 1 of 1981 ; or

(*b*) an elector at any election held for the election of members to Provincial Councils under the, Provincial Councils Elections Act, No. 2 of 1988 ; or

(*c*) an elector at any election held for the election of members to the respective Local Authorities under the Local Authorities Elections Ordinance (Chapter 262) ; or

(*d*) an elector at any election held for the election of a President under the Presidential Elections Act, No. 15 of 1981 ; or

(*e*) a voter at a Referendum held under the Referendum Act, No. 7 of 1981,

shall, from and after the date of the coming into operation of this Act, be required to produce a valid identity document to the presiding officer of the relevant polling station or a person acting under his authority for inspection, before a ballot paper is delivered to such voter.

Interpretation.

4. For the purpose of section 3, "valid identity document" means any document issued by the Government of Sri Lanka in pursuance of any law for whatever purpose, with which the identity of the holder may be ascertained, and shall include a photograph of a person who does not possess any other identity document, duly certified to be that of such person by the Grama Niladhari or the Estate Superintendent as the case may be, and authenticated by the Divisional Secretary of the respective Divisional Secretary's Division within which such person resides or by an officer authorized in writing in that behalf by the Election Commission.

The time of implementation of this provision shall be determined by the Election Commission in consultation with the necessary and relevant individuals after the appointment of such Commission.

Offences.

5. Any person—

(*a*) who does not possess any other identity document and who makes a request for an identity document on the basis of information which is false ; and

(*b*) who certifies or authenticates a photograph on a request made by a person who does not possess an identity document, which certification or authentication is false,

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

PART II

AMENDMENTS TO THE PARLIAMENTARY ELECTIONS ACT, NO. 1 OF 1981

Amendment of section 37 of Act, No. 1 of 1981.

6. Section 37 of the Parliamentary Elections Act, No. 1 of 1981 (hereinafter in this Part referred to as "the principal enactment") is hereby amended in subsection (2) of that section by the insertion immediately after paragraph (*a*) of that subsection, of the following new paragraph :—

"(*aa*) a valid identity document of the voter shall be inspected and the name and identity ascertained ;".

Amendment of section 38 of the principal enactment.

7. Section 38 of the principal enactment is hereby amended—

(*a*) in paragraph (*a*) of subsection (1) of that section by the substitution for the words "inspection ; or", of the words "inspection of the mark or valid identity document ; or" ; and

(*b*) in paragraph (*b*) of subsection (1) of that section by the substitution for the words "that such voter has already been marked with the appropriate mark ; or", of the words "that either such voter has already been marked with the appropriate mark or facts giving rise to suspicion over the identity of the voter ; or".

Amendment of Form D of the First Schedule to the principal enactment.

8. The First Schedule to the principal enactment is hereby amended in Form D of that Schedule, by the addition under the Column with the heading "Reason for not delivering ballot paper" in that Form, of a new Column headed "No valid identity document or identity not established".

PART III

AMENDMENTS TO THE PRESIDENTIAL ELECTIONS ACT, NO. 15 OF 1981

Amendment of section 35 of Act, No. 15 of 1981.

9. Section 35 of the Presidential Elections Act, No. 15 of 1981 (hereinafter in this Part referred to as the "principal enactment") is hereby amended in subsection (2) of that section by the insertion immediately after paragraph (*a*) of that subsection, of the following new paragraph :—

"(*aa*) a valid identity document of the voter shall be inspected and the name and identity ascertained ;".

Amendment of section 36 of the principal enactment.

10. Section 36 of the principal enactment is hereby amended—

(*a*) in paragraph (*a*) of subsection (1) of that section by the substitution for the words "inspection ; or", of the words "inspection of the mark or valid identity document ; or" ; and

(*b*) in paragraph (*b*) of subsection (1) of that section by the substitution for the words "that such voter has already been marked with the appropriate mark ; or", of the words "that either such voter has already been marked with the appropriate mark or facts giving rise to suspicion over the identity of the voter ; or".

Amendment of Form C of the First Schedule to the principal enactment.

11. The First Schedule to the principal enactment is hereby amended in Form C of that Schedule, by the addition under the Column with the heading "Reason for not delivering ballot paper" in that Form, of a new Column headed "No valid identity document or identity not established".

PART IV

AMENDMENTS TO THE PROVINCIAL COUNCILS ELECTIONS ACT, NO. 2 OF 1988

Amendment of section 35 of Act, No. 2 of 1988.

12. Section 35 of the Provincial Councils Elections Act, No. 2 of 1988 (hereinafter in this Part referred to as the "principal enactment") is hereby amended in subsection (2) of that section by the insertion immediately after paragraph (*a*) of that subsection, of the following new paragraph :—

"(*aa*) a valid identity document of the voter shall be inspected and the name and identity ascertained ;".

Amendment of section 36 of the principal enactment.

13. Section 36 of the principal enactment is hereby amended—

(*a*) in paragraph (*a*) of subsection (1) of that section by the substitution for the words "inspection ; or", of the words "inspection of the mark or valid identity document ; or" ; and

(*b*) in paragraph (*b*) of subsection (1) of that section by the substitution for the words "that such voter has already been marked with the appropriate mark ; or", of the words "that either such voter has already been marked with the appropriate mark or facts giving rise to suspicion over the identity of the voter ; or".

Amendment of Form D of the First Schedule to the principal enactment.

14. The First Schedule to the principal enactment is hereby amended in Form D of that Schedule, by the addition under the Column with the heading "Reason for not delivering ballot paper" in that Form, of a new Column headed "No valid identity document or identity not established".

PART V

AMENDMENTS TO THE LOCAL AUTHORITIES ELECTIONS ORDINANCE (CHAPTER 262)

Amendment of Section 52 of (Chapter 262).

15. Section 52 of the Local Authorities Elections Ordinance (Chapter 262) (hereinafter in this Part referred to as "the principal enactment") is hereby amended :—

(*a*) by the insertion immediately after subsection (1) of that section, of the following subsection :—

"(1A) The presiding officer of a polling station or a person acting under his authority shall require any voter, before the ballot paper is delivered to the voter, to produce a valid identity document to ascertain his name and identity.";

(*b*) by the substitution in paragraph (*a*) of subsection (2) of that section, for the words "refuses to make any such declaration,", of the words "refuses to make any such declaration or produce a valid identity document,"; and

(*c*) by the substitution in the marginal note to that section, for the words " make declaration.", of the words "make declaration and produce a valid identity document.".

Amendment of section 53A of the principal enactment.

16. Section 53A of the principal enactment is hereby amended—

(*a*) in paragraph (*a*) of subsection (1) of that section, by the substitution for the words "inspection ; or ", of the words "inspection of the mark or valid identity document ; or"; and

(*b*) in paragraph (*b*) of subsection (1) of that section by the substitution for the words "that such voter has already been marked with the appropriate mark ; or", of the words "that either such voter has already been marked with the appropriate mark or facts giving rise to suspicion over the identity of the voter ; or".

Amendment of Seventh Schedule to the principal enactment.

17. The Seventh Schedule to the principal enactment is hereby amended by the addition under the Column with the heading "Reason for not delivering ballot paper" in that Schedule, of a new Column headed "No valid identity document or identity not established".

PART VI

AMENDMENTS TO THE REFERENDUM ACT, NO. 7 OF 1981

Amendment of section 20 of Act, No. 7 of 1981

18. Section 20 of the Referendum Act, No. 7 of 1981 (hereinafter in this Part referred to as "the principal enactment") is hereby amended in subsection (2) of that section by the insertion immediately after paragraph (*a*) of that subsection, of the following new paragraph, :—

"(*aa*) a valid identity document of the voter shall be inspected and the name and identity ascertained ;".

Amendment of section 21 of the principal enactment.

19. Section 21 of the principal enactment is hereby amended—

(*a*) in paragraph (*a*) of subsection (1) of that section by the substitution for the words "inspection ; or", of the words "inspection of the mark or valid identity document ; or"; and

(*b*) in paragraph (*b*) of subsection (1) of that section by the substitution for the words "that such voter has already been marked with the appropriate mark ; or", of the words "that either such voter has already

been marked with the appropriate mark or facts giving rise to suspicion over the identity of the voter ; or".

Amendment of Form B of the Third schedule to the principal enactment.

20. The Third Schedule to the principal enactment is hereby amended in Form B of that Schedule, by the addition under the Column with the heading "Reason for not delivering ballot paper" in that Form, of a new Column headed "No valid identity document or identity not established".

Sinhala text to prevail in case of inconsistency.

21. In the event of any inconsistency between the Sinhala and the Tamil texts of this Act, the Sinhala text shall prevail.

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